



# ► Application of International Labour Standards 2024

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

International Labour Conference  
112th Session, 2024



Report III (Part A)

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

(articles 19, 22 and 35 of the Constitution)

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

General Report and observations  
concerning particular countries

© International Labour Organization 2024  
First published 2024



Attribution 4.0 International (CC BY 4.0)

This work is licensed under the Creative Commons Attribution 4.0 International. To view a copy of this licence, please visit <https://creativecommons.org/licenses/by/4.0/> or <https://creativecommons.org/licenses/by-sa/4.0/>. The user is allowed to reuse, share (copy and redistribute), adapt (remix, transform and build upon the original work) as detailed in the licence. The user must clearly credit the ILO as the source of the material and indicate if changes were made to the original content. Use of the emblem, name and logo of the ILO is not permitted in connection with translations, adaptations or other derivative works.

**Attribution** – The user must indicate if changes were made and must cite the work as follows: *Report of the Committee of Experts on the Application of Conventions and Recommendations (articles 19, 22 and 35 of the Constitution) – General Report and observations concerning particular countries*, Geneva: International Labour Office, 2024. © ILO.

**Translations** – In case of a translation of this work, the following disclaimer must be added along with the attribution: *This is a translation of a copyrighted work of the International Labour Organization (ILO). This translation has not been prepared, reviewed or endorsed by the ILO and should not be considered an official ILO translation. The ILO disclaims all responsibility for its content and accuracy. Responsibility rests solely with the author(s) of the translation.*

**Adaptations** – In case of an adaptation of this work, the following disclaimer must be added along with the attribution: *This is an adaptation of a copyrighted work of the International Labour Organization (ILO). This adaptation has not been prepared, reviewed or endorsed by the ILO and should not be considered an official ILO adaptation. The ILO disclaims all responsibility for its content and accuracy. Responsibility rests solely with the author(s) of the adaptation.*

**Third-party materials** – This Creative Commons licence does not apply to non-ILO copyright materials included in this publication. If the material is attributed to a third party, the user of such material is solely responsible for clearing the rights with the rights holder and for any claims of infringement.

Any dispute arising under this licence that cannot be settled amicably shall be referred to arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of such a dispute.

Queries on rights and licensing should be addressed to the ILO Publishing Unit (Rights and Licensing) at [rights@ilo.org](mailto:rights@ilo.org). Information on ILO publications and digital products can be found at: [www.ilo.org/publns](http://www.ilo.org/publns).

---

ISBN 978-92-2-039699-5 (print)  
ISBN 978-92-2-039698-8 (web PDF)  
ISSN 0074-6681

**Also available in** French: *Rapport de la Commission d'experts pour l'application des conventions et recommandations (articles 19, 22 et 35 de la Constitution) – Rapport général et observations concernant certains pays*, ISBN 978-92-2-039702-2 (print), ISBN 978-92-2-039703-9 (web PDF); and Spanish: *Informe de la Comisión de Expertos en Aplicación de Convenios y Recomendaciones (artículos 19, 22 y 35 de la Constitución) – Informe General y observaciones referidas a ciertos países*, ISBN 978-92-2-039700-8 (print), ISBN 978-92-2-039701-5 (web PDF).

---

The designations employed in ILO publications and databases, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the ILO concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The opinions and views expressed in this publication are those of the author(s) and do not necessarily reflect the opinions, views or policies of the ILO.

Reference to names of firms and commercial products and processes does not imply their endorsement by the ILO, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

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 37–41**).
- (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 43–93**).
- (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 95–1038**).
- (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 Labour Administration Convention, 1978 (No. 150) and the Labour Administration Recommendation, 1978 (No. 158) (**Part B**).

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

## ▶ Contents

---

	<b>Page</b>
Index of comments by Convention .....	9
Index of comments by country .....	19
List of Conventions and Protocols by subject .....	31
<b>Reader's note .....</b>	<b>37</b>
Overview of the ILO supervisory mechanisms .....	37
Role of employers' and workers' organizations.....	37
Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations .....	38
Committee of Experts on the Application of Conventions and Recommendations .....	38
Committee on the Application of Standards of the International Labour Conference .....	40
The Committee of Experts and the Conference Committee on the Application of Standards.....	41
<b>Part I. General Report .....</b>	<b>43</b>
<b>I. Introduction .....</b>	<b>44</b>
A. Composition of the Committee .....	44
B. Working methods .....	45
C. Information session with Government representatives.....	46
D. Relations with the Conference Committee on the Application of Standards .....	46
E. Mandate .....	49
F. Application of international labour standards in times of crisis .....	49
G. Recent developments .....	53
H. Collaboration with the United Nations.....	57
<b>II. Compliance with standards-related obligations.....</b>	<b>63</b>
A. Reports on ratified Conventions (articles 22 and 35 of the Constitution).....	63
B. Examination by the Committee of Experts of reports on ratified Conventions.....	68
C. Reports under article 19 of the Constitution .....	84
D. Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7 of the Constitution) .....	84
<b>Appendix to the General report.....</b>	<b>89</b>
Composition of the Committee of Experts on the Application of Conventions and Recommendations .....	89

<b>Part II. Observations concerning particular countries .....</b>	<b>95</b>
<b>I. Observations concerning reports on ratified Conventions (articles 22 and 35 of the Constitution) .....</b>	<b>97</b>
Observations on serious failure to report .....	97
Freedom of association, collective bargaining, and industrial relations .....	103
Forced labour .....	363
Elimination of child labour and protection of children and young persons .....	443
Equality of opportunity and treatment .....	601
Tripartite consultation .....	731
Labour administration and inspection .....	751
Employment policy and promotion .....	811
Vocational guidance and training .....	883
Employment security .....	885
Wages .....	891
Working time .....	907
Occupational safety and health .....	919
Social security .....	943
Maternity protection .....	959
Social policy .....	963
Migrant workers .....	969
Seafarers .....	973
Fishers .....	979
Dockworkers .....	983
Indigenous and tribal peoples .....	993
Specific categories of workers .....	1011
<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>1017</b>
<b>Appendices</b>	
I. Reports requested on ratified Conventions registered as at 9 December 2023 (articles 22 and 35 of the Constitution) .....	1041
II. Statistical table of reports received on ratified Conventions as at 9 December 2023 (article 22 of the Constitution) .....	1055
III. List of observations made by employers' and workers' organizations .....	1058
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 .....	1067

V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities (31st to 111th Sessions of the International Labour Conference, 1948–2023).....	1070
VI. Overall position of member States with regard to the submission to the competent authorities of the instruments adopted by the Conference (as at 9 December 2023).....	1086
VII. Comments made by the Committee, by country .....	1088

## Index of comments by Convention

### C001

Chile .....	907
Haiti .....	910
Paraguay .....	911
Peru .....	913
Portugal .....	915
Romania .....	915

### C003

Panama .....	959
--------------	-----

### C006

Venezuela (Bolivarian Republic of) .....	587
--	-----

### C013

Cambodia .....	923
Comoros .....	926
Slovenia .....	935

### C014

Cook Islands .....	908
France (New Caledonia) .....	908
Haiti .....	910
Paraguay .....	911
Peru .....	913

### C017

China (Macau Special Administrative Region) .....	948
Lebanon .....	953
Panama .....	954
Saint Lucia .....	955
Sierra Leone .....	956

### C018

Central African Republic .....	946
China (Macau Special Administrative Region) .....	948

### C019

China (Macau Special Administrative Region) .....	948
Lebanon .....	953

### C024

Chile .....	947
-------------	-----

### C025

Chile .....	947
-------------	-----

### C026

Comoros .....	892
Djibouti .....	894

Guinea-Bissau .....	894
Rwanda .....	895
Uganda .....	898
Venezuela (Bolivarian Republic of) .....	903

### C029

Bolivia (Plurinational State of) .....	369
Germany .....	377
India .....	380
Indonesia .....	383
Italy .....	388
Japan .....	390
Jordan .....	393
Kazakhstan .....	396
Kenya .....	399
Kyrgyzstan .....	401
Lebanon .....	402
Malawi .....	406
Maldives .....	408
Mexico .....	408
Mongolia .....	411
Morocco .....	412
Myanmar .....	414
Niger .....	416
Rwanda .....	420
Senegal .....	423
South Sudan .....	426
Sudan .....	427
Syrian Arab Republic .....	428
Venezuela (Bolivarian Republic of) .....	435

### C030

Chile .....	907
Haiti .....	910
Panama .....	911
Paraguay .....	911

### C032

Algeria .....	983
Argentina .....	983

### C037

France (French Polynesia) .....	951
---------------------------------	-----

### C038

France (French Polynesia) .....	951
---------------------------------	-----

### C042

France (French Polynesia) .....	951
---------------------------------	-----



<b>C044</b>		Saint Vincent and the Grenadines .....	790
France (French Polynesia).....	951	Senegal .....	792
Peru.....	954	Sierra Leone .....	793
<b>C052</b>		Slovenia.....	795
France (New Caledonia) .....	908	Solomon Islands.....	797
Paraguay .....	911	Sudan .....	798
Peru.....	913	Tajikistan.....	799
<b>C062</b>		Togo .....	801
Rwanda.....	934	Uganda .....	802
<b>C063</b>		Ukraine .....	803
Djibouti .....	765	Venezuela (Bolivarian Republic of) .....	806
<b>C071</b>		Yemen .....	808
Lebanon.....	953	<b>C087</b>	
<b>C077</b>		Albania .....	103
Bolivia (Plurinational State of).....	450	Algeria .....	105
<b>C078</b>		Argentina.....	116
Bolivia (Plurinational State of).....	450	Armenia .....	118
Honduras .....	466	Australia.....	121
<b>C081</b>		Bahamas.....	124
Albania.....	751	Bangladesh .....	126
Argentina .....	752	Barbados .....	138
Armenia .....	754	Belarus .....	140
Azerbaijan .....	756	Belize.....	144
Bangladesh .....	757	Benin .....	146
Belarus.....	760	Bolivia (Plurinational State of).....	147
Central African Republic .....	761	Bosnia and Herzegovina .....	151
Colombia .....	761	Botswana .....	152
Croatia .....	763	Bulgaria.....	160
Dominican Republic.....	765	Burkina Faso .....	164
El Salvador.....	766	Burundi .....	165
Estonia .....	767	Cambodia .....	169
Eswatini .....	768	Canada .....	176
Haiti.....	769	Central African Republic.....	179
Italy .....	770	Chile.....	182
Kazakhstan.....	772	China (Hong Kong Special Administrative Region).....	187
Lesotho.....	776	China (Macau Special Administrative Region).....	192
Malawi .....	777	Colombia.....	196
North Macedonia .....	778	Costa Rica .....	208
Pakistan .....	779	Cuba .....	214
Paraguay .....	781	Democratic Republic of the Congo.....	215
Peru.....	783	Djibouti .....	218
Poland.....	784	Dominica.....	220
Portugal.....	786	Dominican Republic .....	220
Romania .....	788	Ecuador .....	222
Rwanda.....	789		

Egypt .....	231	Yemen .....	967
El Salvador .....	236	<b>C095</b>	
Equatorial Guinea .....	239	Central African Republic .....	892
Eritrea .....	241	Comoros .....	892
Eswatini .....	245	Djibouti .....	894
Ethiopia .....	248	Sierra Leone .....	896
Fiji .....	253	Tajikistan .....	897
Gabon .....	264	Uganda .....	898
Guatemala .....	265	Ukraine .....	899
Haiti .....	274	Venezuela (Bolivarian Republic of) .....	903
Honduras .....	275	<b>C097</b>	
Japan .....	282	Bahamas .....	969
Liberia .....	294	Mauritius .....	970
Madagascar .....	296	<b>C098</b>	
Myanmar .....	298	Albania .....	104
Netherlands (Sint Maarten) .....	301	Algeria .....	111
Nicaragua .....	302	Angola .....	114
North Macedonia .....	305	Armenia .....	120
Peru .....	308	Australia .....	123
Philippines .....	312	Azerbaijan .....	124
Romania .....	317	Bahamas .....	125
Russian Federation .....	320	Bangladesh .....	132
Saint Lucia .....	323	Barbados .....	139
Somalia .....	326	Belarus .....	144
South Africa .....	327	Belize .....	145
Syrian Arab Republic .....	329	Bolivia (Plurinational State of) .....	150
Tunisia .....	333	Botswana .....	154
Türkiye .....	334	Brazil .....	157
Ukraine .....	348	Bulgaria .....	162
United Kingdom of Great Britain and Northern Ireland .....	351	Burkina Faso .....	165
United Kingdom of Great Britain and Northern Ireland (Jersey) .....	355	Burundi .....	167
Uzbekistan .....	356	Cambodia .....	174
Yemen .....	359	Central African Republic .....	180
Zambia .....	361	Chile .....	184
<b>C088</b>		China (Hong Kong Special Administrative Region) .....	191
Japan .....	828	China (Macau Special Administrative Region) .....	193
Thailand .....	872	Colombia .....	203
<b>C094</b>		Comoros .....	208
Democratic Republic of the Congo .....	963	Costa Rica .....	210
Djibouti .....	963	Croatia .....	214
Dominica .....	964	Democratic Republic of the Congo .....	216
United Kingdom of Great Britain and Northern Ireland (Bermuda) .....	965	Denmark .....	217
United Republic of Tanzania .....	966	Djibouti .....	219
		Dominican Republic .....	221

Ecuador .....	228	Eswatini.....	649
Egypt.....	234	Fiji.....	650
Equatorial Guinea .....	240	France .....	652
Eritrea .....	243	Gabon.....	659
Ethiopia.....	252	Georgia .....	663
Fiji .....	258	Ghana.....	668
France .....	260	Guatemala .....	670
Guatemala.....	269	Japan .....	675
Haiti.....	274	Lao People's Democratic Republic.....	680
Indonesia .....	279	Latvia .....	682
Jordan .....	286	Madagascar.....	687
Lebanon.....	290	Malta .....	692
Papua New Guinea .....	307	Mauritania .....	695
Romania .....	318	Mauritius .....	699
Saint Lucia .....	323	Mexico.....	700
Sao Tome and Principe .....	324	Mongolia.....	701
Slovenia .....	326	Montenegro .....	703
Sudan.....	328	Nepal.....	704
Syrian Arab Republic .....	331	Netherlands .....	706
Türkiye .....	339	Nicaragua .....	712
United Kingdom of Great Britain and Northern Ireland (Jersey) .....	355	Nigeria .....	717
Yemen.....	360	Republic of Korea .....	719
<b>C099</b>		Singapore .....	722
Comoros.....	892	Sri Lanka .....	725
Djibouti.....	894	Syrian Arab Republic.....	727
<b>C100</b>		Tajikistan.....	727
Antigua and Barbuda .....	605	<b>C101</b>	
Armenia .....	608	France (New Caledonia).....	908
Australia .....	609	Paraguay.....	911
Austria .....	615	Peru .....	913
Azerbaijan .....	616	Sierra Leone .....	916
Bahamas.....	620	<b>C102</b>	
Belarus.....	623	General observation .....	943
Bolivia (Plurinational State of).....	626	Denmark.....	950
Botswana.....	627	Peru .....	954
Burkina Faso .....	629	<b>C103</b>	
Cabo Verde.....	630	Sri Lanka .....	960
Cambodia.....	634	<b>C105</b>	
Canada.....	636	General observation .....	363
Chile .....	639	Bahamas.....	368
China.....	641	Bolivia (Plurinational State of).....	372
China (Macau Special Administrative Region) .....	640	Cambodia .....	373
Cuba.....	643	Guinea.....	378
Dominican Republic.....	645	India .....	382
		Indonesia.....	386
		Jamaica.....	389

Kazakhstan.....	397	Gabon.....	661
Kyrgyzstan.....	402	Georgia .....	664
Morocco.....	414	Ghana.....	668
Republic of Moldova.....	419	Guinea.....	670
Rwanda.....	421	Iceland .....	671
Senegal.....	425	Iran (Islamic Republic of) .....	671
Sudan.....	428	Kuwait .....	678
Syrian Arab Republic .....	429	Lao People’s Democratic Republic.....	681
Tajikistan .....	430	Latvia .....	684
Togo.....	431	Lesotho .....	686
Turkmenistan .....	433	Liberia .....	687
Venezuela (Bolivarian Republic of) .....	438	Madagascar.....	688
<b>C106</b>		Malawi.....	689
France (New Caledonia) .....	908	Malta .....	694
Haiti.....	910	Mauritania .....	696
Paraguay .....	911	Mauritius .....	699
Peru.....	913	Mongolia.....	701
<b>C108</b>		Nepal.....	705
Barbados .....	973	Netherlands .....	708
Liberia.....	976	Nicaragua .....	712
<b>C111</b>		Nigeria .....	718
Afghanistan.....	601	Republic of Korea .....	720
Antigua and Barbuda .....	606	Romania.....	721
Argentina .....	608	Sri Lanka .....	726
Australia .....	611	Tajikistan.....	728
Azerbaijan .....	617	<b>C112</b>	
Bahamas.....	622	Liberia .....	980
Belarus.....	624	<b>C113</b>	
Benin.....	625	Azerbaijan.....	979
Botswana.....	628	Liberia .....	980
Cabo Verde.....	632	<b>C114</b>	
Cambodia .....	635	Liberia .....	980
Canada.....	638	<b>C115</b>	
Chile .....	639	Belize.....	919
Croatia .....	642	France (New Caledonia).....	929
Cuba.....	643	Ukraine .....	937
Cyprus.....	644	<b>C117</b>	
Dominican Republic.....	645	Republic of Moldova .....	965
El Salvador.....	646	<b>C118</b>	
Eritrea .....	647	Central African Republic.....	947
Estonia .....	648	France .....	951
Eswatini .....	649	<b>C119</b>	
Fiji .....	651	Sierra Leone .....	935
France .....	655	<b>C121</b>	
France (New Caledonia) .....	658	Croatia.....	949
France (French Polynesia).....	658		

<b>C122</b>			
Armenia .....	811	Cuba .....	893
Australia .....	814	Ukraine .....	899
Comoros .....	821	<b>C135</b>	
Costa Rica .....	822	Costa Rica .....	212
Djibouti .....	825	Estonia .....	244
Japan .....	829	Jordan.....	290
Madagascar .....	841	<b>C136</b>	
Mozambique .....	845	Bolivia (Plurinational State of) .....	920
New Zealand .....	849	<b>C137</b>	
Paraguay .....	854	Norway.....	990
Poland.....	856	<b>C138</b>	
Romania .....	861	Afghanistan .....	443
Serbia.....	863	Antigua and Barbuda .....	446
Spain .....	865	Bahamas .....	447
Thailand.....	875	Bolivia (Plurinational State of) .....	452
<b>C123</b>		Bosnia and Herzegovina .....	454
Gabon .....	457	Comoros .....	455
<b>C124</b>		Congo.....	456
Bolivia (Plurinational State of).....	450	Gabon.....	458
Gabon .....	457	Gambia.....	461
Uganda .....	580	Greece.....	465
<b>C126</b>		Guyana .....	465
Azerbaijan .....	979	Honduras.....	467
<b>C129</b>		Italy.....	473
Albania.....	751	Jamaica.....	475
Argentina .....	752	Jordan.....	477
Azerbaijan .....	756	Kazakhstan .....	480
Colombia .....	761	Kenya.....	482
Croatia .....	763	Kiribati.....	484
El Salvador.....	766	Kyrgyzstan.....	488
Estonia .....	767	Lao People's Democratic Republic.....	490
Italy .....	770	Lebanon .....	493
Kazakhstan.....	772	Maldives.....	499
Malawi .....	777	Mexico.....	501
North Macedonia .....	778	Mongolia.....	505
Poland.....	784	Morocco .....	510
Portugal.....	786	Namibia .....	515
Romania .....	788	Niger.....	518
Saint Vincent and the Grenadines.....	790	Pakistan .....	527
Slovenia .....	795	Papua New Guinea.....	532
Togo .....	801	Paraguay.....	536
Ukraine .....	803	Philippines .....	543
<b>C131</b>		Republic of Korea .....	548
Bolivia (Plurinational State of).....	891	Republic of Moldova .....	551
		Saint Vincent and the Grenadines .....	553
		Samoa .....	554

Senegal.....	556	<b>C154</b>	Sao Tome and Principe.....	325
Sierra Leone.....	559	<b>C155</b>	Central African Republic.....	925
Sudan.....	566		Croatia.....	926
Syrian Arab Republic.....	570		Cuba.....	928
Tajikistan.....	573		El Salvador.....	928
Togo.....	576		Portugal.....	932
Uganda.....	581		Ukraine.....	937
Ukraine.....	585	<b>C156</b>		
Venezuela (Bolivarian Republic of).....	588		Netherlands.....	710
Yemen.....	591		Slovenia.....	724
Zambia.....	595	<b>C158</b>		
<b>C139</b>			Democratic Republic of the Congo.....	885
Peru.....	930		Papua New Guinea.....	886
Ukraine.....	937		Türkiye.....	887
<b>C141</b>		<b>C159</b>		
Costa Rica.....	213		Colombia.....	817
<b>C142</b>			Japan.....	833
Guinea.....	883		Nigeria.....	852
<b>C143</b>			Zimbabwe.....	879
Albania.....	969	<b>C160</b>		
<b>C144</b>			San Marino.....	791
Antigua and Barbuda.....	731	<b>C161</b>		
Democratic Republic of the Congo.....	732		Croatia.....	926
Djibouti.....	732	<b>C162</b>		
El Salvador.....	734		Bolivia (Plurinational State of).....	920
Fiji.....	738		Canada.....	923
Grenada.....	739		Croatia.....	926
Madagascar.....	740		Uganda.....	936
Serbia.....	743	<b>C167</b>		
Spain.....	745		Bolivia (Plurinational State of).....	920
Sri Lanka.....	746	<b>C169</b>		
Türkiye.....	747		Argentina.....	993
United Republic of Tanzania.....	749		Bolivia (Plurinational State of).....	998
<b>C147</b>			Honduras.....	1000
Dominica.....	974		Peru.....	1005
<b>C149</b>		<b>C171</b>		
Poland.....	1011		Dominican Republic.....	908
Russian Federation.....	1013	<b>C173</b>		
<b>C151</b>			Ukraine.....	899
Antigua and Barbuda.....	115	<b>C176</b>		
Sao Tome and Principe.....	324		Philippines.....	930
<b>C152</b>			Portugal.....	932
Congo.....	985			
Lebanon.....	988			

Ukraine .....	937	Togo .....	577
<b>C181</b>		Turkmenistan .....	579
Ethiopia.....	826	Uganda .....	583
Japan .....	839	Ukraine .....	586
<b>C182</b>		Venezuela (Bolivarian Republic of) .....	589
Afghanistan.....	444	Yemen .....	592
Bahamas.....	448	Zambia .....	597
Barbados .....	449	<b>C183</b>	
Bolivia (Plurinational State of).....	453	Romania.....	959
Gabon .....	459	<b>MLC, 2006</b>	
Gambia .....	463	Albania .....	973
Honduras .....	469	Congo.....	974
Iran (Islamic Republic of) .....	472	Gabon.....	975
Jamaica .....	476	Liberia .....	976
Jordan .....	478	Luxembourg.....	977
Kazakhstan.....	480	<b>C187</b>	
Kenya .....	483	Portugal .....	932
Kiribati .....	486	<b>C188</b>	
Kyrgyzstan.....	489	Congo.....	980
Lao People's Democratic Republic .....	491	<b>General observations</b>	
Lebanon.....	495	Afghanistan.....	97
Liberia .....	497	Antigua and Barbuda .....	97
Maldives .....	500	Barbados .....	97
Mexico .....	502	Comoros .....	98
Mongolia .....	507	Cook Islands.....	98
Morocco.....	511	Djibouti .....	98
Myanmar .....	512	Dominica.....	98
Nepal.....	516	Fiji.....	99
Niger .....	520	Grenada .....	99
Nigeria .....	522	Haiti .....	99
North Macedonia .....	526	Iraq .....	99
Pakistan .....	530	Marshall Islands .....	100
Papua New Guinea .....	534	Papua New Guinea.....	100
Paraguay .....	537	Saint Lucia .....	100
Peru.....	540	Somalia .....	100
Philippines.....	545	Sudan .....	101
Republic of Moldova.....	552	Syrian Arab Republic.....	101
Saint Vincent and the Grenadines.....	554	Tonga .....	101
Samoa.....	555	Tuvalu.....	101
Senegal.....	558	Vanuatu.....	102
Sierra Leone.....	561	Yemen .....	102
Solomon Islands.....	562	<b>Submission to the competent authorities</b>	
Somalia .....	564	Albania .....	1017
Sudan.....	567	Angola.....	1017
Syrian Arab Republic .....	570	Antigua and Barbuda .....	1018
Tajikistan .....	575		

Bahamas.....	1018	Lebanon.....	1027
Bahrain.....	1018	Liberia.....	1028
Belize.....	1019	Libya.....	1028
Bolivia (Plurinational State of).....	1020	Malawi.....	1028
Botswana.....	1020	Malaysia.....	1029
Brunei Darussalam.....	1020	Maldives.....	1029
Burkina Faso.....	1020	Malta.....	1029
Central African Republic.....	1021	Marshall Islands.....	1030
Chad.....	1021	Mozambique.....	1030
Chile.....	1021	North Macedonia.....	1030
Comoros.....	1021	Papua New Guinea.....	1031
Congo.....	1022	Republic of Moldova.....	1031
Croatia.....	1022	Rwanda.....	1031
Democratic Republic of the Congo.....	1022	Saint Kitts and Nevis.....	1032
Dominica.....	1022	Saint Lucia.....	1032
El Salvador.....	1023	Saint Vincent and the Grenadines.....	1032
Equatorial Guinea.....	1023	Seychelles.....	1033
Gabon.....	1023	Sierra Leone.....	1033
Gambia.....	1024	Solomon Islands.....	1033
Grenada.....	1024	Somalia.....	1034
Guinea.....	1024	Syrian Arab Republic.....	1034
Guinea-Bissau.....	1024	Timor-Leste.....	1034
Guyana.....	1025	Tuvalu.....	1035
Haiti.....	1025	United Arab Emirates.....	1035
Hungary.....	1025	Vanuatu.....	1036
Iraq.....	1026	Yemen.....	1036
Kazakhstan.....	1027	Zambia.....	1037
Kyrgyzstan.....	1027		



## Index of comments by country

### Afghanistan

C111 .....	601
C138 .....	443
C182 .....	444
General observation .....	97

### Albania

C081 .....	751
C087 .....	103
C098 .....	104
C129 .....	751
C143 .....	969
MLC, 2006.....	973
Submission to the competent authorities.....	1017

### Algeria

C032 .....	983
C087 .....	105
C098 .....	111

### Angola

C098 .....	114
Submission to the competent authorities.....	1017

### Antigua and Barbuda

C100 .....	605
C111 .....	606
C138 .....	446
C144 .....	731
C151 .....	115
General observation.....	97
Submission to the competent authorities.....	1018

### Argentina

C032 .....	983
C081 .....	752
C087 .....	116
C111 .....	608
C129 .....	752
C169 .....	993

### Armenia

C081 .....	754
C087 .....	118
C098 .....	120
C100 .....	608

C122.....	811
-----------	-----

### Australia

C087.....	121
C098.....	123
C100.....	609
C111.....	611
C122.....	814

### Austria

C100.....	615
-----------	-----

### Azerbaijan

C081.....	756
C098.....	124
C100.....	616
C111.....	617
C113.....	979
C126.....	979
C129.....	756

### Bahamas

C087.....	124
C097.....	969
C098.....	125
C100.....	620
C105.....	368
C111.....	622
C138.....	447
C182.....	448

Submission to the competent authorities .....	1018
--	------

### Bahrain

Submission to the competent authorities .....	1018
--	------

### Bangladesh

C081.....	757
C087.....	126
C098.....	132

### Barbados

C087.....	138
C098.....	139
C108.....	973
C182.....	449
General observation .....	97

### Belarus

C081.....	760
-----------	-----

C087 .....	140		
C098 .....	144		
C100 .....	623		
C111 .....	624		
<b>Belize</b>			
C087 .....	144		
C098 .....	145		
C115 .....	919		
Submission to the competent authorities .....	1019		
<b>Benin</b>			
C087 .....	146		
C111 .....	625		
<b>Bolivia (Plurinational State of)</b>			
C029 .....	369		
C077 .....	450		
C078 .....	450		
C087 .....	147		
C098 .....	150		
C100 .....	626		
C105 .....	372		
C124 .....	450		
C131 .....	891		
C136 .....	920		
C138 .....	452		
C162 .....	920		
C167 .....	920		
C169 .....	998		
C182 .....	453		
Submission to the competent authorities .....	1020		
<b>Bosnia and Herzegovina</b>			
C087 .....	151		
C138 .....	454		
<b>Botswana</b>			
C087 .....	152		
C098 .....	154		
C100 .....	627		
C111 .....	628		
Submission to the competent authorities .....	1020		
<b>Brazil</b>			
C098 .....	157		
		<b>Brunei Darussalam</b>	
		Submission to the competent authorities .....	1020
		<b>Bulgaria</b>	
		C087 .....	160
		C098 .....	162
		<b>Burkina Faso</b>	
		C087 .....	164
		C098 .....	165
		C100 .....	629
		Submission to the competent authorities .....	1020
		<b>Burundi</b>	
		C087 .....	165
		C098 .....	167
		<b>Cabo Verde</b>	
		C100 .....	630
		C111 .....	632
		<b>Cambodia</b>	
		C013 .....	923
		C087 .....	169
		C098 .....	174
		C100 .....	634
		C105 .....	373
		C111 .....	635
		<b>Canada</b>	
		C087 .....	176
		C100 .....	636
		C111 .....	638
		C162 .....	923
		<b>Central African Republic</b>	
		C018 .....	946
		C081 .....	761
		C087 .....	179
		C095 .....	892
		C098 .....	180
		C118 .....	947
		C155 .....	925
		Submission to the competent authorities .....	1021
		<b>Chad</b>	
		Submission to the competent authorities .....	1021
		<b>Chile</b>	
		C001 .....	907

C024 .....	947	Submission to the competent	
C025 .....	947	authorities .....	1022
C030 .....	907	<b>Cook Islands</b>	
C087 .....	182	C014.....	908
C098 .....	184	General observation .....	98
C100 .....	639	<b>Costa Rica</b>	
C111 .....	639	C087.....	208
Submission to the competent		C098.....	210
authorities .....	1021	C122.....	822
<b>China</b>		C135.....	212
C100 .....	640	C141.....	213
<b>China</b>		<b>Croatia</b>	
(Macau Special Administrative Region)		C081.....	763
C017 .....	948	C098.....	214
C018 .....	948	C111.....	642
C019 .....	948	C121.....	949
C087 .....	192	C129.....	763
C098 .....	193	C155.....	926
C100 .....	641	C161.....	926
<b>China</b>		C162.....	926
(Hong Kong Special Administrative Region)		Submission to the competent	
C087 .....	187	authorities .....	1022
C098 .....	191	<b>Cuba</b>	
<b>Colombia</b>		C087.....	214
C081 .....	761	C100.....	643
C087 .....	196	C111.....	643
C098 .....	203	C131.....	893
C129 .....	761	C155.....	928
C159 .....	817	<b>Cyprus</b>	
<b>Comoros</b>		C111.....	644
C013 .....	926	<b>Democratic Republic of the Congo</b>	
C026 .....	892	C087.....	215
C095 .....	892	C094.....	963
C098 .....	208	C098.....	216
C099 .....	892	C144.....	732
C122 .....	821	C158.....	885
C138 .....	455	Submission to the competent	
General observation.....	98	authorities .....	1022
Submission to the competent		<b>Denmark</b>	
authorities .....	1021	C098.....	217
<b>Congo</b>		C102.....	950
C138 .....	456	<b>Djibouti</b>	
C152 .....	985	C026.....	894
MLC, 2006.....	974	C063.....	765
C188 .....	980	C087.....	218

C094 .....	963
C095 .....	894
C098 .....	219
C099 .....	894
C122 .....	825
C144 .....	732
General observation.....	98
<b>Dominica</b>	
C087 .....	220
C094 .....	964
C147 .....	974
General observation.....	98
Submission to the competent authorities.....	1022
<b>Dominican Republic</b>	
C081 .....	765
C087 .....	220
C098 .....	221
C100 .....	645
C111 .....	645
C171 .....	908
<b>Ecuador</b>	
C087 .....	222
C098 .....	228
<b>Egypt</b>	
C087 .....	231
C098 .....	234
<b>El Salvador</b>	
C081 .....	766
C087 .....	236
C111 .....	646
C129 .....	766
C144 .....	734
C155 .....	928
Submission to the competent authorities.....	1023
<b>Equatorial Guinea</b>	
C087 .....	239
C098 .....	240
Submission to the competent authorities.....	1023
<b>Eritrea</b>	
C087 .....	241
C098 .....	243
C111 .....	647
<b>Estonia</b>	
C081.....	767
C111.....	648
C129.....	767
C135.....	244
<b>Eswatini</b>	
C081.....	768
C087.....	245
C100.....	649
C111.....	649
<b>Ethiopia</b>	
C087.....	248
C098.....	252
C181.....	826
<b>Fiji</b>	
C087.....	253
C098.....	258
C100.....	650
C111.....	651
C144.....	738
General observation .....	99
<b>France</b>	
C014.....	908
C037.....	951
C038.....	951
C042.....	951
C044.....	951
C052.....	908
C098.....	260
C100.....	652
C101.....	908
C106.....	908
C111.....	655
C111.....	658
C111.....	658
C115.....	929
C118.....	951
<b>Gabon</b>	
C087.....	264
C100.....	659
C111.....	661
C123.....	457
C124.....	457
C138.....	458
C182.....	459

MLC, 2006.....	975	C081.....	769
Submission to the competent authorities.....	1023	C087.....	274
<b>Gambia</b>		C098.....	274
C138.....	461	C106.....	910
C182.....	463	General observation.....	99
Submission to the competent authorities.....	1024	Submission to the competent authorities..	1025
<b>Georgia</b>		<b>Honduras</b>	
C100.....	663	C078.....	466
C111.....	664	C087.....	275
<b>Germany</b>		C138.....	467
C029.....	377	C169.....	1000
<b>Ghana</b>		C182.....	469
C100.....	668	<b>Hungary</b>	
C111.....	668	Submission to the competent authorities.....	1025
<b>Greece</b>		<b>Iceland</b>	
C138.....	465	C111.....	671
<b>Grenada</b>		<b>India</b>	
C144.....	739	C029.....	380
General observation.....	99	C105.....	382
Submission to the competent authorities.....	1024	<b>Indonesia</b>	
<b>Guatemala</b>		C029.....	383
C087.....	265	C098.....	279
C098.....	269	C105.....	386
C100.....	670	<b>Iran (Islamic Republic of)</b>	
<b>Guinea</b>		C111.....	671
C105.....	378	C182.....	472
C111.....	670	<b>Iraq</b>	
C142.....	883	General observation.....	99
Submission to the competent authorities.....	1024	Submission to the competent authorities.....	1026
<b>Guinea-Bissau</b>		<b>Italy</b>	
C026.....	894	C029.....	388
Submission to the competent authorities.....	1024	C081.....	770
<b>Guyana</b>		C129.....	770
C138.....	465	C138.....	473
Submission to the competent authorities.....	1025	<b>Jamaica</b>	
<b>Haiti</b>		C105.....	389
C001.....	910	C138.....	475
C014.....	910	C182.....	476
C030.....	910	<b>Japan</b>	
		C029.....	390
		C087.....	282
		C088.....	828
		C100.....	675

C122 .....	829	C029.....	402
C159 .....	833	C071.....	953
C181 .....	839	C098.....	290
<b>Jordan</b>		C138.....	493
C029 .....	393	C152.....	988
C098 .....	286	C182.....	495
C135 .....	290	Submission to the competent authorities..	1027
C138 .....	477	<b>Lesotho</b>	
C182 .....	478	C081.....	776
<b>Kazakhstan</b>		C111.....	686
C029 .....	396	<b>Liberia</b>	
C081 .....	772	C087.....	294
C105 .....	397	C108.....	976
C129 .....	772	C111.....	687
C138 .....	480	C112.....	980
C182 .....	480	C113.....	980
Submission to the competent authorities.....	1027	C114.....	980
<b>Kenya</b>		C182.....	497
C029 .....	399	MLC, 2006.....	976
C138 .....	482	Submission to the competent authorities .....	1028
C182 .....	483	<b>Libya</b>	
<b>Kiribati</b>		Submission to the competent authorities .....	1028
C138 .....	484	<b>Luxembourg</b>	
C182 .....	486	MLC, 2006.....	977
<b>Kuwait</b>		<b>Madagascar</b>	
C111 .....	678	C087.....	296
<b>Kyrgyzstan</b>		C100.....	687
C029 .....	401	C111.....	688
C105 .....	402	C122.....	841
C138 .....	488	C144.....	740
C182 .....	489	<b>Malawi</b>	
Submission to the competent authorities.....	1027	C029.....	406
<b>Lao People's Democratic Republic</b>		C081.....	777
C100 .....	680	C111.....	689
C111 .....	681	C129.....	777
C138 .....	490	Submission to the competent authorities .....	1028
C182 .....	491	<b>Malaysia</b>	
<b>Latvia</b>		Submission to the competent authorities .....	1029
C100 .....	682	<b>Maldives</b>	
C111 .....	684	C029.....	408
<b>Lebanon</b>		C138.....	499
C017 .....	953		
C019 .....	953		

C182 .....	500	<b>Namibia</b>	
Submission to the competent authorities .....	1029	C138.....	515
<b>Malta</b>		<b>Nepal</b>	
C100 .....	692	C100.....	704
C111 .....	694	C111.....	705
Submission to the competent authorities .....	1029	C182.....	516
<b>Marshall Islands</b>		<b>Netherlands</b>	
General observation .....	100	C100.....	706
Submission to the competent authorities .....	1030	C111.....	708
<b>Mauritania</b>		C156.....	710
C100 .....	695	<b>Netherlands</b>	
C111 .....	696	(Sint Maarten)	
<b>Mauritius</b>		C087.....	301
C097 .....	970	<b>New Zealand</b>	
C100 .....	699	C122.....	849
C111 .....	699	<b>Nicaragua</b>	
<b>Mexico</b>		C087.....	302
C029 .....	408	C100.....	712
C100 .....	700	C111.....	712
C138 .....	501	<b>Niger</b>	
C182 .....	502	C029.....	416
<b>Mongolia</b>		C138.....	518
C029 .....	411	C182.....	520
C100 .....	701	<b>Nigeria</b>	
C111 .....	701	C100.....	717
C138 .....	505	C111.....	718
C182 .....	507	C159.....	852
<b>Montenegro</b>		C182.....	522
C100 .....	703	<b>North Macedonia</b>	
<b>Morocco</b>		C081.....	778
C029 .....	412	C087.....	305
C105 .....	414	C129.....	778
C138 .....	510	C182.....	526
C182 .....	511	Submission to the competent authorities .....	1030
<b>Mozambique</b>		<b>Norway</b>	
C122 .....	845	C137.....	990
Submission to the competent authorities .....	1030	<b>Pakistan</b>	
<b>Myanmar</b>		C081.....	779
C029 .....	414	C138.....	527
C087 .....	298	C182.....	530
C182 .....	512	<b>Panama</b>	
		C003.....	959
		C017.....	954
		C030.....	911

**Papua New Guinea**

C098 .....	307
C138 .....	532
C158 .....	886
C182 .....	534
General observation .....	100
Submission to the competent authorities .....	1031

**Paraguay**

C001 .....	911
C014 .....	911
C030 .....	911
C052 .....	911
C081 .....	781
C101 .....	911
C106 .....	911
C122 .....	854
C138 .....	536
C182 .....	537

**Peru**

C001 .....	913
C014 .....	913
C044 .....	954
C052 .....	913
C081 .....	783
C087 .....	308
C101 .....	913
C102 .....	954
C106 .....	913
C139 .....	930
C169 .....	1005
C182 .....	540

**Philippines**

C087 .....	312
C138 .....	543
C176 .....	930
C182 .....	545

**Poland**

C081 .....	784
C122 .....	856
C129 .....	784
C149 .....	1011

**Portugal**

C001 .....	915
C081 .....	786

C129.....	786
C155.....	932
C176.....	932
C187.....	932

**Republic of Korea**

C100.....	719
C111.....	720
C138.....	548

**Republic of Moldova**

C105.....	419
C117.....	965
C138.....	551
C182.....	552
Submission to the competent authorities .....	1031

**Romania**

C001.....	915
C081.....	788
C087.....	317
C098.....	318
C111.....	721
C122.....	861
C129.....	788
C183.....	959

**Russian Federation**

C087.....	320
C149.....	1013

**Rwanda**

C026.....	895
C029.....	420
C062.....	934
C081.....	789
C105.....	421

Submission to the competent authorities .....	1031
--	------

**Saint Kitts and Nevis**

Submission to the competent authorities .....	1032
--	------

**Saint Lucia**

C017.....	955
C087.....	323
C098.....	323
General observation .....	100
Submission to the competent authorities .....	1032



### **Saint Vincent and the Grenadines**

C081 .....	790
C129 .....	790
C138 .....	553
C182 .....	554
Submission to the competent authorities .....	1032

### **Samoa**

C138 .....	554
C182 .....	555

### **San Marino**

C160 .....	791
------------	-----

### **Sao Tome and Principe**

C098 .....	324
C151 .....	324
C154 .....	325

### **Senegal**

C029 .....	423
C081 .....	792
C105 .....	425
C138 .....	556
C182 .....	558

### **Serbia**

C122 .....	863
C144 .....	743

### **Seychelles**

Submission to the competent authorities .....	1033
--	------

### **Sierra Leone**

C017 .....	956
C081 .....	793
C095 .....	896
C101 .....	916
C119 .....	935
C138 .....	559
C182 .....	561
Submission to the competent authorities .	1033

### **Singapore**

C100 .....	722
------------	-----

### **Slovenia**

C013 .....	935
C081 .....	795
C098 .....	326
C129 .....	795
C156 .....	724

### **Solomon Islands**

C081 .....	797
C182 .....	562
Submission to the competent authorities .....	1033

### **Somalia**

C087 .....	326
C182 .....	564
General observation .....	100
Submission to the competent authorities .....	1034

### **South Africa**

C087 .....	327
------------	-----

### **South Sudan**

C029 .....	426
------------	-----

### **Spain**

C122 .....	865
C144 .....	745

### **Sri Lanka**

C100 .....	725
C103 .....	960
C111 .....	726
C144 .....	746

### **Sudan**

C029 .....	427
C081 .....	798
C098 .....	328
C105 .....	428
C138 .....	566
C182 .....	567
General observation .....	101

### **Syrian Arab Republic**

C029 .....	428
C087 .....	329
C098 .....	331
C100 .....	727
C105 .....	429
C138 .....	570
C182 .....	570
General observation .....	101
Submission to the competent authorities .....	1034

### **Tajikistan**

C081 .....	799
C095 .....	897

C100 .....	727	C115.....	937
C105 .....	430	C129.....	803
C111 .....	728	C131.....	899
C138 .....	573	C138.....	585
C182 .....	575	C139.....	937
<b>Thailand</b>		C155.....	937
C088 .....	872	C173.....	899
C122 .....	875	C176.....	937
<b>Timor-Leste</b>		C182.....	586
Submission to the competent authorities.....	1034	<b>United Arab Emirates</b>	
<b>Togo</b>		Submission to the competent authorities .....	1035
C081 .....	801	<b>United Kingdom of Great Britain and Northern Ireland</b>	
C105 .....	431	C087.....	355
C129 .....	801	<b>United Kingdom of Great Britain and Northern Ireland</b>	
C138 .....	576	C094.....	965
C182 .....	577	<b>United Kingdom of Great Britain and Northern Ireland</b>	
<b>Tonga</b>		C087.....	351
General observation.....	101	C098.....	355
<b>Tunisia</b>		<b>United Republic of Tanzania</b>	
C087 .....	333	C094.....	966
<b>Türkiye</b>		C144.....	749
C087 .....	334	<b>Uzbekistan</b>	
C098 .....	339	C087.....	356
C144 .....	747	<b>Vanuatu</b>	
C158 .....	887	General observation .....	102
<b>Turkmenistan</b>		Submission to the competent authorities .....	1036
C105 .....	433	<b>Venezuela (Bolivarian Republic of)</b>	
C182 .....	579	C006.....	587
<b>Tuvalu</b>		C026.....	903
General observation.....	101	C029.....	435
Submission to the competent authorities.....	1035	C081.....	806
<b>Uganda</b>		C095.....	903
C026 .....	898	C105.....	438
C081 .....	802	C138.....	588
C095 .....	898	C182.....	589
C124 .....	580	<b>Yemen</b>	
C138 .....	581	C081.....	808
C162 .....	936	C087.....	359
C182 .....	583	C094.....	967
<b>Ukraine</b>		C098.....	360
C081 .....	803		
C087 .....	348		
C095 .....	899		

C138 .....	591
C182 .....	592
General observation .....	102
Submission to the competent authorities .....	1036
<b>Zambia</b>	
C087 .....	361

C138.....	595
C182.....	597
Submission to the competent authorities .....	1037
<b>Zimbabwe</b>	
C159.....	879

## 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)*

<b>6</b>	<b>Labour administration and inspection</b>	
●	C063	Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
★	C081	<i>Labour Inspection Convention, 1947 (No. 81)</i>
	C085	Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
	C129	<i>Labour Inspection (Agriculture) Convention, 1969 (No. 129)</i>
	C150	Labour Administration Convention, 1978 (No. 150)
	C160	Labour Statistics Convention, 1985 (No. 160)
	P081	Protocol of 1995 to the Labour Inspection Convention, 1947
<b>7</b>	<b>Employment policy and promotion</b>	
	C002	Unemployment Convention, 1919 (No. 2)
■	C034	<i>Fee-Charging Employment Agencies Convention, 1933 (No. 34)</i>
	C088	Employment Service Convention, 1948 (No. 88)
●	C096	Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
	C122	<i>Employment Policy Convention, 1964 (No. 122)</i>
	C159	Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
	C181	Private Employment Agencies Convention, 1997 (No. 181)
<b>8</b>	<b>Vocational guidance and training</b>	
	C140	Paid Educational Leave Convention, 1974 (No. 140)
	C142	Human Resources Development Convention, 1975 (No. 142)
<b>9</b>	<b>Employment security</b>	
	C158	Termination of Employment Convention, 1982 (No. 158)
<b>10</b>	<b>Wages</b>	
	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)
<b>11</b>	<b>Working time</b>	
	C001	Hours of Work (Industry) Convention, 1919 (No. 1)
□	C004	<i>Night Work (Women) Convention, 1919 (No. 4)</i>
	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	<i>Hours of Work (Coal Mines) Convention, 1931 (No. 31)</i>
□	C041	<i>Night Work (Women) Convention (Revised), 1934 (No. 41)</i>
	C043	Sheet-Glass Works Convention, 1934 (No. 43)
■	C046	<i>Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)</i>
	C047	Forty-Hour Week Convention, 1935 (No. 47)
	C049	Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
■	C051	<i>Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)</i>
●	C052	Holidays with Pay Convention, 1936 (No. 52)
■	C061	<i>Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61)</i>
□	C067	<i>Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)</i>
★	C089	Night Work (Women) Convention (Revised), 1948 (No. 89)
★	C101	Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
	C106	Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
	C132	Holidays with Pay Convention (Revised), 1970 (No. 132)
	C153	Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153)
	C171	Night Work Convention, 1990 (No. 171)
	C175	Part-Time Work Convention, 1994 (No. 175)
	P089	Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

<b>12</b>	<b>Occupational safety and health</b>	
		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 <b>Occupational Safety and Health Convention, 1981 (No. 155)</b>
		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 <b>Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)</b>
		P155 Protocol of 2002 to the Occupational Safety and Health Convention, 1981
<b>13</b>	<b>Social security</b>	
	★	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)
<b>14</b>	<b>Maternity protection</b>	
	★	C003 Maternity Protection Convention, 1919 (No. 3)
	●	C103 Maternity Protection Convention (Revised), 1952 (No. 103)
		C183 Maternity Protection Convention, 2000 (No. 183)
<b>15</b>	<b>Social policy</b>	
	★	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)

<b>16 Migrant workers</b>		
□	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)
<b>17 Seafarers</b>		
■	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
<b>18 Fishers</b>		
★	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)
	C191	Safe and Healthy Working Environment (Consequential Amendments) Convention, 2023 (No. 191)



## ► 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 (CFA) of the Governing Body. The CFA may also examine complaints relating to Member States that have not ratified the relevant freedom of association Conventions.

### Role of employers' and workers' organizations

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

In practice, representative employers' and workers' organizations may submit to their governments' observations on the reports concerning the application of international labour standards. They may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit observations on the application of international labour standards directly to the Office. The Office will then forward these

---

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

<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 (GB.334/INS/5). Reports are due for groups of Conventions according to subject matter. Following the amendment of the 1998 Declaration, the Governing Body decided to apply a three-year cycle for the fundamental Conventions on occupational safety and health as from 2024 (GB.346/INS/3/3).

to the government concerned, which will have an opportunity to respond before the observations are examined by the Committee of Experts except in exceptional circumstances.<sup>3</sup>

## 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 regular supervisory system.

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

### Composition

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

### Work of the Committee

The Committee of Experts meets annually in November–December. In accordance with the mandate given by the Governing Body,<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;

<sup>3</sup> General Report, paras 122–131.

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

<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.

- 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 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.

## 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)).

---

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

<sup>7</sup> General Report, para. 30.

<sup>8</sup> General Report, para. 101. Observations and direct requests are accessible through the NORMLEX database available at: [www.ilo.org/normes](http://www.ilo.org/normes).

<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 framework of the adoption of a five-year cycle of recurrent discussions by the Governing Body in November 2016.

<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.

## Committee on the Application of Standards of the International Labour Conference

### Composition

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

### Work of the Committee

The Conference Committee on the Application of Standards meets annually at the Conference usually in June. Pursuant to article 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 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.

---

<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: Record of Proceedings*, International Labour Conference, 111th Session, Geneva, 2023.

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

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



## Part I. General Report

## ► I. Introduction

---

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by Member States of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 94th Session from 13 November to 9 December 2023 in a hybrid modality involving in-person participation by 19 members and online conferencing by one expert. The Committee has the honour to present its report to the Governing Body.

### A. Composition of the Committee

2. The composition of the Committee is as follows: Mr Shinichi AGO (Japan), Ms Lia ATHANASSIOU (Greece), Ms Leila AZOURI (Lebanon), Mr James J. BRUDNEY (United States of America), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr. José HERRERA VERGARA (Colombia), Mr Benedict KANYIP (Nigeria), Ms Irene KASHINDI (Kenya), Mr Alain LACABARATS (France), Ms Elena E. MACHULSKAYA (Russian Federation), Mr Sandile NGCOBO (South Africa), Ms Mónica PINTO (Argentina), Mr Paul-Gérard POUGOUÉ (Cameroon), Ms Mia RÖNNMAR (Sweden), Mr Iain ROSS (Australia), Ms Kamala SANKARAN (India), Ms Ambiga SRENEVASAN (Malaysia) Ms Deborah THOMAS-FELIX (Trinidad and Tobago) and Mr Bernd WAAS (Germany). The Appendix of the General Report contains brief biographies of all the Committee members.
3. The Committee welcomed three new members appointed by the Governing Body at its 349th Session, namely, Advocate Irene Kashindi (Kenya); Professor Mia Rönmar (Sweden) and Judge Iain Ross (Australia).
4. Advocate Kashindi is a partner at Munyao Muthama and Kashindi Advocates with close to 15 years' significant experience in employment and labour relations matters as a practicing advocate in the areas of commercial and civil litigation as well as arbitration. Co-author of Kashindi's Digest of Employment Cases, a collection of key labour law judicial precedents, she represents the Law Society of Kenya in the Employment and Labour Relations Court Rules Committee, which has the mandate to review and make rules of procedure for the labour court under the Employment and Labour Relations Act, 2011. An Associate Member of the Chartered Institute of Arbitrators (Kenya Branch), Advocate Kashindi is admitted to practice before the High Court of Kenya. In the area of alternative dispute resolution, Advocate Kashindi has worked as a mediator, conciliator and arbitrator. She has been a Board Member of the Public Procurement Administrative Review Board since 2020. She received her Bachelor's and Master of Law degree (Financial Services Law) from the University of Nairobi.
5. Professor Rönmar is a full professor of Private Law specializing in labour law and industrial relations at Lund University in Sweden, after having served as Dean for six years from 2015 to 2020. She was a visiting professor at Sydney Law School, Sydney University, where she developed and taught an intensive LLM-course in International and Comparative Labour Law. Professor Rönmar conducted research in a national interdisciplinary research programme in industrial relations (including economics, economic history, labour law and political science) at Lund University. Formerly President of the International Labour and Employment Relations Association from 2018 to 2020, Professor Rönmar has taught various levels of labour law (international, European Union, comparative, social security and industrial relations). She was a joint editor of a

2021 publication entitled Making and Breaking Gender Inequalities in Work and has published a large variety of articles and books on labour law, equality law, human rights, age discrimination, internships and apprenticeships. Professor Rönmar holds a Doctor of Laws in Private Law (LLD) from the Faculty of Law, Lund University.

6. Judge Ross was appointed Judge of the Federal Court and President of Fair Work Australia until his retirement in 2022. His previous positions include serving as Judge of the Supreme Court of Victoria, President of the Victorian Civil and Administrative Tribunal, and Vice-President of the Australian Industrial Relations Commission. Since 1997, Judge Ross has lectured at the Faculty of Law of the University of Sydney and was appointed Adjunct Associate Professor of Law in 2004. He has also been an Adjunct Professor in the University of Sydney's Business School since March 2014. He has been a member of various legislative reform committees, among them as Commissioner of the New South Wales Reform Commission, member of the Tribunal's Working Group to the Australian Law Reform Commission's (ALRC) Review of the Federal Civil Justice System and part-time Commissioner of the Victorian Law Reform Commission. Judge Ross holds a Master of Law and a PhD in Law from the University of Sydney and a Master of Business Administration from Monash University. He has also studied at the London Business School and Warwick Business School and since April 2023 he has been a part time board member of the Reserve Bank of Australia.
7. As a result of these three appointments, the Committee functioned with a full composition of 20 members.
8. This year, Ms Graciela Dixon Caton continued her mandate as Chairperson and Mr Shinichi Ago was elected as Reporter.
9. The Committee noted that this was the last year on the Committee for two of its outstanding members, Professors Filali Meknassi and Pougoué, both of whom had completed 15 years of service. The Committee expressed its great appreciation for the outstanding manner in which the two Experts carried out their mandate during their long years of service on the Committee and particularly commended them for their technical excellence, legal expertise, independence and moral standing.

## B. Working methods

10. In order to guide the Committee's reflection on continuous improvement of its work, a Subcommittee on Working Methods was set up in 2001 with the mandate to examine the working methods of the Committee and any related subjects, in order to make appropriate recommendations to the Committee so that it can perform its functions in the best and most efficient manner possible and, in so doing, assist Member States in meeting their obligations in relation to international labour standards and enhance the functioning of the supervisory system. This year, under the Chairpersonship of Mr Bernd Waas, the Subcommittee on Working Methods met for the 23rd time.
11. The Subcommittee continued its discussion on a possible further modernization of the working methods and of drafting practices to ensure that the Committee's comments are providing precise, short and clear recommendations to Member States. The Subcommittee was also briefed by the Office on the discussions taking place at the ILO Governing Body with respect to strengthening ILO's supervisory mechanism and welcomed proposals to streamline reporting on the basis of thematic templates. Noting that the Governing Body will continue to discuss the matter in 2024, the Subcommittee asked the Office to share the draft thematic templates for inputs before their adoption. In the same context, it invited the Office to reflect on possible adjustments to advance the reporting timelines.



## C. Information session with Government representatives

12. At its 92nd Session (2021), the Committee gave positive consideration to the request put forward by Government members of the Conference Committee to consider the possibility of a meeting between the Committee of Experts and Government representatives. Accordingly, an initial information session was organized at the Committee's 93rd Session (2022). This year, the Committee held another information session to which all Member States were invited. The session was attended by some 53 government representatives either virtually or in person. Many speakers expressed appreciation for this opportunity to acquaint themselves with the Committee and meet some of its representatives. Many underlined their high appreciation for the Committee's work, and some indicated that the Committee's comments had provided useful guidance to their governments for assessing laws and practices and preparing labour law reforms.
13. Several speakers said that simplifying the language in comments would make them more accessible and facilitate their follow up. They also expressed the view that detailed comments and requests for detailed information resulted in delays in the preparation of replies, given limitations in labour administrations and the need to coordinate with other ministries and sometimes regions. Several speakers referred to the reporting workload and thanked the Office for the possibility to participate in the pilot project on reporting baselines which greatly facilitated the preparation of reports of countries with an extensive ratification record, calling for the project to continue. Many governments also asked that the information sessions continue to be organized in future.
14. In reply to questions, the Committee emphasized that it was cognisant of the challenges faced by governments and increasingly tried to focus requests and streamline comments. The independence, technical expertise and commitment of its Members are the main attributes accounting for the Committee's ability to address its increasingly growing workload with success, while the diversity in its composition has well equipped it with the capacity to thoroughly ponder the often complex and varied considerations relevant to matters brought before it.

## D. Relations with the Conference Committee on the Application of Standards

15. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the Committee on the Application of Standards of the International Labour Conference. In this context, the Chairperson of the Committee has been invited to participate in the general discussion of the Conference Committee at the 111th Session of the International Labour Conference. The Chairperson was represented at that session by the Committee's Reporter as she was unable to attend in person. In addition, the Chairperson of the Committee on Freedom of Association was invited once again to address the Conference Committee in order to present the Committee's Annual Report.
16. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Mr Paul Mackay) 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.
17. The Employer Vice-Chairperson welcomed the opportunity to have this exchange with the Committee of Experts which had become a well-established practice. He emphasized that the credibility and effectiveness of the supervisory mechanism should be based on close dialogue of all actors involved, namely, the CAS, the Committee of Experts, the tripartite constituents of the

Member States and the Office. He added that dialogue and tripartism were more crucial than ever in the context of the long-standing dispute on the right to strike, and the related developments at the last Governing Body sessions which put some strain on these core values.

18. The Employers' group was deeply concerned that the decision to refer the right to strike to the International Court of Justice (ICJ) was made by means of a vote against the opposition of a substantial part of the Governing Body and the wider membership. While he recognized that it was not the Committee of Experts who sent the matter to the ICJ, the Committee must now await the outcome. He added that for their part, the Employers' group would continue to advocate for inclusive social dialogue and tripartite discussions as the only way to achieve a long-lasting solution on all matters of interpretation, not just this one.
19. The Employer Vice-Chairperson called on the Committee to be part of the solution and to foster convergence among constituents. In line with its mandate, the Committee's assessments of compliance were, and should remain, sensitive and receptive to the views and needs expressed by the tripartite constituents in the CAS, through article 23 observations and in Governing Body discussions. He said that past experience had demonstrated that where the CAS and the Committee of Experts had common views, more positive responses were obtained from governments and social partners at the national level, leading to faster, better and more sustainable compliance with ILO standards, both in law and in practice. He also considered that it was imperative that when making observations and recommendations, the Committee remained within the boundaries of its mandate, as per the clear statement thereof contained in the Committee's annual report which was welcomed by the Governing Body in March 2014.
20. The Employer Vice-Chairperson emphasized that the Committee needed to focus on the technical analysis of implementation of ratified Conventions by Member States and make appropriately practical recommendations based on these analyses. In his view, while it was true that in doing so the Committee might sometimes be required to determine the legal scope, content and meaning of provisions of Conventions, it was important that this was not understood as creating new legal obligations which went beyond the currently understood scope of their provisions. He regretted that this was not the case with regard to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and added that the detailed rules and conditions for the exercise of the right to strike developed by the Committee were not compatible with the text of the Convention, which was approved with the recorded intention of excluding that right. He also said that the Committee of Experts had taken positions that created greater rights for workers than employers, for example, in relation to the employers' ability to lockout which was constrained to the workplace whereas the right to strike, as envisaged by the Experts, was not.
21. The Employer Vice-Chairperson expressed the view that the Committee of Experts should only develop future guidance on the basis of the outcome of tripartite consideration of a given matter, preferably in the form of a tripartite standard-setting process. In the meantime, the Committee should be careful not to suggest, or directly impose, obligations on ratifying States that were neither discussed nor agreed in a standard-setting process, or for that matter, ever submitted to Member States for ratification. As a short-term measure, the Employer Vice-Chairperson asked the Committee to suspend its assessment of the application of Convention No. 87, basically on a sub judice basis because the matter was before the ICJ pending the procedure for an advisory decision.
22. The Employer Vice-Chairperson finally reiterated proposals mentioned in previous exchanges with the Committee of Experts regarding the distinction between direct requests and observations, the criteria for double-footnoted cases, improving the length and clarity of comments and rendering government reports and observations from employers' and workers' organizations under articles 22 and 23 of the ILO Constitution accessible online. Expressing

appreciation for the role that the Office had in the preparation of the Committee's comments he trusted that the concerns and suggestions he had expressed would be properly discussed between the Committee and the Office and that the Committee would provide all of the necessary guidance to the Office in this regard.

- 23.** The Worker Vice-Chairperson thanked the Committee for this exchange as well as the Reporter for having attended the general discussion at the last CAS session. It was important to recall the objective of this session which should allow for a constructive engagement between the two committees through a collective reflection aimed at enhancing the impact of the supervisory system as a whole. The basis for this dialogue was respect for the independence and autonomy of the two bodies with a view to building on the many areas of convergence between them. Some divergent views expressed by some government representatives or one of the groups in the CAS should not be mistaken for divergence with the CAS as a whole. The CAS as such had never made any statement raising divergences with the Committee of Experts. The Worker Vice-Chairperson observed that the exchanges with the Committee of Experts were increasingly serving as opportunities to present a list of claims. They should reflect instead a culture of dialogue, lying at the basis of the ILO, which was not compatible with practices consisting in making systematic comments on the work of one body in an effort to influence its decisions.
- 24.** The Worker Vice-Chairperson considered that some points raised repeatedly over recent years by the Employer Vice-Chairperson were non-issues. For instance, the length of the Committee's report reflected the quality of the Committee's work and it was pointless to raise it as a problem. It might be wiser to think collectively about how to make the Experts' observations more explicit in their expression. Also, the criteria for the distinction between observations and direct requests were explained in the Committee's report. The role of the CAS was not to supervise the work of the Committee of Experts which had the discretion to select independently the means through which it could carry out a dialogue with governments. Furthermore, the Workers' group was of the view that nothing prevented the CAS from taking into account direct requests during the examination of individual cases. Thus, the distinction did not have a negative impact on the work of the supervisory mechanism.
- 25.** The Worker Vice-Chairperson also referred to a proposal by the Employers' group at the previous exchange with the Committee of Experts, to hold more frequent, regular and structured exchanges. However, the subjects proposed were not conducive to constructive dialogue. The Worker Vice-Chairperson considered that dialogue with the Committee of Experts could not provide a space for systematically contesting its approach in relation to certain Conventions. On numerous occasions, the Workers' group had reiterated that they did not share the views of the Employers' group on Conventions Nos 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Putting into question the Committee's work in this area was an attack on its independence.
- 26.** With respect to the request to integrate sustainable enterprises in the Committee of Experts' comments, the Worker Vice-Chairperson emphasized that this went beyond the mandate of the Committee of Experts and that respect for workers' rights was a necessary condition for sustainability in all cases. Sustainable enterprises were important economic players helping to create jobs, but they should ensure that their actions respected workers' rights and the standards that protected them.
- 27.** The Worker Vice-Chairperson also referred to proposals that his group had made in the past and would like to bring to the Committee's attention. He referred to giving more consideration to the situation of countries under examination when these were confronted with acute crises. While ratification entailed the same obligations for all countries, different tools and approaches existed to accommodate the particular situation in which different countries were found so as to promote

respect for international labour standards in all circumstances. This did not concern the content of standards but the means through which their effectiveness could be ensured. He also referred to the importance of having an inventory of steps taken in response to the conclusions of the CAS so as to ensure continuous follow up over a longer period of time.

28. Concerning the dispute on the right to strike between the Employers' and Workers' groups inside the CAS, the Worker Vice-Chairperson said that this had already been addressed by a decision of the Governing Body. The matter was for the moment pending before the ICJ and there was no point in continuing to raise it. Once the ICJ rendered its advisory opinion, it pertained to the Governing Body to draw the necessary conclusions and decide on appropriate follow up action.
29. The Committee of Experts shared with the two Vice-Chairpersons highlights of the discussion it had with Government representatives and the Chairs of the UN Human Rights Treaty Bodies, informing the two Vice-Chairpersons that these dynamic exchanges were likely to continue in the future. It also recalled that while celebrating the 75th anniversary of the Universal Declaration of Human Rights and Conventions Nos 87 and 98, it was important to have a special thought for those facing violations of their rights around the world and to recall that the two Conventions remained more relevant than ever and essential for upholding the basic human rights of all. The Committee expressed its appreciation to the Vice-Chairpersons for their continued engagement in dialogue and undertook to further reflect on suggestions made with a view to rendering the ILO supervisory system even more impactful and authoritative in the future.

## E. Mandate

30. **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 cognisant 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.**

## F. Application of international labour standards in times of crisis

31. In its previous report, the Committee noted with concern that multiple and interlocking crises were having an adverse impact on the application of international labour standards, stalling, and even reversing, decades of progress. It also referred to the ILO Director General's call for a Global

Coalition for Social Justice, which was endorsed by the ILO Governing Body<sup>1</sup> as a platform for multilateral cooperation and partnerships galvanizing support for placing social justice high on the multilateral system's agenda in the runup to the 2024 UN Summit of the Future and the proposed 2025 UN World Social Summit.<sup>2</sup> The Committee notes that in September 2023, the world was well off track on nearly two-thirds of the SDG 8 indicators of progress with the environmental and social dimensions of SDG 8 lagging behind the economic dimension.<sup>3</sup> The Committee once again recalls that realizing labour rights as human rights is a necessary prerequisite for promoting social justice and emphasizes that a new social contract, drawing upon the common values expressed in international labour standards, is today more necessary than ever. It finds it timely to also recall the first preambular paragraph of the ILO Constitution according to which "universal and lasting peace can be established only if it is based upon social justice".

## The polycrisis and its impact on the world of work

32. The world has moved to a state of "polycrisis" characterized by a convergence of economic, environmental, geopolitical and security risks of unprecedented magnitude. As the triple planetary crisis continues unabated and geostrategic tensions proliferate, a wave of austerity further exacerbates poverty, while civic space is regressing and labour market institutions founded on the principles of representative participation, solidarity and dialogue are being increasingly questioned.
33. Despite the unprecedented worldwide expansion of social protection during the COVID-19 crisis, more than 4 billion people around the world remain entirely unprotected by social security systems, as the pandemic response proved to be uneven, deepening the gap between countries with high- and low-income levels.<sup>4</sup> Debt distress currently affects over half of the world's poorest countries, with debt servicing crowding out critical investments in social protection, health care, education and other essential services.
34. Fuelled by austerity, skyrocketing income inequalities are driving political instability and damaging social progress. The Committee recalls once again the ILO Constitution in order to emphasize that "poverty anywhere constitutes a danger to prosperity everywhere."<sup>5</sup> It notes with concern that poverty is on the rise. The purchasing power of the lowest paid is not safeguarded, putting at risk a much-needed post-pandemic recovery.<sup>6</sup> An estimated 6.4 per cent of the global workforce representing 214 million workers were living in extreme poverty in 2022, earning less than US\$1.90 per day.<sup>7</sup> Women and young people fare significantly worse, a fact indicative of large inequalities in the world of work globally. As noted in the latest report by the Special Rapporteur on extreme poverty and human rights, low wages are a major explanation for the growth of the category of "working poor", since productivity gains often fail to result in better wages for workers, largely due to the expansion of non-standard forms of work and the

---

<sup>1</sup> Decision concerning the update on the Global Coalition for Social Justice, [GB.349/INS/4/Decision](#).

<sup>2</sup> [GB.349/INS/4](#).

<sup>3</sup> ILO, "Press Release on [Sustainable Development Goals – World is "well off track" to achieve SDG 8, new ILO research finds](#)", 15 September 2023.

<sup>4</sup> ILO, [World Social Protection Report 2020-22 – Social protection at the crossroads – in pursuit of a better future](#), 2021.

<sup>5</sup> Annex to the ILO Constitution: Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia) section I(c).

<sup>6</sup> ILO, [Director-General on the Global Wage Report 2022-23](#), 2022.

<sup>7</sup> ILO, [World Employment and Social Outlook: Trends 2023](#), Geneva, 2023.

weakening of union rights.<sup>8</sup> The formidable challenges unions face in their recruiting strategies range “from non-respect for fundamental workers’ rights, the absence of an enabling environment, inadequate enforcement mechanisms, ethnic and religious conflicts, and the massive numbers of informal workers.”<sup>9</sup> Widespread informality challenges both the competitiveness of sustainable enterprises and the representativeness of Employer and Business Membership Organisations (EBMOs), since most informal economic units are not members of such organizations.<sup>10</sup>

- 35.** Austerity measures place strains on labour administrations and the institutions governing the labour market, leaving the most vulnerable exposed to the risks of transitioning towards new digital, demographic, environmental and socioeconomic realities. This year’s General Survey on Labour Administration confirms this trend noting that in certain cases the budget allocated to labour administrations is as low as 0.3 per cent of the national budget and notes that the persistent lack of financial and material resources continues to be a challenge for many labour administrations, particularly in developing countries. This penalizes first and foremost the women, children, youth and elderly, persons with disabilities, indigenous peoples and migrant workers among other groups in need of support. It prevents the effective functioning of labour market institutions, including labour inspectorates, public employment agencies, vocational training institutions, which are essential to proactively preparing for the future of work meeting the needs of women and men in the labour market.<sup>11</sup>

## Supervision of international labour standards in conditions of austerity

- 36.** Not for the first time must the Committee address the question of application of international labour standards in conditions of austerity. At its 2008 session, it had emphasized that the then financial crisis must not be used as an excuse for lowering standards. In a general observation on the application of the ILO social security standards, it underscored the need to avoid social regression and ensure that crisis response measures did not endanger social guarantees and were not taken at the expense of cutting the resources available to public social security schemes.<sup>12</sup> It had also emphasized that “bringing the economy out of the crisis requires enhanced measures of social protection and, indeed, making social security part of the solution.”<sup>13</sup> In its consideration of the Committee’s comments, the Conference Committee on the Application of Standards highlighted in 2009 that the crisis must not be used as an excuse for lowering standards and that there could be no sustainable economic recovery without sustainable and up to date labour standards.<sup>14</sup> At that time, the International Labour Conference echoed the views of both supervisory bodies by integrating in its 2009 Global Jobs Pact the following reference to international labour standards: “14. International labour standards create a basis for and support rights at work and contribute to building a culture of social dialogue particularly useful in times of crisis. In order to prevent a downward spiral in labour conditions and build the recovery, it is

<sup>8</sup> UN General Assembly, *The working poor: a human rights approach to wages*, Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter, Human Rights Council, A/78/175, 78th Session, 2023.

<sup>9</sup> ILO, *Social Dialogue Report: 2022 – Collective Bargaining for an Inclusive, Sustainable and Resilient Recovery*, 129.

<sup>10</sup> ILO, *Social Dialogue Report: 2022*, 111.

<sup>11</sup> ILO, *Labour Administration in a Changing World of Work*, General Survey, Report III (Part B), ILC 112th Session, 2024, paras 323, 326, 327, 330 and 332.

<sup>12</sup> ILO, *CEACR, 98th Session, Report 1A, 2009*, paras 128–129.

<sup>13</sup> ILO, *CEACR, 98th Session, Report 1A, 2009*, para. 130.

<sup>14</sup> ILO, *Extracts from the record of proceedings*, International Labour Conference, 98th Session, 2009, para. 97.

especially important to recognize that: (1) Respect for fundamental principles and rights at work is critical for human dignity. It is also critical for recovery and development ...".<sup>15</sup>

- 37.** In some instances, the Committee requested governments to assess the overall impact of economic adjustment policies on, for example, employment, gender discrimination, labour inspection, the sustainability of social security systems and the rise in poverty, particularly child poverty. In its continued dialogue with Governments, the Committee has been occasionally informed of a few *ex post* impact assessments, but never of any *ex ante* assessment estimating the possible effects of economic reform measures before they were launched, nor of any follow up measures aimed at protecting the most vulnerable from the undue consequences of economic reforms.
- 38.** In this respect, the Committee recalls the 2016 report of the Independent Expert on the Effects of Foreign Debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights who, drawing inter alia on the Committee's comments regarding the impact of austerity measures on the application of ratified Conventions, recommended to "Ensure respect for labour rights through Human Rights Impact Assessments".<sup>16</sup> In 2019, guidance on how to do so was adopted by the Human Rights Council<sup>17</sup> in the form of the [Guiding Principles on Human Rights Impact Assessment of Economic Reforms](#). The Committee notes that in general, these Guiding Principles resonate well with international labour standards, including for instance, Principles 19–20 according to which the process of doing impact assessments should comply with the principles of participation, access to information, and accountability. The Committee has consistently recalled the importance, in the context of an economic crisis, of maintaining permanent and intensive dialogue with the most representative workers' and employers' organizations in particular in the process of adopting legislation, which may have an effect on workers' rights, including those intended to alleviate a serious crisis situation. The Committee once again recalls the importance for governments that are envisaging or implementing austerity measures and other economic reforms to vet the proposed policies in a participatory framework through social dialogue grounded on evidence-based assessments of the potential impact, especially on the most vulnerable, so that the views and proposals of those who are likely to be impacted by the measures can be duly taken into consideration. It also emphasizes that impact assessments should be carried out before any policies are adopted as well as during their implementation in order to prevent, mitigate and redress any undue negative repercussions, especially on the most vulnerable.
- 39.** The Committee underlines the central role of policy coherence as one of the principal objectives of the Director General's initiative to forge a Global Coalition on Social Justice. It welcomes that policy coherence is already pursued in the context of the Global Accelerator on Jobs and Social Protection for Just Transitions through a principled dialogue founded on international labour standards with a view to carving out fiscal space for decent jobs and social protection policies in pathfinder countries. The Committee looks forward to receiving information on the results of this action in the framework of its regular supervision of social security and employment policy instruments in the near future.

<sup>15</sup> ILO, [Recovering from the crisis: A Global Jobs Pact](#), International Labour Conference, 98th Session, 2009, para. 14.

<sup>16</sup> UN General Assembly, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, [A/HRC/34/57, 19 et seq.](#)

<sup>17</sup> UN General Assembly, Human Rights Council Resolution No. 40/8 of 21 March 2019, on The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, [A/HRC/RES/40/8](#) (2019).

## G. Recent developments

### The Governing Body and the right to strike

40. The Committee recalls its long-standing position on the right to strike, focused on the ways in which national laws and practices affecting the right have protected or impeded the ability of workers and trade unions to organize their activities and to formulate their programmes. In this regard, the Committee notes the ILO Governing Body's decision, in accordance with article 37, paragraph 1, of the ILO Constitution, to request the ICJ to render urgently an advisory opinion under article 65, paragraph 1, of the Statute of the Court, and under article 103 of the Rules of Court on whether the right to strike of workers and their organizations is protected under ILO Convention No. 87 and that, on 16 November 2023, the ICJ made an Order organizing the related proceedings.

### Tackling inequalities

41. The Committee takes note of work carried out as a follow up to the 2021 ILC Resolution on Addressing Inequalities in the World of Work<sup>18</sup> and in particular the comprehensive and integrated ILO strategy to reduce and prevent vertical and horizontal inequalities in the world of work for the period 2022–27 endorsed by the Governing Body in October–November 2022.<sup>19</sup> It notes that the strategy draws upon and incorporates action on a wide spectrum of international labour standards in the areas of employment policy, wages, equality and non-discrimination, and social protection. The Committee considers that initiatives to support the constituents in this regard are indispensable to complement the supervision of international labour standards. It calls for increased synergies so that supervision, technical cooperation and research can advance hand in hand in order to inform national policies giving effect to international labour standards.

### Data collection and the informal economy

42. In the current digital era, reinforcing national data collection capacities is crucial to identifying needs, monitoring progress and assessing policy effectiveness. The Committee recalls the Governing Body decision which invites the States parties to the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), which have not yet ratified the Labour Statistics Convention, 1985 (No. 160), to do so without further delay as Convention No. 63 has been placed on the agenda of the 112th Session of the International Labour Conference (2024) with a view to its abrogation. It recalls that Article 2 of Convention No. 160 contains an in-built updating mechanism as it invites Members to take into consideration the latest standards and guidelines established under ILO auspices in designing or revising the concepts, definitions and methodology used in the collection, compilation and publication of the statistics required under this Convention. The Committee welcomes in this regard the latest adoption by the International Conference of Labour Statisticians of new statistical standards<sup>20</sup> to [improve the measurement of the informal economy](#) and calls on the Office to continue providing much needed technical assistance to Member States so that capacities to put the new statistical standards into effect can be reinforced, thereby facilitating the supervision of a range of standards of relevance to addressing informality.

<sup>18</sup> ILO, [ILC.109/Resolution XVI](#), International Labour Conference, 109th Session, 2021.

<sup>19</sup> [GB.346/INS/5](#).

<sup>20</sup> ILO, [Resolution Concerning Statistics in the Informal Economy](#), ICLS/21/2023/RES. I, 21st International Conference of Labour Statisticians (Geneva, 11–20 October 2023).



## Promoting freedom of association and collective bargaining

43. As 2023 and 2024 mark the 75th anniversary 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), respectively, the Committee takes this opportunity to recall the central importance of freedom of association and collective bargaining as the foundation of solid labour market institutions capable of responding to the transformational drivers of change already in operation.
44. The Committee emphasizes, as it has done on numerous occasions, that crisis situations “cannot be used to justify restrictions on the civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity and on condition that any measures affecting [their] application are limited in scope and duration to what is strictly necessary to deal with the situation in question”.<sup>21</sup>
45. The Committee welcomes the decision by the ILO Governing Body to approve an integrated strategy for the promotion and implementation of the right to collective bargaining adopted at its 349th Session.<sup>22</sup> It notes that the strategy adopted by the Governing Body includes an extended research programme to demonstrate the role that freedom of association and collective bargaining play in economic development, the reinforcement of quantitative and qualitative databases and knowledge products, and finally, efforts to foster the integration of freedom of association and the effective recognition of the right to collective bargaining into policies and activities within the multilateral system, with a view to contributing to the delivery of the 2030 Agenda and within the framework of the Global Coalition for Social Justice.

## Leveraging standards to prepare the future of work

46. With a view to meeting the needs of the constituents in areas of critical importance for the future of work, the Committee welcomes the adoption of the Quality Apprenticeships Recommendation, 2023 (No. 208), and the plan of action for its implementation<sup>23</sup> as well as the Governing Body decision to place on the agenda of the 113th Session of the International Labour Conference (2025) two standard-setting items on decent work in the platform economy and on biological hazards.<sup>24</sup> It also welcomes the Global Strategy on Occupational Safety and Health (OSH) 2024–30<sup>25</sup> and the plan of action for its implementation adopted by the Governing Body as the new three-year reporting cycle for the supervision of the fundamental Conventions on OSH enters into force. The Committee finally takes note of the review of the implementation of the strategy to give effect to the resolution concerning the elimination of violence and harassment in the world of work<sup>26</sup> building on the strong momentum in favour of ratification of the Violence and Harassment Convention, 2019 (No. 190). All these instruments strengthen the ILO’s normative arsenal by filling important protection gaps.

## Work on supply chains

47. The Committee welcomes the Governing Body’s adoption of an ILO strategy for achieving decent work in supply chains, which is based on the guiding principle that the body of international labour

---

<sup>21</sup> ILO, *General Survey on Freedom of Association and Collective Bargaining*, International Labour Conference, 81st Session, 1994, para. 41.

<sup>22</sup> GB.349/POL/2.

<sup>23</sup> GB.349/INS/3/1.

<sup>24</sup> GB.347/INS/2/1/Decision.

<sup>25</sup> GB.349/INS/8.

<sup>26</sup> GB.349/INS/6(Rev.1).

standards will inform all actions undertaken in this framework and provide authoritative guidance for ensuring decent work across supply chains.<sup>27</sup> The Committee notes that the strategy aims through its output 3, to ensure that information from the supervisory mechanisms with relevance to supply chains is taken into account in ILO technical and research work, and conversely, the outcomes of ILO technical and research work are brought to the attention of the supervisory mechanisms. The Committee welcomes the work that will be undertaken in this respect, with a view to promoting a systematic use of information from the work of the supervisory mechanisms relevant to ensuring decent work in supply chains across ILO means of action and in varied tools; as well as initiatives to ensure that the outcomes of ILO work in this field are brought to its attention. On its part, the Committee undertakes to follow up on these tripartite-agreed objectives within its mandate, recalling that it has considered in the past the issue of supply chains in its supervision of international labour standards, given its relevance to many key decent work deficits.<sup>28</sup>

### Modernized supervision of international labour standards

48. The Committee recalls the important innovations introduced in recent years to modernize the Committee's working methods either on the Committee's own initiative or following the Governing Body's examination of measures for the strengthening of the ILO supervisory system. These innovations led notably to the introduction of electronic working methods which made it possible for the Committee to hold extended annual sessions on a hybrid basis; the introduction of a new practice of urgent appeals to ensure that information reflected in the Committee's report is up to date and draws on all available sources of information even reports required under article 22 of the ILO Constitution are not received; the consolidation of the Committee's comments in a number of thematic areas and their streamlining through various means to improve their communication and facilitate follow up.
49. Taking due note of the latest discussions in the Governing Body on proposals to streamline reporting under article 22 of the ILO Constitution,<sup>29</sup> the Committee remains committed, through the work of its Subcommittee on Working Methods, to contribute to any steps envisaged in this context so as to further strengthen the impact and effectiveness of the supervisory mechanism.

### Sustainable enterprises

50. The Committee recalls that the ILO Centenary Declaration for the Future of Work has reasserted the fundamental importance of international labour standards and has indicated the need for these standards to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision.
51. In this respect, the Committee recalls the International Labour Conference conclusions concerning the promotion of sustainable enterprises (2007)<sup>30</sup> according to which, the enabling environment for sustainable enterprise development comprises a large array of factors, the relative importance of which may vary at different stages of development and in different cultural

<sup>27</sup> GB.347/INS/8, appendix, para. 4(i).

<sup>28</sup> ILO, [Gap analysis of ILO normative and non-normative measures to ensure decent work in supply chains](#), Geneva, 2021, 37–39. This has involved consideration of information provided by governments when reporting on efforts to apply ratified standards, the examination of unratified Conventions and Recommendations in its annual General Survey, and within a 2020 general observation on the application of the Employment Policy Convention, 1964 (No. 122).

<sup>29</sup> GB.349/INS/7.

<sup>30</sup> ILO, [Resolution concerning the promotion of sustainable enterprises, Record of Proceedings, International Labour Conference, 96th Session, 2007, 94.](#)

and socio-economic contexts. At the same time, the Conference considered that among the basic, interconnected and mutually reinforcing conditions generally considered to be essential for such enabling environment, featured the respect for universal human rights and international labour standards. The role of government included the implementation and enforcement of labour and environmental standards. Regulatory reform and the removal of business constraints were not to undermine labour and environmental standards as they facilitated formalization and boosted systemic competitiveness by ensuring fair competition.

52. The UN 2030 Agenda for Sustainable Development pledged to foster a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with relevant international standards and agreements, including international labour standards and other related initiatives such as the UN Guiding Principles on Business and Human Rights. The UN Guiding Principles hold that business must act with due diligence to avoid infringement of human and labour rights and encourage states to provide effective remedies to that end.
53. It is in this context that the Committee in its *General Survey of 2020 on promoting employment and decent work in a changing landscape* recommended that, with the strategic objective of income generation and the creation of decent jobs front and centre, States adopt a three-pronged approach: promote the establishment and development of sustainable enterprises of all sizes; facilitate their transition to the formal economy where appropriate; and formulate an enabling environment that takes into account and concretely replies to the needs of these enterprises. This year's General Survey <sup>31</sup> provides that a well-functioning and efficient labour administration system is instrumental in ensuring that fundamental principles and rights at work are promoted and respected, that there is an enabling environment for sustainable enterprises to operate, that inspection and enforcement are effective and that when disputes arise, they are resolved efficiently.
54. The Committee is thus of the view that the mandate given to it, notably to undertake an impartial and technical analysis of how ratified Conventions are applied in law and practice by Member States, is an important contribution both to the enabling environment in which sustainable enterprises can flourish and the responsible business practices sustainable enterprises are adopting. Its contribution is limited by the standards that States have voluntarily ratified. It also recalls that the Office draws on the Committee's work when providing advisory services in respect of materialization of the principles set out in non-binding instruments such as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy <sup>32</sup> in conjunction with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conducts.

### International labour standards and just transition

55. In carrying out its mandate, the Committee remains cognisant not only of different national realities and legal systems but also of regulatory balances that are struck between evolving policy objectives. In this respect, the Committee welcomes the *Resolution concerning a just transition towards environmentally sustainable economies and societies for all*, <sup>33</sup> adopted by the International Labour Conference in June 2023. The Conference concluded that just transition involves maximizing the social and economic opportunities of climate and environmental action, including an enabling environment for sustainable enterprises, while minimizing and carefully managing

<sup>31</sup> ILO, *Labour Administration in a Changing World of Work*, ILC, Report III (Part B), 112th Session, 2024, para. 242.

<sup>32</sup> ILO, *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*, sixth edition, 2022, Geneva.

<sup>33</sup> ILC, [ILC.111/Resolution V](#), 111th Session, 2023.

challenges. The Committee notes in particular that according to the resolution, just transition must be based on effective social dialogue, respect for fundamental principles and rights at work, and be in accordance with international labour standards.

56. The Committee further notes that the Conference endorsed the ILO Tripartite *Guidelines for a just transition towards environmentally sustainable economies and societies for all* (2015) which embody a vision of sustainable development meeting the needs of the present generation without compromising the ability of future generations to meet their own needs, and of an enabling environment for sustainable enterprises to enhance productivity, create jobs and promote decent work while complying with social, economic and environmental regulations.
57. Finally, the Committee notes that the Resolution and Conference conclusions in this area highlight the relevance of the guidance offered by the ILO MNE Declaration and the UN Guiding Principles to foster inclusive and sustainable trade and investment frameworks, value chains and supply chains that contribute to a just transition towards environmentally sustainable economies and societies.

## Concluding reflections

58. In a world where uncertainty, risk, volatility and unpredictability are becoming regular features of everyday life, a new paradigm is gradually settling in, calling for enhanced proactiveness, responsiveness and impactful action at all levels, including with regard to the supervision of international labour standards. The Committee is in a position to embrace this challenge within the limits of its mandate with a view to ensuring continuity in the application of international labour standards in these times of crisis. It recalls that crises do not suspend obligations under ratified international labour standards and that any derogations should be exercised within clearly defined limits of legality, necessity, proportionality and non-discrimination. The protection afforded by international labour standards is not designed to apply in good times only. It is in times of crisis that international labour standards acquire their full significance by providing guidance on a way forward, safeguarding and promoting social justice through a rules-based multilateral system, of which the ILO supervisory system is an integral part.
59. The Committee is pleased to note that, as decided by the Governing Body,<sup>34</sup> it will prepare in 2025 a General Survey on the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), which will provide a vantage point on the impact that multiple crises have had on the exercise of rights at work and an opportunity for the Committee to formulate comprehensive guidance in this framework.

## H. Collaboration with the United Nations

60. A joint statement of the Committee and the Chairs of eight UN human rights treaty bodies, appended as an Addendum to the Committee's previous report, underlined the timeliness of protecting and realizing labour rights as human rights.<sup>35</sup> In particular, the parties: (i) reaffirmed their responsibility to promote within their respective mandates the effective fulfilment of human rights, including labour rights, especially for those at risk of being left behind, and to continue ensuring the full realization of civil, political, economic, social, and cultural rights to all without discrimination; (ii) called upon all stakeholders without exception to maximize efforts for the effective implementation of the recommendations from the Human Rights Treaty Bodies and the

<sup>34</sup> GB.349/LILS/2.

<sup>35</sup> ILO, 111th Session (2023), Report III(A)/Addendum, *Joint statement by the ILO Committee of Experts on the Application of Conventions and Recommendations and UN Human Rights Treaty Bodies Chairpersons*.

ILO Committee of Experts; and (iii) decided to join efforts in order to promote full respect, defend, fulfil and promote all human rights, including international labour standards, through joint analyses, concerted action, and thematic periodic meetings to effectively address the challenges referred to in the joint statement.

61. This year, the first thematic discussion between the Committee and the Treaty Bodies commemorated the 75th anniversary of the Universal Declaration of Human Rights and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Seven Chairs or treaty body members designated by the Chairs of the treaty bodies participated either remotely or in person. In addition, two Special Rapporteurs presented their recent findings on the state of freedom of association in the context of their mandate.
62. **Ms Graciela J. Dixon Caton, Chairperson of the ILO Committee of Experts** recalled that the Universal Declaration and Convention No. 87 proclaimed and entrenched fundamental rights that were essential to human beings at work or wherever their freedom and dignity needed to be protected or realized based on the rule of law. **Mr Claude Heller, Chair of the 35th Annual Meeting of the Chairs of the Treaty Bodies and Chair of the Committee against Torture (CAT)**, recalled the long-standing collaboration between the ILO Committee of Experts and the human rights treaty body system as well as last year's joint statement, which had marked the third anniversary of the UN Secretary General's Call to Action for Human Rights. He observed that this event took the cooperation between the ILO Committee of Experts and the human rights treaty body system one step further by focusing the first thematic meeting on the fundamental right to freedom of association as an enabling right for people to defend their human and labour rights and pursue their interests collectively.
63. **Mr Clément Nyaletsossi Voulé, Special Rapporteur on freedom of peaceful assembly and of association**, recalled the instrumental role of the Universal Declaration in support of liberation movements and decolonisation across the world, including through the participation of workers and their organisations in liberation struggles. He added that Convention No. 87, adopted five months before the Universal Declaration, reinforced the latter in relation to the right of workers to organise which was recognised in the Convention along with the corresponding rights of employers. He noted that freedom of association was inextricably linked to freedom of peaceful assembly and remained at the core of human rights protection, enabling individuals to become agents of their own development when faced with poverty, crises and multiple transitions. He presented his recent report which addressed the issue of the recognition of freedom of association and freedom of assembly for workers in the informal economy, noting the devastating effect that COVID-19 had exerted upon informal economy workers who were excluded from any type of legal protection. He called for improved protection of their fundamental freedoms, including the right to organise, the right to association and the right to strike for workers in the informal economy, since guaranteeing these rights would not only help create better conditions of work, but also sustain livelihoods, decrease inequalities, improve inclusiveness and support the fight against poverty and exclusion. He concluded by emphasizing that workers' rights should be seen as human rights and that the rights to freedom of peaceful assembly, to freedom of association and to organise, were still more relevant than ever, 75 years after the adoption of the Universal Declaration and ILO Convention No. 87.
64. **Mr Olivier De Schutter, Special Rapporteur on Extreme Poverty and Human Rights**, considered that the human rights system could do more to explore synergies that enriched human rights law and made it more operational for governments by referring to international labour standards and their interpretation by the ILO Committee on Freedom of Association and the Committee of Experts. He illustrated this point by referring to article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and article 22 of the International Covenant on Civil and Political Rights (ICCPR), both of which concerned freedom of association

and should be read in accordance with ILO Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). He observed that no general comment had been adopted on these provisions while no special procedure of the Human Rights Council had been tasked specifically with looking at the rights of workers and linking human rights norms to ILO developments. He briefly presented the content of his report which raised three issues in particular:

- (i) how to define a living wage for the purpose of defining statutory minimum wages;
- (ii) the right to a fair remuneration, as a human right required by Article 7(a)(2) of ICESCR. He highlighted three factors that determined wage levels, notably the ability of clients to pay, the fact that many poorly paid jobs providing essential services to society had been historically performed by women, often without recognition nor remuneration, and finally, the bargaining position of the employers and workers, including the possibility for workers to exercise the right to strike in order to pressure employers to conclude collective agreements leading to more fair and just outcomes;
- (iii) the issues faced by platform workers, in the hope that the report would serve as a source of inspiration for the upcoming standard setting discussions on this subject at the International Labour Conference.

He concluded by calling for more systematic exchanges and convergence between the ILO supervisory bodies, human rights treaty bodies and special procedures.

- 65. Mr Olivier de Frouville, Chair of the Committee on Enforced Disappearances (CED),** emphasized that defenders of the right to freedom of association, including trade unionists, were among the main victims of enforced disappearances, as shown by the numerous cases before the ILO Committee on Freedom of Association. He observed that without freedom of association the legal concepts serving to describe this terrorising practice would simply not exist, as the term “enforced disappearance” originated in the association of the mothers of May Square in Argentina and in other parts of the Americas. He also observed that enforced disappearances were a gendered phenomenon as the associations of families were mostly composed of women often left alone after the enforced disappearance of one or several men of their family, given that in their majority, disappeared persons were men. He emphasized that through their associations they found help, social, legal and economic assistance and most of all human support, in order to recover their dignity and engage in a combat for truth and justice. He underlined that the right to truth and freedom of association were intrinsically linked because most often it was the associations that claimed the right to know and carry the memory of the disappeared, despite pressures to “turn the page”, as there could be no sustainable peace without truth and justice. He recalled that article 24(7) of the Convention for the Protection of All Persons from Enforced Disappearance acknowledged the importance of protecting the central role of associations and organisations of victims and extended legal protection to them. He observed that despite this, associations were still under attack in many countries while in others, the associations of victims of enforced disappearances were simply not recognised or had to operate in silence in order to protect themselves from repression in the context of a constantly shrinking civic space. He concluded by emphasizing that, in this context, it was fundamental that the ILO and UN bodies combined their efforts in order to defend the right to freedom of association, which lied at the heart of democracy and collective action in defence of human rights.
- 66. Ms Laura-Maria Crăciunean-Tatu, Chair of the Committee on Economic, Social and Cultural Rights (CESCR),** recalled the constant and longstanding partnership between the ILO Committee of Experts and CESCR. She added that CESCR often drew upon the observations and direct requests of the ILO Committee of Experts in shaping concluding observations on questions raised during constructive dialogues with States parties and in the formulation of lists of issues on which

the latter provided reports. She also referred to the joint statement on freedom of association, which had been released in 2019 by CESCR along with the Human Rights Committee<sup>36</sup> in order to emphasize the importance of this right under both Covenants as the most characteristic illustration of the universal, interdependent and interrelated nature of all human rights. She added that in its monitoring and thematic work, CESCR examined the right to freedom of association not only in relation to article 8 of the Covenant on the right to form and join trade unions, but also as an enabling right relevant to the enjoyment of several other rights enshrined in the ICESCR. To illustrate this point, she referred to CESCR's General Comments on the right to just and favourable conditions at work (No. 23), paragraph 1 of which referred to the crucial role of trade unions and the right to strike; on science and economic, social and cultural rights (No. 25); on the equal right of men and women to the enjoyment of all economic, social and cultural rights (No. 16); on the right to the highest attainable standard of health (No. 14); on the economic, social and cultural rights of older persons (No. 6); on persons with disabilities (No. 5); on and the right to adequate housing (No. 4). She concluded by sharing the views expressed by previous speakers on the absence of a general comment on article 8 of the Covenant that could elaborate on the legal obligations under this article in a systematic way and supported having a more structured exchange between the ILO and CESCR on this matter.

67. **Ms Verene A. Shepherd, Chair of the Committee on the Elimination of Racial Discrimination (CERD)** observed that because of the work of the ILO and the human rights treaty bodies, the world could take for granted today the right to organise, the right to collective bargaining, the right to form trade unions and to protest against inequalities and discrimination. However, such rights had been obtained at great cost. She wished to speak in memory of all those who had created the space within which these rights could be enjoyed today and especially recall the workers who had been killed by colonial regimes. She referred to her part of the world, the Caribbean, where the right to form unions and to protest used to meet with cruel punishment. She emphasized that today these rights could be defended, inter alia, by virtue of article 5 of the Convention on the Elimination of Racial Discrimination and concluded by emphasizing that CERD would continue to reinforce these rights in its interactive dialogues with States Parties and to defend the rights of workers through its work.
68. **Ms Ana Peláez Narvaez, Chair of the Committee on the Elimination of Discrimination Against Women (CEDAW)**, referred to the need to strengthen cooperation among all the mechanisms, which worked to ensure the full recognition of human rights across the world. She emphasised that the situation of women constituted a common challenge for all human rights treaty bodies and ILO supervisory bodies and that the practice of collaborating among human rights mechanisms and the ILO Committee of Experts was very relevant for strengthening the work of all bodies. She noted that CEDAW was currently working on a draft general recommendation on the equal and inclusive representation of women in decision-making systems, which was linked to the rights to freedom of association and women's equal participation in political and public affairs, and always kept a close eye on ratifications of ILO Conventions as many of them had an impact on women. She also thanked the two Special Rapporteurs for raising the point of intersectionality in their statements, as women often suffered discrimination on more than one ground. She called for a more systematic focus on intersectionality and invited all human rights experts to exercise leadership and guide States Parties in this respect.
69. **Mr Khaled C. Babacar, Member of the Committee on the Rights of All Migrant Workers and Members of their Families (CMW)**, speaking on behalf of its Chair, Mr Edgar Corzo Sosa, referred

---

<sup>36</sup> Statement on freedom of association, including the right to form and join trade unions. Joint statement by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, E/C.12/66/5-CCPR/C/127/4.

to the multiple reasons leading to human rights violations and exploitation of migrants and the need to develop trustworthy data on these trends. He recalled that in addition to the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), all other human rights instruments and international labour standards equally applied to migrant workers who were thus entitled to fundamental rights to non-discrimination, protection from forced labour and trafficking, and freedom of association and collective bargaining. The latter were protected under articles 26 and 40 of the Convention on Migrant Workers along with article 20 of the Universal Declaration on Human Rights and articles 21 and 22 of the ICCPR. He also welcomed the opportunity to strengthen collaboration with the Committee of Experts on shared concerns, emphasizing that CMW had a longstanding collaboration with the ILO and was in the process of strengthening it even further, through a plan of action adopted at the CMW 36th session in 2023.

- 70. Mr Daniel Fink, Vice-Chair of the Subcommittee on the Prevention of Torture (SPT)**, speaking on behalf of its Chair, Ms Suzanne Jabbour, welcomed the exchange as an important opportunity to ensure that all workers and people could fully enjoy the fundamental right to freedom of association. With reference to the SPT's mandate to carry out visits in detention facilities, he expressed interest in drawing on the Committee of Experts' work in relation to freedom of association of persons deprived of their liberty, especially in cases where they were forced to work. Recalling that the enjoyment of the right to freedom of association in these contexts was minimal and circumscribed to very particular conditions, he considered that this was a good basis for cooperation in the longer run.
- 71. Mr James J. Brudney, member of the Committee of Experts**, agreed with the previous speakers that Convention No. 87 was at its core an enabling right : through social dialogue, including collective bargaining, peaceful assembly and organised protest actions, freedom of association had enabled workers and organizations to exercise a wide array of other human rights. These included the rights to adequate minimum wages, reasonable hours of work, safety and health at the workplace, equal treatment of women, minorities and indigenous peoples, and to promotion of employment, including through transition of workers from the informal to the formal economy. Nevertheless, in his view, freedom of association was not just a means to an end, but also an end in itself. He recalled that when the ILO in its founding documents had stated that "labour is not a commodity", this had conveyed the principle of individual free choice, moral agency and the capacity for full and democratic participation. Unfortunately, as observed by many speakers, today's challenges to the achievement of freedom of association and its promises were numerous. He added that the Committee of Experts was acutely aware of continuous attacks on trade union members, leaders and organisers based on reports received regularly. He referred to examples from the Committee's latest observations on cases of arbitrary arrests, surveillance and judicial prosecution of independent trade unionists, incidences of violence and deaths in the context of protests linked to wage negotiations, and police violence preventing trade unions and their members from exercising their rights to organise public meetings without fear of reprisals. He also said that freedom of association for workers in the informal economy continued to be a challenge to which the Committee of Experts was certainly attentive, referring to recent jurisprudence and legislative developments on this subject across the world. He concluded by saying that protecting freedom of association was fundamental to meaningful and inclusive participation at the workplace and in society at large.
- 72. Mr Heller** welcomed this opportunity for the Treaty Body Chairs and the Committee of Experts to enter into dialogue. He observed that the right to freedom of association was linked to the human rights mandates of each and every treaty body. The mandate of the CAT included all categories of protected persons, including workers exercising the right to organize. He considered that discussions and exchanges with the Committee of Experts could explore further themes and



raised the example of the labour chapters of free trade agreements, which contained important provisions on fundamental freedoms, including at work. He concluded by emphasizing that it was important to continue the thematic dialogues and deepen the cooperation between the Committee of Experts and the Human Rights Treaty Bodies.

- 73. Ms Dixon Caton** thanked everyone for the very rich exchange. With gratitude for those who had equipped humanity with freedom of association as a tool that continued to speak to peoples' universal aspirations, she recalled the duty to stand together in order to ensure that this tool was being effectively used. She emphasized that freedom of association could not be exercised in the absence of all other fundamental civil liberties enunciated in the Universal Declaration of Human Rights, such as freedom of assembly, freedom from arbitrary arrest and detention, freedom from torture and ill-treatment, and protection from threats, pressure and violence of any kind. She also said that freedom of association depended on an expanding civic space, including for Trade Unions and other representative bodies, such as Employer and Business Membership Organizations, National Human Rights Committees and Parliaments. She added that the corollary to freedom of association was the right to collective bargaining and recalled that 2024 marked the 75th anniversary of the Right to Organise and Collective Bargaining Convention No. 98. She emphasized that freedom of association and collective bargaining were more relevant than ever in a world navigating multiple environmental, geopolitical, economic, demographic and technological transitions, calling for increased representation, participation and dialogue for safeguarding social peace and social justice within and among countries. She concluded by expressing the hope of having additional thematic meetings in the future as today's challenges called for increased vigilance and proactiveness on behalf of all, including monitoring and supervisory bodies of the United Nations system.

## ► II. Compliance with standards-related obligations

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

74. 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

75. 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. The Committee invites reports to be sent as soon as possible before the due date of 1 September.
76. The Committee recalls that detailed reports should be sent in the case of first reports (a first report is due after ratification) or when specifically requested by the Committee of Experts or the Conference Committee. In all other cases, simplified reports are requested on a regular basis.<sup>37</sup>
77. The Committee also recalls that, at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the regular reporting cycle for the fundamental and governance Conventions. At its 334th Session (October–November 2018) the Governing Body decided to increase the reporting cycle from five to six years for all other Conventions. In certain cases, reports may be requested outside of the regular reporting cycle.<sup>38</sup>

#### Compliance with reporting obligations

78. This year a total of 2,131 reports (2,014 reports under article 22 of the Constitution and 117 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by Member States, compared to 2,103 reports last year. At the end of the present session of the Committee, 1,605 reports were received by the Office, corresponding to

<sup>37</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 (GB.334/INS/5).

<sup>38</sup> There are several ways in which a report can be requested outside of the regular reporting cycle: (i) the Committee can place a special request in a footnote at the end of a comment for a report to be sent earlier than the year it is due according to the reporting cycle (see General Report, para. 107); (ii) an "automatic" request is sent when the government has failed to send a report in the framework of the regular reporting cycle or the report sent did not contain an answer to the Committee's comments. If a government has failed to send a report for a number of years, the case is singled out in Part II (section I) of this report and examined every year by the Conference Committee during its discussion on serious failures to fulfil reporting obligations; (iii) the Conference Committee can ask a government to submit a report to the Committee of Experts outside of the reporting cycle following the examination of an individual case and when it discusses the cases of serious failure to report; (iv) the Governing Body may ask a government to send a report to the Committee of Experts outside of the reporting cycle based on the recommendations of tripartite committees established to examine representations under article 24 of the ILO Constitution or the recommendations of Commissions of Inquiry established to examine complaints under article 26 of the ILO Constitution.

75.3 per cent of the reports requested.<sup>39</sup> Last year, the Office received a total of 1,490 reports, representing 70.9 per cent. The Committee notes in particular that 42 of the 79 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 45 of the 67 first reports due had been received).

- 79.** The Committee observes that the levels of reports received after the due date of 1 September decreased from last year. In particular, 971 reports were received by the due date of 1 September this year, representing 45.6 per cent of reports requested, compared with 862 reports received at the previous session, representing 41.0 per cent of reports requested. The Committee would like to express its appreciation to the Member States which made special efforts to ensure compliance with their reporting obligations and is pleased to note that the rate of reports received by the 1 September deadline has been growing consistently as of 2021 at levels which are higher than before the pandemic.
- 80.** The Committee still notes that approximately one third of reports continue to be received late. More specifically, out of 2,131 reports due this year, 634 (29.8 per cent) were received after the deadline. The late submission of reports disturbs the sound operation of the supervisory mechanism as the examination of a number of reports received after the deadline might be deferred due to their late arrival. Their examination 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 recalls that ILO technical assistance is available to help Member States comply with their constitutional obligations and asks the Office to provide every support in this regard. It urges those Member States who have received Office assistance to make special efforts to ensure timely submission of their reports.
- 81.** ***The Committee asks all Member States to make every effort to send the reports due under articles 19, 22 and 35 of the ILO Constitution, to do so within the deadlines and to submit complete answers to the Committee's requests so as to allow for a thorough examination by the Committee.***
- 82.** When examining the failure by Member States to respect their reporting obligations, the Committee adopts "general" comments (contained at the beginning of Part II (section I) of this report). It makes general observations when none of the reports due have been sent for two or more years; or when a first report has not been sent for two or more years. It makes a general direct request when, in the current year, a country has not sent the reports due, or the majority of reports due; or it has not sent a first report due.
- 83.** Furthermore, as of 2017 the Committee gradually introduced a practice of urgent appeals according to which it may examine how a Convention is implemented in a ratifying country on the basis of information at its disposal if the Government has failed to submit a first report after ratification. In the meantime, a number of countries responded to urgent appeals by submitting the reports due. As of 2018, the practice of urgent appeals was extended to all reports due for more than three years. In 2020, the Committee issued for the first-time repetitions of previous comments with a new introductory text ("chapeau") informing the government concerned in cases where reports were not received for three years or more,<sup>40</sup> that if no report is supplied in time

<sup>39</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.

<sup>40</sup> The introductory text ("chapeau") now reads: The Committee notes with **deep concern** that the Government's report has not been received. It expects that the next report will contain full information on the matters raised in its previous comments. The

for examination by the Committee at its next session, then the Committee may proceed with the examination of the application of the Convention on the basis of information at its disposal.

84. This year, the Committee examined the following cases in the absence of a government report following an urgent appeal (table of countries and Convention).

**List of cases in which the application of ratified Conventions was examined at the Committee's session in the absence of a report following an urgent appeal**

State	Conventions Nos
Dominica	22, 108 and 147
Equatorial Guinea	100
Haiti	1/14/30/106
Kiribati	111
Somalia	22, 23, 45, 95 and 111
Vanuatu	185
Yemen	58, 81 and 185

85. Based on the information provided in the "general" comments (Part II, section I of the report), none of the reports due have been sent for the past two or more years from the following **15** countries: **Afghanistan, Antigua and Barbuda, Barbados, Comoros, Dominica, Grenada, Haiti, Papua New Guinea, Saint Lucia, Somalia, Syrian Arab Republic, Tonga, Tuvalu, Vanuatu** and **Yemen**. *The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions.*

86. Moreover, the Committee launches an urgent appeal to the Member States that have failed to submit a report for more than three years, drawing their attention to the fact that if the reports due are not received in time for examination by the Committee at its next session, it may proceed to examine the application of the Conventions concerned on the basis of public information at its disposal. This year, the Committee launches an urgent appeal in its repetitions of previous comments to which a reply has not been received, requesting the following countries to submit a report with replies to the Committee's comments at its next session:

**Urgent appeals launched in repetitions of previous comments**

State	Conventions Nos
Afghanistan	105, 138, 140, 141, 142, 144 and 182
Antigua and Barbuda	87, 122, 135, 138, 144 and 151
Barbados	87, 105, 122, 144 and 182
Comoros	29, 87, 98, 105, 122, 138 and 182
Congo	MLC, 2006
Democratic Republic of the Congo	88
Dominica	87, 94, and 144
Equatorial Guinea	68/92
Grenada	105, 138, 144 and 182

Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, 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.

Urgent appeals launched in repetitions of previous comments	
State	Conventions Nos
Haiti	81
Montenegro	185
Papua New Guinea	29, 98, 122 and 158
Romania	100 and 111
Saint Lucia	87, 98, 108 and 158
Singapore	100
South Sudan	100, 105, 111, 138 and 182
Syrian Arab Republic	29, 100, 105, 107, 111, 138 and 182
Tuvalu	MLC, 2006
Vanuatu	182
Yemen	100 and 111

87. In addition, the Committee launches an urgent appeal to the following governments to submit reports due for more than three years, in the absence of any pending comments:

Urgent appeals for reports on which no comments are pending	
State	Conventions Nos
Albania	77, 78 and 185
Antigua and Barbuda	11, 29, 98, 105, 154 and 182
Barbados	90, 135, 138 and 172
Dominica	11 and 98
Haiti	90 and 105
Kiribati	111
Lesotho	135
Lebanon	14
Montenegro	12, 19, 102 and 121
Saint Lucia	11, 12, 94, 97 and 105
Samoa	100 and 111
Somalia	19, 84, 94 and 105
Tajikistan	27, 113, 124 and 126
Vanuatu	29, 100, 105 and 111
Yemen	19

88. In relation to first reports, the Committee notes that **11** countries have failed to supply a first report for two or more years:

State	Conventions Nos
Cook Islands	– Since 2021: MLC, 2006
Djibouti	– Since 2022: Convention No. 183

State	Conventions Nos
Fiji	– Since 2022: Convention No. 190
Grenada	– Since 2021: MLC, 2006 and Convention No. 189
Iraq	– Since 2022: Convention No. 185
Lebanon	– Since 2021: MLC, 2006
Marshall Islands	– Since 2021: Convention No. 182
Sudan	– Since 2021: MLC, 2006
Tonga	– Since 2022: Convention No. 182
Tuvalu	– Since 2021: Convention No. 182
Vanuatu	– Since 2021: Convention No. 138

89. The Committee urges the governments concerned to make a special effort to supply the first reports due. It is also pleased to note that all reports that were pending for more than three years have been examined following the launching of urgent appeals.
90. The Committee, like the Conference Committee, emphasizes the particular importance of first reports, which provide the basis on which the Committee makes its initial assessment of the application of the specific Conventions concerned. The Committee is aware that, where no reports have been sent for some time, it is likely that administrative or other problems are at the origin of the difficulties encountered by governments in fulfilling their constitutional obligations. The COVID-19 pandemic and subsequent crises have no doubt aggravated such difficulties.<sup>41</sup> The Committee would like to express its appreciation to the governments which submitted three first reports this year.<sup>42</sup> ***It recalls the importance for governments to request assistance from the Office, and for such assistance to be provided for the preparation of first reports.***
91. The Committee is pleased to note that, over the last three years, all countries have provided information on the communication of reports to employers' and workers' organizations in accordance with article 23, paragraph 2 of the Constitution thereby enabling representative organizations of employers and workers to participate fully in supervision of the application of international labour standards in accordance with the tripartite nature of the ILO.<sup>43</sup>

## Replies to the comments of the Committee

92. Governments are requested to reply in their reports to the observations and direct requests made by the Committee.
93. 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, Antigua and Barbuda, Bahamas, Barbados, Cambodia, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Dominica, Fiji, France (New Caledonia),**

<sup>41</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>42</sup> North Macedonia (Conventions Nos 141 and 171), United Kingdom of Great Britain and Northern Ireland (Falkland Islands (Malvinas)) (MLC, 2006).

<sup>43</sup> General Report, paras 122–131.

**Grenada, Haiti, Iceland, Iran (Islamic Republic of), Madagascar, Montenegro, Netherlands (Sint Maarten), Papua New Guinea, Romania, Rwanda, Saint Lucia, San Marino, Singapore, Slovenia, Solomon Islands, Somalia, South Sudan, Sudan, Syrian Arab Republic, Tuvalu, United Kingdom of Great Britain and Northern Ireland (British Virgin Islands), Vanuatu and Yemen.**

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

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

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

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

97. In examining the reports received on ratified 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.
98. The Committee wishes to inform Member States that it examined all reports that were brought to its attention.

### Observations and direct requests

99. First of all, the Committee considers that it is worthy of note that in 243 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.
100. 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>44</sup>

101. 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.
102. This year the Committee made 612 observations and 1,053 direct requests. The Committee’s observations appear in Part II of this report, together with, for each subject, a list of direct requests. An index of all observations and direct requests, classified by country, is provided in Appendix VII to the report.

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

103. The Committee examines the follow-up to the conclusions of the Committee on the Application of Standards as this information forms an integral part of the Committee’s dialogue with the governments concerned. This year, the Committee has examined the follow-up to the conclusions adopted by the Committee on the Application of Standards during the last session of the International Labour Conference (111th Session, June 2023) in the following cases:

### List of cases in which the Committee has examined the follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

State	Conventions Nos	Page
Afghanistan	111	601
Armenia	122	811
Cambodia	105	373
Costa Rica	122	822
El Salvador	144	734
Gabon	MLC, 2006	975
Guatemala	87	265
Guinea-Bissau	26	894
Indonesia	98	279
Italy	81/129	770
Lebanon	29	402
Liberia	87	294
Madagascar	87	296

<sup>44</sup> Observations and direct requests are accessible through the NORMLEX database, on the ILO website ([www.ilo.org/normes](http://www.ilo.org/normes)).



**List of cases in which the Committee has examined the follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)**

State	Conventions Nos	Page
Nepal	182	516
Netherlands - Sint Maarten	87	301
Nicaragua	87 and 111	302 and 712
Nigeria	182	522
Peru	87	308
Philippines	87	312
Turkmenistan	105	433
United Kingdom of Great Britain and Northern Ireland	87	351

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

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

**List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of commissions of inquiry (complaints under article 26)**

State	Conventions Nos
Belarus	87
Myanmar	29 and 87
Bolivarian Republic of Venezuela	26

**List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of tripartite committees (representations under article 24)**

State	Conventions Nos
France	98
Japan	159 and 181
Mauritania	111
Peru	1 and 176
Portugal	81/129 and 155
Sri Lanka	95

Türkiye

87 and 158

- 105.** In addition, the Committee examined measures taken by the Government of Bangladesh in the context of Governing Body discussions on an article 26 complaint which has not yet led to the establishment of a Commission of Inquiry.

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

- 106.** In accordance with established practice, the Committee also examines the legislative aspects referred to it by the CFA. At the latter's request, the Committee decided to indicate these cases in the following table:

**List of cases in which the Committee has examined the follow-up given to legislative aspects referred to it by the Committee on Freedom of Association**

State	Conventions Nos
Plurinational State of Bolivia	87
Peru	87
Republic of Korea	87 and 98
Ukraine	87
United Kingdom of Great Britain and Northern Ireland	87

## Special notes

- 107.** As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed it appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2024.
- 108.** 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.
- 109.** 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;
- 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.

- 110.** 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.
- 111.** 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.
- 112.** This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2024 in the following cases:

**List of the cases in which the Committee has requested governments to supply full particulars to the Conference at its next session in June 2024**

State	Conventions Nos
Cambodia	87
Paraguay	81
Türkiye	98
Uganda	138

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

**List of the cases in which the Committee has requested a full reply to its comments outside of the reporting cycle**

State	Conventions Nos
Afghanistan	111
Albania	81/129 and MLC, 2006
Algeria	87, 98 and MLC, 2006
Angola	87
Azerbaijan	81/129
Bahamas	81 and 97
Bangladesh	81
Plurinational State of Bolivia	136/162/167
Brazil	185
Colombia	87

**List of the cases in which the Committee has requested a full reply to its comments outside of the reporting cycle**

State	Conventions Nos
Congo	185
Costa Rica	141
Croatia	122
Dominica	22/108 and 147
Ecuador	87 and 98
Egypt	87 and 98
Eritrea	98
Eswatini	87
Ethiopia	87
Kazakhstan	81/129 and 105
Lebanon	71
Liberia	MLC, 2006
Luxembourg	MLC, 2006
Malawi	111
Mauritania	111
Mozambique	MLC, 2006
Myanmar	29 and MLC, 2006
Pakistan	81
Peru	81 and 169
Poland	81/129
Portugal	MLC, 2006
Saint Kitts and Nevis	MLC, 2006
Solomon Islands	81
Sri Lanka	103
Tajikistan	81
Türkiye	158
Turkmenistan	105 and 182
Uganda	26/95, 81 and 124
Ukraine	81/129
United Kingdom of Great Britain and Northern Ireland	87
Uzbekistan	87
Vanuatu	185
Bolivarian Republic of Venezuela	26/95
Yemen	58 and 185

## Cases of progress

- 114.** 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.
- 115.** 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.
- 116.** Since first identifying cases of satisfaction in its report in 1964,<sup>45</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 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;
  - to provide an example to other governments and social partners which have to address similar issues.
- 117.** Details concerning these cases of progress are found in Part II of this report and cover **33** instances in which measures of this kind have been taken in **23** countries. The full list is as follows:

### List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries

State	Conventions Nos
Armenia	87, 98 and 111
Australia	87 and 98

<sup>45</sup> Report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference, para. 16.

**List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries**

State	Conventions Nos
Bahamas	105
Plurinational State of Bolivia	100 and 138
Bosnia and Herzegovina	143
Burundi	87
Canada	100 and 162
Colombia	87, 98, 151 and 154
Czechia	135
El Salvador	111
France	98
Honduras	182
Japan	100
Kyrgyzstan	182
Lesotho	111
Liberia	182
Maldives	138
Mongolia	138
Pakistan	138
Romania	87 and 98
Samoa	138
Sierra Leone	26/95/99 and 138
Spain	122

**118.** 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 **3,228** since the Committee began listing them in its report.

**119.** Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.<sup>46</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;

<sup>46</sup> Report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference, para. 122.

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

**120.** 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 **181** instances in which measures of this kind have been adopted in **95** countries. The full list is as follows:

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

State	Conventions Nos
Argentina	144, 156 and 169
Armenia	81 and 122
Australia	100, 111 and 156
Azerbaijan	23/92/134/147, 111 and 185
Bahamas	144
Belgium	MLC, 2006 and 189
Benin	111
Bolivia (Plurinational State of)	77/78/124, 111, 138, 156 and 182
Bosnia and Herzegovina	97 and 138
Botswana	87 and 98
Brazil	189
Bulgaria	MLC, 2006
Burundi	87
Canada	87, 100 and 111
Central African Republic	155
Chile	1/30, 98, 111 and 151
China - Hong Kong Special Administrative Region	MLC, 2006
Colombia	81/129, 87, 98 and 160
Costa Rica	160
Croatia	45/139/148/155/161/162 and 155/161/162
Cyprus	111
Czechia	115/155/161/176/187 and 142
Denmark	115/139/155/162/167/187
Djibouti	96
Dominican Republic	87 and 98
Ecuador	190
Egypt	81/129/150 and 142
El Salvador	81/129/150, 122 and 159
Estonia	135 and MLC, 2006
Ethiopia	88 and 159
Fiji	45/155/184
Finland	135 and 142
France	98, 100, 111 and 142

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

State	Conventions Nos
France - New Caledonia	100, 111 and 181
Gabon	135
Gambia	29
Germany	29
Guatemala	87
Guyana	138 and 182
Honduras	78 and 182
Indonesia	29 and MLC, 2006
Italy	81/129, 122 and 149
Japan	100
Jordan	29, 138 and 182
Kiribati	111 and 138
Kyrgyzstan	105 and 182
Lao People's Democratic Republic	138
Lebanon	98
Lesotho	111
Liberia	182 and MLC, 2006
Lithuania	MLC, 2006
Madagascar	88 and 144
Malawi	29
Malaysia - Peninsular	19
Malaysia - Sarawak	19
Malta	111 and MLC, 2006
Mauritius	97, 111 and 156
Mexico	100, 138 and 182
Mongolia	100, 111, 138 and 182
Montenegro	142
Morocco	108 and 144
Mozambique	88 and 122
Myanmar	182
Namibia	122, 182 and 190
Netherlands	97, 111 and MLC, 2006
New Zealand	122
Nigeria	111 and 159
Norway	29
Pakistan	81, 138 and 182
Panama	3, 45/127/167 and 138
Paraguay	122
Peru	138 and 182
Philippines	149 and 176
Poland	102
Portugal	45/115/120/127/139/148/155/162/176/184/187, 81/129/150 and MLC, 2006
Republic of Korea	87 and 98



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

State	Conventions Nos
Republic of Moldova	105
Romania	87
Samoa	138 and 182
Senegal	122 and 183
Sierra Leone	26/95/99, 138 and 182
Singapore	45/155/187
South Africa	144 and 189
Sri Lanka	144
Switzerland	122 and 144
Tajikistan	111
Thailand	122
Togo	29
Trinidad and Tobago	144
Türkiye	88 and 159
Ukraine	115/119/120/139/155/161/174/176/184
United Kingdom of Great Britain and Northern Ireland	144
United Kingdom of Great Britain and Northern Ireland - Anguilla	82 and 94
United Kingdom of Great Britain and Northern Ireland - Cayman Islands	MLC, 2006
United Kingdom of Great Britain and Northern Ireland - Montserrat	85
United Republic of Tanzania	144
United Republic of Tanzania - Tanganyika	88
United States of America	144
Viet Nam	88 and 122
Zambia	81/129/150 and 122
Zimbabwe	159

## Practical application

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

## Observations made by employers' and workers' organizations

**122.** 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

**123.** 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

**124.** At its 88th Session (2017), following its consideration of the Governing Body's review of the reporting cycle for technical Conventions from five to six years, the Committee indicated its willingness to consider the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers' or employers' organizations on a specific country under article 23, paragraph 2, of the ILO Constitution and decided that inspiration in this regard could be drawn from those criteria used for "footnoting" cases and set out in paragraph 73 of that year's General Report.

**125.** In light of the October–November 2018 Governing Body decision (GB.334/INS/5) expanding the reporting cycle for technical Conventions from five to six years and expressing its understanding

that the Committee would further review, clarify and, where appropriate, broaden the criteria for breaking the reporting cycle with respect to technical Conventions, the Committee proceeded with the review of the criteria mentioned above at its 89th Session (2018).

- 126.** 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.
- 127.** Where the observations on a technical Convention meet the criteria set out in paragraph below, the Committee will request the office to issue a notification to governments that the article 23 observations received will be examined at its subsequent session with or without a response from the government. This would ensure that governments have sufficient notice while ensuring that the examination of matters of importance are not further delayed.
- 128.** 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;
  - 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.
- 129.** With respect to **any Convention (fundamental, governance or technical)**, recalling its well-established practice, the Committee will examine employers' and workers' observations in a non-reporting year in the year received in the exceptional cases set out in paragraph above, even in the absence of a reply from the government concerned.
- 130.** 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.
- 131.** The Committee notes that since its last session, it has received 1,276 observations (compared to 1,156 last year), 221 of which (compared to 212 last year) were communicated by employers' organizations and 1,055 (compared to 944 last year) by workers' organizations. The great majority of the observations received (1,220 compared to 955 last year) related to the application of ratified Conventions; <sup>47</sup> 551 of these observations (compared to 416 last year) concerned the application of fundamental Conventions, 166 (compared to 140 last year) related to governance Conventions and 503 (compared to 399 last year) concerned the application of other Conventions. Moreover, 56 observations were received in relation to the 2023 General Survey on Labour Administration. The Committee notes that, 735 of the observations received this year on the application of ratified Conventions were transmitted directly to the Office. In 485 cases, the governments transmitted the observations made by employers' and workers' organizations with their reports. The

---

<sup>47</sup> Appendix III to this Report.

Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

## Cases in which the need for technical assistance has been highlighted

- 132.** 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. The Committee follows up on a number of these cases in the present report, especially where they relate to the follow-up to conclusions adopted by the Conference Committee on the Application of Standards at its 111th Session of the International Labour Conference (June 2023).<sup>48</sup> Moreover, assistance was provided by the International Training Centre of the ILO (Turin Centre) and international labour standards specialists based in the field to more than 70 countries for the preparation of article 22 reports on ratified Conventions, including the MLC, 2006.
- 133.** The Committee notes that this year, the International Labour Standards Academy focused on the regions of Europe-Central Asia and the Arab States, delivering training on international labour standards to the ILO constituents, judges, law professors and other legal professionals across the two regions. The Committee notes the International Labour Standards Academy's important contribution to building the reporting capacities of governments, employers' and workers' organizations including in countries facing serious weaknesses in this field. The Committee also notes that in addition to the International Labour Standards Academy, the Turin Centre delivered:
- online courses on reporting in English and French as well as tailor-made training on reporting to constituents;
  - international labour standards training to judges in the Americas region;
  - a series of capacity-building events with a focus on promoting the ratification and legal implementation of the MLC, 2006, as well as reporting thereon;
  - finally, the Committee welcomes the tripartite digital activity carried out at the global level by the Office and the Turin Centre in order to facilitate the submission of reports under article 19 of the ILO Constitution and comments by workers' and employers' organizations for the preparation of the 2025 General Survey.
- 134.** In addition to cases of serious failure by Member States to fulfil certain specific obligations related to reporting, the cases for which, in the Committee's view, technical assistance from the Office would be particularly useful in helping Member States to address gaps in law and in practice in the implementation of ratified Conventions, particularly in the context of the COVID-19 pandemic, are highlighted in the following table and details can be found in Part II of this report:

### List of the cases in which technical assistance would be particularly useful in helping Member States

State	Conventions Nos
Afghanistan	111
Albania	81/129, 87 and 98
Algeria	87

<sup>48</sup> See table in paragraph 103.

**List of the cases in which technical assistance would be particularly useful in helping Member States**

State	Conventions Nos
Angola	68/69/92/108, 87 and 98
Armenia	87
Azerbaijan	23/92/134/147
Bahamas	185
Bangladesh	87 and 185
Benin	MLC, 2006
Bolivia (Plurinational State of)	87 and 98
Bosnia and Herzegovina	87, 98 and 185
Botswana	87 and 98
Brazil	185
Burkina Faso	98
Burundi	87
Cambodia	111
Central African Republic	62 and 155
Chile	1/30
China	100
China - Macau Special Administrative Region	17 and 98
Colombia	87 and 98
Congo	185
Costa Rica	87
Croatia	45/139/148/155/161/162
Democratic Republic of the Congo	94
Djibouti	94
Dominica	22/108
Dominican Republic	45/119/167/170/187, 87, 98 and 100
Ecuador	87 and 98
Egypt	45/62/115/139/148
El Salvador	81/129, 87, 100 and 144
Equatorial Guinea	87, 98 and 100
Eritrea	98
Fiji	45/155/184
France	62/115/127/139/148/187
France - French Polynesia	181
Gabon	151 and MLC, 2006
Gambia	138
Ghana	111
Guatemala	87 and 98
Guinea	100
Guinea-Bissau	88
Haiti	87
Honduras	169
Indonesia	98
Iraq	87
Jamaica	138

**List of the cases in which technical assistance would be particularly useful in helping Member States**

State	Conventions Nos
Jordan	98
Lao People's Democratic Republic	100 and 138
Lebanon	98
Lesotho	81 and 100
Liberia	87
Lithuania	108
Madagascar	122
Malawi	111
Maldives	185
Mauritius	100
Mexico	100
Morocco	MLC, 2006 and 188
Mozambique	MLC, 2006
Nepal	100
Netherlands - Sint Maarten	144
Nicaragua	87 and 111
Pakistan	45 and 81
Panama	30, 45/127/167 and 144
Peru	87
Poland	62/115/119/120/127/148/161/170/176
Samoa	98
Sao Tome and Principe	98 and 154
Senegal	122
Sierra Leone	17 and 45/155/187
Solomon Islands	81 and 100
Somalia	22/23 and 45
South Sudan	29 and 98
Sri Lanka	95/131 and 106
Switzerland	62/162
Tajikistan	81
Timor-Leste	98 and 100
Togo	81/129
Uganda	162
Ukraine	95/131/173 and 98
United Kingdom of Great Britain and Northern Ireland - Anguilla	85
United Kingdom of Great Britain and Northern Ireland - British Virgin Islands	85 and 108
United Kingdom of Great Britain and Northern Ireland - Jersey	98
United Kingdom of Great Britain and Northern Ireland - Montserrat	85
United Kingdom of Great Britain and Northern Ireland - St Helena	85/150
United Republic of Tanzania	94

### List of the cases in which technical assistance would be particularly useful in helping Member States

State	Conventions Nos
Vanuatu	185
Yemen	185
Zambia	144

## C. Reports under article 19 of the Constitution

135. The Committee recalls that the Governing Body decided that the subjects of General Surveys should be aligned with those of the annual recurrent discussions in the Conference under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008. This year, governments were requested to supply reports under article 19 of the Constitution for the General Survey on the Labour Administration Convention, 1978 (No. 150), and Recommendation (No. 158).<sup>49</sup> The General Survey has been prepared on the basis of a preliminary examination by a working party comprising six members of the Committee in accordance with the practice followed in previous years.
136. 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 **21** countries: **Albania, Barbados, Bolivia (Plurinational State of), Chad, Djibouti, Dominica, Equatorial Guinea, Haiti, Marshall Islands, Mongolia, North Macedonia, Papua New Guinea, Rwanda, Saint Lucia, Samoa, Sao Tome and Principe, Singapore, Timor-Leste, Tuvalu, Uganda and Yemen.**
137. The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible and provide a complete picture of developments relevant to the impact of COVID-19 in areas that are particularly affected by the pandemic.

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

138. In accordance with its terms of reference, the Committee this year examined the following information supplied by governments of Member States pursuant to article 19 of the Constitution of the Organization:
- information on measures taken to submit to the competent authorities the instruments adopted by the Conference from June 1970 (54th Session) to June 2023 (111th Session) (Conventions Nos 131 to 191, Recommendations Nos 135 to 208 and Protocols); and
  - replies to the observations and direct requests made by the Committee at its 93rd Session (November–December 2022).
139. 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 following instruments were submitted and the date of submission: the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the

<sup>49</sup> ILC, Report III(Part B), 112th Session, 2024.

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, the Violence and Harassment Convention (No. 190), and the Violence and Harassment Recommendation, 2019 (No. 206), adopted at the 108th Session of the Conference, as well as the Safe and Healthy Working Environment (Consequential Amendments) Convention, (No. 191), and the Safe and Healthy Working Environment (Consequential Amendments) Recommendation, 2023 (No. 207), as well as the Quality Apprenticeships Recommendation, 2023 (No. 208), adopted at the 111th Session of the Conference. In addition, Appendix IV summarizes the information supplied by governments in 2023 with respect to the instruments adopted in earlier years and submitted to the competent authorities.

140. 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 to the competent national authorities. 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

141. At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The Committee notes that **130** governments have provided information on the submission of the Protocol of 2014 to the Forced Labour Convention, 1930, to the competent national authorities, whereas **115** governments have provided information on the submission of Recommendation No. 203 to their competent national authorities. It also notes with *interest* that the Protocol of 2014 to the Forced Labour Convention, 1930, which entered into force on 9 November 2016, has been ratified by **60** Member States: **Antigua and Barbuda, Argentina, Australia, Austria, Bangladesh, Belgium, Bosnia and Herzegovina, Canada, Chile, Comoros, Costa Rica, Cyprus, Czechia, Côte d'Ivoire, Denmark, Djibouti, Estonia, Finland, France, Germany, Iceland, Ireland, Israel, Jamaica, Kyrgyzstan, Latvia, Lesotho, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Niger, Norway, Panama, Peru, Poland, Portugal, Russian Federation, Saudi Arabia, Sierra Leone, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, United Kingdom of Great Britain and Northern Ireland, Uzbekistan and Zimbabwe. The Committee encourages all governments to continue their efforts to submit the instruments adopted by the Conference at its 103rd Session to their legislatures and to report on any action taken with regard to these instruments.**

## 104th Session

142. At its 104th Session in June 2015, the Conference adopted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The 12-month period for submission of Recommendation No. 204 to the competent authorities ended on 12 June 2016, and the 18-month period (in exceptional circumstances) ended on 12 December 2016. The Committee notes that **112** 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

143. 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 **97** governments have provided information on the submission of Recommendation No. 205 to the competent national authorities. ***The Committee welcomes the information provided to date and encourages all governments to submit Recommendation No. 205 to their legislatures and to report on any action taken with regard to this instrument.***

## 107th and 108th Sessions

144. The Committee recalls that no instrument was adopted at the 107th Session of the Conference (May–June 2018). At its 108th Session, in June 2019, the Conference adopted the Violence and Harassment Convention, 2019 (No. 190), and the Violence and Harassment Recommendation, 2019 (No. 206). The 12-month period for submission of Convention No. 190 and Recommendation No. 206 to the competent authorities ended on 21 June 2020, and the 18-month period (in exceptional circumstances) ended on 21 December 2020. The Committee notes that **98** governments have provided information on the submission of Convention No. 190, whereas **79** governments have provided information on the submission of Recommendation No. 206 to their competent national authorities. It also notes with ***interest*** that Convention No. 190, which entered into force on 25 June 2021, has been ratified by **36** Member States: **Albania, Antigua and Barbuda, Argentina, Australia, Bahamas, Barbados, Belgium, Canada, Central African Republic, Chile, Ecuador, El Salvador, Fiji, France, Germany, Greece, Ireland, Italy, Lesotho, Mauritius, Mexico, Namibia, Nigeria, North Macedonia, Norway, Panama, Papua New Guinea, Peru, Rwanda, San Marino, Somalia, South Africa, Spain, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay.** ***The Committee welcomes the information provided to date and encourages all governments to submit Convention No. 190 and Recommendation No. 206 to their legislatures and to report on any action taken with regard to these instruments.***

## 109th, 110th and 111th Sessions

145. The Committee recalls that no instrument was adopted at the 109th Session of the Conference (May–June 2021 and November–December 2021). Moreover, no instrument was adopted at the 110th Session of the Conference (May–June 2022). At its 111th Session (June 2023), the Conference adopted the Safe and Healthy Working Environment (Consequential Amendments) Convention (No. 191) and the Safe and Healthy Working Environment (Consequential Amendments) Recommendation, 2023 (No. 207), as well as the Quality Apprenticeships Recommendation, 2023 (No. 208). The 12-month period for submission of these instruments to the competent authorities will end on 12 June 2024, and the 18-month period (in exceptional circumstances) will end on 12 December 2024. The Committee notes that one government, **Azerbaijan**, has provided information on submission of these instruments to the competent national authorities. ***The Committee welcomes the information provided to date and encourages all governments to***

***submit the above instruments to their legislatures and to report on any action taken with regard to them.***

## Cases of progress

146. The Committee notes with *interest* the information provided by the Governments of the following countries: **Benin, Botswana, Central African Republic, Chad, Kazakhstan, Maldives, Marshall Islands, Mozambique, Seychelles, the Bolivarian Republic of Venezuela** and **Viet Nam**. It welcomes the efforts made by these governments in overcoming significant delays in submission and taking important steps toward fulfilling their constitutional obligations to submit to their legislatures the instruments adopted by the Conference over a number of years.

## Special problems

147. To facilitate the work of the Conference Committee on the Application of Standards, this report only mentions those governments that have not submitted the instruments adopted by the Conference to their competent authorities for at least seven sessions. These special problems are referred to as cases of “serious failure to submit”. **This time frame begins at the 99th Session (2010) and concludes at the 111th Session (2023), bearing in mind that the Conference did not adopt any Conventions or Recommendations during its 97th (2008), 98th (2009), 102nd (2013), 107th (2018), 109th (2021) and 110th (2022) 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.

148. The Committee notes that, at the closure of its 94th Session on 9 December 2023, the following **26** Member States (48 in 2020, 45 in 2021 and 42 in 2022) were in the category of “serious failure to submit”: **Angola, Belize, the Plurinational State of Bolivia, Brunei Darussalam, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Gabon, Gambia, Grenada, Guinea-Bissau, Haiti, Hungary, Lebanon, Liberia, Libya, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Solomon Islands, Syrian Arab Republic, Timor-Leste, Tuvalu, Vanuatu, Yemen** and **Zambia**.

149. 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 111th Session of the Conference (June 2023), some Government delegations supplied information explaining why their countries had been unable to meet their constitutional obligation to submit Conventions, Recommendations and Protocols to their national legislatures. Further to the concerns raised by the Committee of Experts, the Conference Committee also expressed deep concern at the failure to respect this obligation. It pointed out that compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national legislatures, is of the utmost importance in ensuring the effectiveness of the Organization’s standards-related activities.

150. The above-mentioned countries have been identified in observations published in this report, and the Conventions, Recommendations and Protocols that have not been submitted are indicated in the statistical appendices. **The Committee considers it worthwhile to alert the governments concerned so as to enable them immediately, and as a matter of urgency, to take appropriate steps to bring themselves up to date and into compliance with this obligation.** The Committee recalls that governments may benefit from the measures the Office is prepared

to take, upon their request, to assist them in taking the steps required for the rapid submission to their legislature of the pending instruments.

## Comments of the Committee and replies from governments

- 151.** 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).
- 152.** 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.
- 153.** The obligation of submission to the competent national authorities under article 19 of the ILO Constitution is one of the fundamental obligations of Member States. Unlike other multilateral treaties, where States are not required to undertake any specific action, including ratification, even if they have participated in the adoption of the instruments, the ILO Conventions require going a step closer to international legislation, in the sense that the Constitution has made it an obligation for all Member States to give serious consideration to their implementation, including ratification, although ratification by itself is in the prerogative of a sovereign State and not required under this constitutional obligation on submission. The Committee, therefore, reiterates the importance of the reporting obligation of Member States with respect to submission to the competent national authorities under article 19 of the Constitution, differentiating itself from other ordinary treaties and making ILO Conventions stand out in the universal framework of the protection of social rights.
- 154.** 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.

\* \* \*

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

Geneva, 9 December 2023

*(Signed)* Graciela Josefina Dixon Caton  
Chairperson

Shinichi Ago  
Reporter

## ► Appendix to the General report

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

#### Mr Shinichi AGO (Japan)

Professor Emeritus of Kyushu University (former Law Dean and Vice-President); Former Director, Kyoto Museum for World Peace, Ritsumeikan University; Former Judge of the Asian Development Bank Administrative Tribunal; Attorney at Law, TNY Law Office (admitted to the Tokyo Bar in September 2023); Member of the Asian Society of International Law, the Asian Society of Labour Law, the International Law Association and the International Society for Labour and Social Security Law.

#### Ms Lia ATHANASSIOU (Greece)

Full Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Member of Legislative Committees on various commercial law issues; Director of the Postgraduate Programme on Maritime Law; President of the Legislative Committee having drafted the new Greek Code of Private Maritime Law (2023); President of the Organizing Committee of the International Conference on Maritime Law held in Piraeus (Greece) every three years; PhD 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). She has lectured and effectuated academic research in several foreign institutions in France, the United Kingdom, Italy, Malta, the United States, etc. She has published extensively on maritime, competition, industrial property, company, European and transport law (eight books and more than 60 papers and contributions in collective works in Greek, English and French); practising lawyer and arbitrator specializing in European, commercial and maritime law.

#### Ms Leila AZOURI (Lebanon)

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

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

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

#### Ms Graciela Josefina DIXON CATON (Panama)

Former President of the Supreme Court of Justice of Panama; former President of the Penal Court of Cassation and of the Chamber of General Business Matters of the Supreme Court of Panama; former

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

### **Mr Rachid FILALI MEKNASSI (Morocco)**

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

### **Mr José Roberto HERRERA VERGARA (Colombia)**

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

### **Mr Benedict Bakwaph KANYIP, PhD (Nigeria)**

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

### **Ms Irene KASHINDI (Kenya)**

Advocate Kashindi is a partner at Munyao Muthama and Kashindi Advocates with over 15 years as a practicing advocate of the High Court of Kenya. She has been recognized and acclaimed locally in Kenya and internationally as a leading expert with significant experience in employment and labour relations matters. She practices in areas of commercial and civil litigation as well as alternative dispute resolution. She regularly appears before the High Court Employment and Labour Relations Court, the Court of Appeal and Supreme Court of Kenya. She is a co-author of Kashindis' Digest of Employment Cases, a collection of key labour law judicial precedents. She represents the Law Society of Kenya in the Employment and Labour Relations Court Rules Committee, which has the mandate to review and make rules of procedure for the labour court under the Employment and Labour Relations Act, 2011. In the area of alternative dispute resolution, Ms Kashindi is a Fellow of the Chartered Institute of Arbitrators

(United Kingdom) and has been involved in a mediation, conciliation and arbitration in the employment disputes. She was a Board Member of the Public Procurement Administrative Review Board from 2020 to November 2023. She received her Bachelor's and Master of Law degree (Financial Services Law) from the University of Nairobi.

### **Mr Alain LACABARATS (France)**

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

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

Professor of Law, Department of Labour Law, Faculty of Law, Moscow State Lomonosov University; Secretary, Russian Association for Labour and Social Security Law (2011–16); member of the European Committee of Social Rights; member of the President's Committee of the Russian Federation on the Rights of Persons with Disabilities (non-paid basis).

### **Mr Sandile NGCOBO (South Africa)**

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

### **Ms Mónica PINTO (Argentina)**

Professor Emerita, University of Buenos Aires. Member of the Institute of International Law. Lawyer and legal counsel in public international law cases, and arbitrator and member of ad hoc committees in foreign investment cases. She has appeared as a counsel and an expert before universal and regional human rights bodies and tribunals, arbitral tribunals and the International Court of Justice, where she sits as Judge ad hoc. Member of the Permanent Court of Arbitration (since 2022) and of the Permanent Review Tribunal for MERCOSUR (2021–25). Former Dean of the School of Law at the University of Buenos Aires (2010–18). Visiting Professor at the University of Columbia, Paris I & II, and the University of Rouen. She taught at the Hague Academy of International Law, and at the InterAmerican and European Institutes of Human Rights. She held several mandates for the United Nations in the area of human rights. Judge and President of the Administrative Tribunals of the World Bank and the Inter-American Development Bank. Vice-President of the Advisory Committee on nominations of judges of the International Criminal Court (2013–18) and member of the Independent Expert Review of the International Criminal Court (2020). She has published five books and several articles in periodical publications in the United States of America and Europe.

### **Mr Paul-Gérard POUYOUÉ (Cameroon)**

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

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

### **Ms Mia RÖNNMAR (Sweden)**

Professor Rönmar is a Full Professor of Private Law specializing in labour law and industrial relations at Lund University in Sweden, after having served as Dean for six years from 2015 to 2020. She has been a visiting researcher at, for example, the LSE, the EUI and Sydney Law School, where she developed and taught an intensive LLM-course in International and Comparative Labour Law. Professor Rönmar has extensive experience of international, comparative, and interdisciplinary research in labour law and industrial relations. Formerly President of the International Labour and Employment Relations Association (ILERA) from 2018 to 2021, Professor Rönmar has taught various levels of labour law. She is a joint editor of a forthcoming publication entitled *Making and Breaking Gender Inequalities in Work*, constituting an outcome of the 19th ILERA World Congress held in Lund, and has published widely on labour law, equality and human rights, age discrimination, internships, and apprenticeships. Professor Rönmar holds a Doctor of Laws in Private Law (LLD) from the Faculty of Law, Lund University.

### **Mr Iain ROSS (Australia)**

Judge Ross was appointed Judge of the Federal Court and President of Fair Work Australia until his retirement in 2022. In April 2023 he was appointed as a member of the board of the Reserve Bank of Australia. His previous positions include serving as Judge of the Supreme Court of Victoria, President of the Victorian Civil and Administrative Tribunal, and Vice-President of the Australian Industrial Relations Commission. Since 1997, Judge Ross has lectured at the Faculty of Law of the University of Sydney and was appointed Adjunct Associate Professor of Law in 2004. He has also been an Adjunct Professor in the University of Sydney's Business School since March 2014. He has been a member of various legislative reform committees, among them as Commissioner of the New South Wales Reform Commission, member of the Tribunal's Working Group to the Australian Law Reform Commission's (ALRC) Review of the Federal Civil Justice System and part-time Commissioner of the Victorian Law Reform Commission. He is a Fellow of the Academy of Social Sciences of Australia. Judge Ross holds a Master of Law and a PhD in Law from the University of Sydney and a Master of Business Administration from Monash University. He has also studied at the London Business School and Warwick Business School and since April 2023 he has been a part time board member at the Reserve Bank of Australia.

### **Ms Kamala SANKARAN (India)**

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

### **Ms Ambiga SRENEVASAN (Malaysia)**

Well-known human rights advocate and recipient of several international awards; Member of the Institutional Reforms Committee of Malaysia; legal assistant and then partner, Skrine (1982–2001), one of the largest law firms in Malaysia; partner, Tommy Thomas (2001–02); former President of the Malaysian Bar (2007–09); former Chairperson and then Co-Chairperson of Bersih 2.0 (Coalition for Clean and Fair Elections) (2010–13); former President of the National Human Rights Society (Hakam) (2014–18); founded her own law firm in 2002 specializing in trademark, copyright and patent litigation; active in dispute resolution; commissioner and alternate member of the Executive Committee of the International Commission of Jurists. She was awarded the Ruth Bader Ginsburg Medal of Honour 2023 by the World Jurist Association in May.

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

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

### **Mr Bernd WAAS (Germany)**

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





## **Part II. Observations concerning particular countries**

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

---

### Observations on serious failure to report

#### Afghanistan

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

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

While noting the complex situation prevailing in the country, and recalling that technical assistance was provided on these issues this year by the ILO Decent Work Team for South Asia, the Committee trusts that all responsible authorities will honour their international commitments and provide information in response to the Committee's previous comments.

#### Antigua and Barbuda

The Committee notes with **deep concern** that, for the fourth year, the reports due on ratified Conventions have not been received. Twenty-four reports are now due, including the first reports on the Home Work Convention, 1996 (No. 177), the Private Employment Agencies Convention, 1997 (No. 181), the Safety and Health in Agriculture Convention, 2001 (No. 184), the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Work in Fishing Convention, 2007 (No. 188), and the Domestic Workers Convention, 2011 (No. 189). Most of the reports due should have included information in reply to the Committee's comments, including on fundamental Conventions

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

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

#### Barbados

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

Recalling that technical assistance was provided on these issues this year by the ILO Decent Work Team for the Caribbean and the International Training Centre of the ILO, the Committee 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.

## Comoros

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Twenty-eight reports are now due, including the first reports on the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). Most of the reports due should have included information in reply to the Committee's comments, including on fundamental Conventions.

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

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

## Cook Islands

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

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

Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO, the Committee firmly hopes that the Government will soon submit this first report, in accordance with its constitutional obligation.

## Djibouti

The Committee notes with **concern** that the first report on the application of the Maternity Protection Convention, 2000 (No. 183), due since 2022, has not been received. In addition, the Committee notes that the reports due this year were not received. Nineteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

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

## Dominica

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

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine, at this session, the application of Conventions Nos 22, 108, and 147 for which the reports have not been received for three years or more, based on public information at its disposal.

Recalling that technical assistance was provided on these issues this year by the ILO Decent Work Team for the Caribbean, 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.

## Fiji

The Committee notes with **concern** that the first report on the Violence and Harassment Convention, 2019 (No. 190), due since 2022, has not been received. In addition, the Committee notes that the reports due this year were not received. Six reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

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

## Grenada

The Committee notes with **deep concern** that the first reports on the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006), and the Domestic Workers Convention, 2011 (No. 189), both due since 2021, have not been received. In addition, the Committee notes that the reports due this year were not received. Eight reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee launches an **urgent appeal** to the Government to send its first reports without delay on the MLC, 2006, and on Convention No. 189, and advises it that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

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

## Haiti

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

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine, at this session, the application of Conventions Nos 1, 14, 30 and 106 for which the reports have not been received for three years or more, based on public information at its disposal.

While noting the complex situation prevailing in the country, 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.

## Iraq

The Committee notes with **concern** that the first report on the application of the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), due since 2022, has not been received. The Committee also notes that the first report on the application of the Safety and Health in Agriculture Convention, 2001 (No. 184), due this year, has not been received.

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 these first reports in accordance with its constitutional obligation.

## Marshall Islands

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

The Committee launches an **urgent appeal** to the Government to send its first report without delay on Convention No. 182 and advises it that, even in the absence of the report, the Committee may fully review the application of the Convention at its next meeting on the basis of available information.

The Committee firmly hopes that the Government will soon submit this first report in accordance with its constitutional obligation. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

## Papua New Guinea

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

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

## Saint Lucia

The Committee notes with **deep concern** that, for the tenth year, the reports due on ratified Conventions have not been received. Eighteen reports are now due, including the first report on the application of the Occupational Safety and Health Convention, 1981 (No. 155). Most of the reports due should have included information in reply to the Committee's comments, including on fundamental Conventions.

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

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

## Somalia

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Twenty-one reports are now due, including the first reports on the application of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the Occupational Safety and Health Convention, 1981 (No. 155), the Private Employment Agencies Convention, 1997 (No. 181), the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and the Violence and Harassment Convention, 2019 (No. 190). Some of the reports due should have included information in reply to the Committee's comments, including on fundamental Conventions

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine, at this session, the application of Conventions Nos 22, 23, 45, 95 and 111 for which the reports have not been received for three years or more, based on public information at its disposal.

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

## Sudan

The Committee notes with **deep concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2021, has not been received. None of the reports due this year have been received, including the first reports on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Thirteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions

The Committee launches an **urgent appeal** to the Government to send its first report on the MLC, 2006, without delay and advises it that, even in the absence of this report, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

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

## Syrian Arab Republic

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

The Committee launches an **urgent appeal** to the Government to send the reports on Conventions Nos 29, 100, 105, 107, 111, 138 and 182 without delay and advises it that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

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

## Tonga

The Committee notes with **concern** that the first report on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), due since 2022, has not been received. The Committee hopes that the Government will soon submit this first report in accordance with its constitutional obligation.

## Tuvalu

The Committee notes with **deep concern** that the first report on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), due since 2021, has not been received.

The Committee launches an **urgent appeal** to the Government to send its first report without delay on Convention No. 182 and advises it that, even in the absence of the report, the Committee may fully review the application of the Convention at its next meeting on the basis of available information.

The Committee firmly hopes that the Government will soon submit this first report in accordance with its constitutional obligation. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

## Vanuatu

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

The Committee launches an **urgent appeal** to the Government to send its first report without delay on Convention No. 138 and advises it that, even in the absence of the report, the Committee may fully review the application of the Convention at its next meeting on the basis of available information.

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine, at this session, the application of Convention No. 185 for which the report has not been received for three years or more, based on public information at its disposal.

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

## Yemen

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

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine, at this session, the application of Conventions Nos 58, 81 and 185, for which the reports have not been received for three years or more, based on public information at its disposal.

Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO The Committee 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.

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Bahamas, Cambodia, Congo, Democratic Republic of the Congo, Iceland, Iran (Islamic Republic of), Kenya, Kiribati, Lebanon, Madagascar, Montenegro, France (New Caledonia), Romania, Rwanda, San Marino, Netherlands (Sint Maarten), Slovenia, Solomon Islands, South Sudan, Uzbekistan.*

## 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)

##### Previous comment

The Committee recalls that it previously requested the Government to provide its comments on the 2019 observations of the International Trade Union Confederation (ITUC) in which the latter alleged violations of trade union rights in practice and, in particular, that workers were often unable to join the union of their own choosing and it was difficult for union federations to open bank accounts. The Committee **regrets** that the Government provides no reply thereto. **Emphasizing the importance of governments' replies to the observations of the social partners, the Committee reiterates its above request.**

*Article 2 of the Convention. Right to organize of foreign workers.* In its previous comments, the Committee requested the Government to take without delay the necessary measures, including through possible legislative amendments, to ensure that all foreign workers, whether or not they have a residence or a working permit, benefit from the trade union rights enshrined in the Convention. The Committee notes the adoption of Law No. 79/2021 on Foreigners, and the Government's indication that according to section 5 of the Law, foreigners residing in the Republic of Albania shall enjoy the rights enshrined in the Constitution and the ratified international Conventions. Furthermore, pursuant to the same provision, in the course of their decision-making concerning foreigners, the designated authorities shall apply the provisions of the Law in accordance with the fundamental rights and freedoms enshrined in the Constitution, and the ratified international Conventions and agreements. The Committee further notes the Government's indication that the Labour Code is the legislation that regulates freedom of association and the right to organize. The Committee notes the Government's indication that foreigners with regular stay in the country enjoy the right to join organizations and foreigners whose stay is irregular must leave Albania. The Government further indicates that in light of the Committee's request, it is necessary to carry out an analysis of the national legislation regulating the right of foreign workers to join trade unions with a special focus on workers without residence permits in order to prepare the necessary amendments to comply with the Convention. **The Committee requests the Government to provide information on all measures taken to that end and recalls that the Government may avail itself of the technical assistance of the ILO in this regard.**

*Article 3. Right of organizations to organize their activities and formulate their programmes.* In its previous comments, the Committee requested the Government to indicate whether civil servants not exercising authority in the name of the state, and working in the transport and public television services may exercise the right to strike, subject to the possible establishments of minimum services and, if these civil servants are not able to exercise the said right, to take the necessary measures to amend the legislation (section 35 of the Act on civil servants (No. 152 of 2013)). The Committee notes the Government's indication that while civil servants enjoy the right to strike, except those who exercise authority in the name of the state, the right to strike is not allowed in essential services, such as transport and public television. The Committee considers that essential services, for the purposes of restricting or prohibiting the right to strike, are only those "the interruption of which would endanger the life, personal safety or health of the whole or part of the population", and that transport and public television are not essential services in the strict sense of the term (see the [General Survey of 2012 on the fundamental Conventions](#), paragraphs 131, 134 and 135). The Committee once again recalls that



the introduction of a negotiated minimum service, as a possible alternative to the full prohibition of strike action in these public services in which it is important to deliver the basic needs of users, could be appropriate (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 136). **The Committee once again requests the Government to take the necessary measures to amend section 35 of the Act on civil servants accordingly and to provide information on measures taken to that end.**

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

### [Previous comment](#)

The Committee notes with **regret** that the Government has still not provided its comments on the observations of the International Trade Union Confederation (ITUC) submitted in 2019 and concerning, in particular, allegations of anti-union discrimination in an energy company, a footwear company and a public agency. **The Committee reiterates its call for the Government to provide its comments in this respect.**

*Article 1 of the Convention. Adequate protection of workers against acts of anti-union discrimination.* In its previous comments, the Committee requested the Government to provide detailed information on the cases of anti-union discrimination resolved or pending before the Commissioner for Protection against Discrimination (CPD) or the Court and to specify the duration of the proceedings and their specific outcomes.

The Committee notes the detailed information provided by the Government with respect to 14 cases of alleged discrimination against trade union members or trade union representatives examined by the CPD between January 2020 and February 2023. In this respect, the Committee notes the Government's indications that: (i) the CPD found that discrimination was established in five cases; (ii) in these five cases the decisions were challenged before the courts, the CPD resolutions being upheld in three instances while two cases still being pending; (iii) discrimination was not found in seven cases; (iv) the examination of two complaints was suspended by the CPD pending related judicial decisions. The Committee takes due note of this information. It notes, in particular, that the CPD was, on average, able to pronounce itself within eight months and that its decisions included, inter alia the reinstatement of dismissed workers. At the same time, the Committee observes however that no information was provided on cases of anti-union discrimination that may have been filed directly before the courts. **With a view to being able to evaluate the effectiveness of the mechanisms in place the Committee therefore requests the Government to continue providing information on cases of alleged anti-union discrimination addressed both by the CPD and the Courts and to specify the duration of the proceedings and their specific outcomes.**

*Article 4. Promotion of collective bargaining.* In its previous comments, noting that section 161 of the Labour Code provides that a collective agreement can only be concluded at the enterprise or branch level and that no collective agreements had been concluded at the national level, the Committee had requested the Government to take measures to promote voluntary collective agreements at all levels, including at national level, and to provide information on the measures taken and their impact on the promotion of collective bargaining.

In this respect, the Committee notes the Government's indications that: (i) no collective agreements have been concluded between the Government and workers and employers' representatives at the national level; (ii) between 2019 and 2023 a final total of 24 collective agreements at the level of branch/profession were concluded. The sectors covered by these collective contracts are in the field of the extraction and processing industry, electricity, agri-food, services, tourism, public order, professional education and health; (iii) in the public sector, 75 per cent of employees are covered by collective agreements, while in the private sector, 25 per cent of employees are covered by collective agreements; (iv) the collective agreement of the health sector has been registered in 2021 and is in force

until 2024; and (v) the low level of coverage of collective bargaining in the private sector is the consequence of both the weak presence of unions in private companies and the lack of dialogue of employers towards trade unions.

The Committee also notes the information provided by the Government concerning: (i) the recognition by the National Employment and Skills Strategy 2023 – 2030 of the importance of collective agreements as a unique mechanism for regulating working conditions and employment conditions and of the need to strengthen collective bargaining in sectors characterized by a high level of employment and by workers' vulnerability; (ii) the planned tripartite national seminar, with the ILO support, on collective bargaining, and friendly resolution of disputes; (iii) the plans to expand the range of services available with respect to, conflict prevention and the promotion of collective bargaining; and (iv) the creation of a tripartite working group to determine the necessary legal and institutional changes to be adopted for this purpose. ***The Committee welcomes these different initiatives and prospects and invites the Government to: (i) take further measures to promote collective bargaining at all levels including at the national level when the parties so decide, and to revise article 161 of the Labour Code in this regard; (ii) inform about the specific action taken to effectively promote collective bargaining in the private sector, in particular with respect to sectors with a high proportion of vulnerable workers.***

The Committee recalls that the Government may continue to avail itself of the ILO technical assistance.

## Algeria

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

#### Previous comment

The Committee notes the observations from the following representative employers' and workers' organizations received on: 12 February and 30 August 2023 from the General and Autonomous Confederation of Workers in Algeria (CGATA), 1 March 2023 from CGATA, the Trade Union Confederation of Productive Workers (COSYFOP), the National Autonomous Union of Public Administration Personnel (SNAPAP), the Autonomous National Union of Electricity and Gas Workers (SNATEG), Public Services International (PSI), the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and IndustriALL Global Union; 31 August from COSYFOP; 1 September 2022 and 2023 from the International Trade Union Confederation (ITUC); and 1 September 2023 from the International Organisation of Employers (IOE) providing comments of a general nature. The Committee notes the responses provided by the Government.

*Measures against trade union leaders.* The Committee notes the information communicated by the Government in response to the 2021 observations of national and international trade union organizations. Concerning the information requested on the situation of several trade union leaders (Mr Kaddour Chouicha, Mr Felah Hammoudi, Mr Morad Ghedia), the Government indicates that it has regularly provided information to the various ILO supervisory bodies, including this Committee, the Committee on the Application of Standards of the International Labour Conference (hereinafter the Conference Committee) and the Committee on Freedom of Association. ***Noting that the information to which the Government refers relates essentially to measures for the reinstatement of workers dismissed from the public administration and workers of the SONEGAS group, and recalling the seriousness of the alleged offences against the aforementioned trade union leaders (harassment, arrest, detention, terrorism conviction), the Committee expects the Government to provide without delay updated information on the situation of these trade union leaders. The Committee further requests the Government to provide its comments on the situation of the many trade union members***

**and leaders of the SNAPAP and the CGATA listed in the observations of the CGATA received on 30 August 2023, a copy of which was sent to the Government by the Office on 6 September 2023.**

*Inviolability of trade union premises.* With regard to the alleged closure of the premises of the CGATA and COSYFOP, the Committee notes that the Government once again bases its argument on what it considers to be the lack of legitimacy of the trade union leaders of COSYFOP and the CGATA. The Government further points out that they use rented premises for propaganda purposes and to spread false information, breaching security and public order, which constitute illegal acts that are not related to trade union activities. The Government asserts that those concerned have the right to complain to the courts to challenge the closure of headquarters if they are legitimate holders of trade union office. The Committee notes that the Government does not dispute the closure of these premises by administrative decision. At the outset, the Committee recalls that organizations must be able to fully enjoy inviolability of their premises, correspondence and communications. When the legislation makes provision for exceptions in this respect, for example in emergency situations, or in the interests of public order, the Committee considers that searches should only be possible when a warrant has been issued for that purpose by the regular judicial authority, when the latter is satisfied that there is good reason to presume that such a search will produce evidence for criminal proceedings under the ordinary law, and provided the search is restricted to the purpose for which the warrant was issued (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 114). **The Committee expects that the Government will fully guarantee the right of the inviolability of trade union premises, under the Convention, and that any decision to search or even close COSYFOP or CGATA premises will be taken by the competent judicial authority. Accordingly, the Committee urges the Government to reverse any decision to close trade union premises of COSYFOP and the CGATA taken by the administration without a court warrant. It also refers to the alleged closure of the SNAPAP's premises since 2019 by administrative decision as recalled in the most recent observations of the CGATA.**

### Legislative issues

*Adoption of new legislation.* The Committee notes the adoption of Act No. 23-02 of 25 April 2023 on the exercise of the right to organize, and of Act No. 23-08 of 21 June 2023 concerning the prevention and settlement of collective labour disputes and the exercise of the right to strike. The Committee notes that these two Acts implement the provisions of the Convention by amending existing provisions while taking into account certain recommendations made previously, and introduce new provisions which provide clarification on the exercise of freedom of association and protection of the right to organize. Lastly, the Committee notes that the final provisions of Act No. 23-02 repeal Act No. 90-14 on the exercise of the right to organize.

However, the Committee notes with **concern** that the above-mentioned trade union organizations have made numerous observations concerning Act No. 23-02 and complained from the outset, in February 2023, that it had been developed without consulting the social partners. According to the trade union organizations, the consultations that the Government claims to have held involved only a minority of the country's trade unions and did not include the main representative organizations, including the country's leading trade union. The trade union organizations consequently requested that the adoption of the Act be postponed so that the Government could engage in genuine consultations with the social partners and hear their points of view. They shared proposed amendments in this regard. The Committee notes that, despite these requests, the Government decided to submit the Bill to Parliament, which adopted it in April 2023.

The Committee notes that the observations of the trade union organizations containing proposed amendments were submitted to the Government, which responded on numerous points. The Committee has taken into account both these comments from the trade union organizations and the Government's responses to them in its assessment of the new Act.

*Scope of application (section 2 of Act No. 23-02).* In its previous comments, the Committee requested the Government to initiate without delay consultations with the social partners 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 is no longer restricted to persons employed by the enterprise in question, or to remove the requirement to belong to the occupation or to be an employee for at least a reasonable proportion of trade union officials. The Committee notes with **regret** that section 2 of Act No. 23-02 remains unchanged on this point in that it applies solely to salaried workers and public officials working in public institutions and administrations. The Committee must once again recall that provisions of this type infringe the right of organizations to draw up their constitutions and to elect representatives in full freedom by preventing qualified persons (such as full-time union officers or pensioners) from being elected, or by depriving the organizations of the experience of certain officers when they are unable to provide enough qualified persons from among their own ranks (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 102). **Consequently, the Committee urges the Government to take the necessary measures to ensure that the new legislation complies fully with the Convention, in accordance with the principles recalled above.**

*Independence of trade union organizations (sections 12 to 15 of Act No. 23-02).* The Committee notes that these provisions prohibit not only any structural or functional relationship between trade unions and political parties, but also prohibit trade unionists from holding office in the governing bodies of a political party. Furthermore, founding members and trade union leaders are required to refrain from the expression of any support for a political party or figure. The Committee wishes to recall in this regard its indication that while the promotion of working conditions by collective bargaining remains a crucial part of trade union action, the development of the trade union movement and its wider recognition as a social partner in its own right require workers' organizations to be able to voice their positions on political issues in the broad sense of the term, and, in particular, to express their views publicly on a government's economic and social policy. With regard to the political activities of the trade union movement, the Committee has also expressed the view that both legislative provisions which establish a close relationship between trade union organizations and political parties, and those which prohibit all political activities by trade unions, give rise to serious difficulties with regard to the principles of the Convention. Some degree of flexibility in legislation is therefore desirable, so that a reasonable balance can be achieved between the legitimate interests of organizations in expressing their point of view on matters of economic or social policy affecting their members or workers in general, on the one hand, and the separation of political activities in the strict sense of the term and trade union activities on the other hand. The Committee therefore recalls that provisions imposing a general prohibition on political activities by trade unions or employers' organizations for the promotion of their specific objectives are contrary to the Convention. **Accordingly, the Committee requests the Government to take the necessary measures to review the aforementioned provisions of Act No. 23-02, in consultation with representative employers' and workers' organizations at the national level, with a view to amending them so as to ensure respect for this principle.**

*Trade union constitutions and rules of procedure (sections 37 to 42 of Act No. 23-02).* The Committee notes the detailed list of provisions that should be included in the constitution of a membership-based organization, federation or confederation (section 38). The Committee notes, for example, the requirement to include provisions on the representation of women and young people on management and/or governing bodies. Furthermore, the Committee notes that section 40 of the Act requires constitutions to guarantee broad deliberation within supervisory bodies on important decisions, such as decisions relating to strikes. The Committee recalls that legislative provisions which regulate in detail the internal functioning of workers' and employers' organizations pose a serious risk of interference which is incompatible with the Convention. The Committee further recalls that, under *Article 3* of the Convention, national legislation should only lay down formal requirements respecting trade union constitutions, except with regard to the need to follow a democratic process and to ensure a right of

appeal for the members (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 100). **The Committee therefore requests the Government to consult representative workers' and employers' organizations to review the legislative provisions in question as well as their application in the light of the above principle.**

*Gifts and bequests (section 49 of Act No. 23-02).* The Committee recalls that its previous comments have focused for many years on the need to remove the requirement to obtain prior authorization from the public authorities with regard to gifts and bequests from national trade union organizations or foreign entities. The Committee notes with *regret* that section 49 of Act No. 23-02 reproduces this obligation. **The Committee requests the Government to take the necessary measures, in consultation with representative workers' and employers' organizations, to amend section 49 of Act No. 23-02 and to indicate any measures taken in this respect.**

*Participation in trade union supervisory and/or governing bodies (section 54 of Act No. 23-02). Election of trade union representatives (section 101 of Act No. 23-02).* The Committee notes that among the conditions to be met in order to take part in the management or administration of a trade union or to stand as a candidate for election as a trade union representative, any member must be over 21 years of age. It notes that Act No. 23-02 further provides that salaried workers must be of legal age to establish a trade union organization (section 28). Lastly, the Committee notes that the minimum age for admission to employment is fixed at 16 years, under section 15 of Act No. 90-11 on employment relationships. **Recalling its consistent position that all workers who have reached the minimum age for admission to employment must be able to exercise their right of freedom of association, including the right to stand as a candidate for election as trade union representative, the Committee requests the Government to amend section 101 of Act No. 23-02 in consultation with representative workers' and employers' organizations to bring it in conformity with the Convention.**

*Term and number of trade union appointments (section 56 of Act No. 23-02).* Noting that pursuant to section 56 of the new Act, the term of a trade union appointment may not exceed five years and is renewable only once, the Committee is bound to recall that the right of workers' organizations to draw up their own constitutions and rules, organize their administration and formulate their programmes means that matters such as the establishment of the term of appointments must be left to the unions themselves in their constitutions and rules. The Committee considers that provisions regulating in detail the alternation in the leadership of workers' or employers' organizations are incompatible with the Convention as they amount to interference by the public authorities in trade union affairs. **The Committee therefore urges the Government to take the necessary measures, in consultation with representative workers' and employers' organizations, to amend section 56 of Act No. 23-02, in accordance with the above-mentioned principle.**

*Response to requests from the authorities (section 61 of Act No. 23-02).* Whereas the Committee understands the need to maintain dialogue when communicating certain information on a regular basis in accordance with the Act, it nevertheless questions the wording of section 61, which imposes a duty to respond to all requests from the competent administrative authority but does not specify the nature, possible justifications or limits of such requests. Such a general provision poses challenges in that it could allow for continuous or harassing objections from the authorities and thereby give rise to risks of partiality or abuse. **The Committee therefore requests the Government to delete section 61 of Act No. 23-02 or to initiate consultations with representative workers' and employers' organizations in order to amend it in accordance with the Committee's recommendation.**

*Dissolution of trade unions (sections 64 to 67 of Act No. 23-02).* The Committee notes that pursuant to section 65, a trade union may be dissolved only through judicial channels in certain situations. The Committee further notes that certain situations, such as absence of activity relevant to trade union objectives over a period of three years, refusal to comply with or implement judicial decisions, or incitement to violence, threat or any other illegal behaviour that violates workers' rights, are potentially

far-reaching and could allow objections and thereby give rise to risks of partiality or abuse. **Recalling once again that the dissolution of trade unions constitutes an extreme form of interference by the authorities in the activities of organizations, the Committee requests the Government to provide detailed information on the implementation of this provision, specifying the number of administrative appeals seeking the dissolution of trade unions, including on the aforementioned grounds, and the outcomes.**

*Settlement of collective labour disputes and exercise of the right to strike pursuant to new Act No. 23-08 of 21 June 2023.* The Committee notes that this law repeals Act No. 90-14 of 6 February 1990. Noting the observations from trade union organizations and the Government's response to certain points, the Committee wishes to draw the Government's attention to the following points:

*Procedures for the exercise of the right to strike (sections 41 to 46 of Act No. 23-08).* The Committee notes that pursuant to section 42 of the Act, strike action may only be taken for the purpose of having exclusively socio-professional demands met. Under section 45 of the Act, therefore, politically motivated strikes, sympathy strikes or strikes organized for causes or demands other than socio-professional, are illegal. In this regard, the Committee recalls that strikes relating to the Government's economic and social policy, including general strikes, are legitimate and therefore should not be regarded as purely political strikes, which are not covered by the principles of the Convention. Trade unions and employers' organizations responsible for defending socio-economic and occupational interests should be able to use, respectively, strike action or protest action to support their position in the search for solutions to problems posed by major social and economic policies which have a direct impact on their members. Moreover, with regard to so-called "sympathy" strikes, the Committee 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 [General Survey of 2012 on the fundamental Conventions](#), paragraphs 124 and 125). **Bearing in mind the principles recalled above, the Committee requests the Government to take measures to ensure that excessive restrictions on the exercise of the right to strike are removed.**

The Committee further notes that section 42 of the Act defines a strike as a collective and concerted stoppage of work "compatible with the activity of the enterprise and the continuity of public services". **The Committee requests the Government to clarify how the holding of a strike compatible with the employer's activity is envisaged under the Act and to provide the list of jobs considered indispensable to the continuity of public services.**

Additionally, the Committee notes that the Act requires that strike action be taken after exhaustion of the dispute settlement procedures provided for under Title II of the Act (sections 5 to 40). The Committee notes that the established conciliation, mediation and voluntary arbitration procedures, which build on each other, could result in a settlement procedure lasting for several months before a strike is called. In this regard, the Committee recalls its position that prior procedures should have the sole purpose of facilitating bargaining and should not be so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness. With regard to the duration of prior conciliation and arbitration procedures, the Committee has considered, for example, that the imposition of a duration of over 60 working days as a prior condition for the exercise of a lawful strike may make the exercise of the right to strike difficult, or even impossible (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 144). **The Committee therefore urges the Government to initiate consultations with representative workers' and employers' organizations in order to reduce this period of prior procedures in line with the principle recalled.**

*Period of notice (section 49 to 54 of Act No. 23-08).* The Committee further recalls that the period of advance notice should not be an additional obstacle to bargaining, and should be shorter if it follows a

compulsory prior mediation or conciliation procedure which itself is already lengthy. **The Committee expects the Government to take this issue into account in its consideration of adjustments to be made.**

*Negotiated minimum service (sections 62 to 64 of Act No. 23-08).* The Committee recalls 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 (or essential services “in the strict sense of the term”);(ii) in services which are not 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; and (iii) in public services of fundamental importance. However, such a service should meet at least two requirements: (i) it must genuinely and exclusively be a minimum service, that is, one which 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 (see the [General Survey of 2012 on the fundamental Conventions](#), paragraphs 136 and 137). **The Committee requests the Government to indicate any consultations held with the social partners on the matter and to provide the regulatory text determining the list of industries and posts required to establish a minimum service, once it has been adopted.**

*Requisitioning (section 65 of Act No. 23-08).* 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, and considers that essential services, for the purposes of restricting or prohibiting the right to strike, are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see the [General Survey of 2012 on the fundamental Conventions](#), paragraphs 151 and 131). **The Committee requests the Government to provide information on the implementation of section 65 of the Act by the competent authorities and to indicate the list of occupations considered indispensable for the safety of persons, plants and property, for the continuity of public services, for the satisfaction of the vital needs of the country or for the provision of supplies to the population.**

*Prohibition of strikes (section 67 of Act No. 23-08).* The Committee further recalls that the right to strike is not absolute and may be restricted in exceptional circumstances, or even prohibited. Over and above the armed forces and the police, the members of which may be excluded from the scope of the Convention in general, other restrictions on the right to strike may relate to the three areas identified in the above discussion of requisitioning. In these cases, compensatory guarantees should be provided for the workers who are thus deprived of the right to strike. **The Committee requests the Government to indicate any consultations held with the social partners on the issue and to provide the regulatory text determining the list of sectors, staff and occupations in which strike action is prohibited, once it has been adopted.**

*Strike resolution (section 69 of Act No. 23-08).* **The Committee requests the Government to remove the provision envisaging the participation of the employer or representative thereof in the general meeting at which it is to be decided whether or not to return to work.**

**The Committee urges the Government to provide information on the measures taken to comply with its comments on amendments to be introduced to the new legislative framework on the exercise of freedom of association in order to bring it into conformity with the requirements of the Convention.**

#### Registration of trade union organizations

The Committee notes the Government’s indication that it undertakes to review the registration applications of the Algerian Union of Employees of the Public Administration (SAFAP) and the

Confederation of Algerian Trade Unions (CSA) in the light of the relevant new provisions of Act No. 23-02. **The Committee expects the Government to complete processing the registration applications of the SAFAP and the CSA without delay.**

With regard to the situation of SNATEG, the previous observations of which indicate numerous obstacles to the freedom to organize its activities, the Committee notes that the Committee on Freedom of Association, during its last examination of the complaint (403rd report, June 2023, Case No. 3210), maintained its recommendations to the Government, including: (i) to conduct an independent inquiry to determine the circumstances that led to the administrative decision to dissolve SNATEG; and (ii) to review the decision to dissolve SNATEG without delay. The Committee notes with **regret** that the Government merely states in its most recent report that the administration processed the application for the voluntary dissolution of SNATEG with all required attention and that it cannot overrule the will of the members to dissolve their trade union. **Expressing its concern at the absence of progress in this matter, despite its repeated recommendations inviting the Government to take corrective measures, the Committee expects that the Government will finally take the necessary measures to give effect to the recommendations of the Committee on Freedom of Association.**

Lastly, the Committee wishes to clarify the following points in response to the Government's reiterated position challenging the standing of members of COSYFOP (whose registration it contests) and the CGATA (whose registration it refuses) as trade union leaders. In this regard, the Committee recalls that the exercise of legitimate trade union activities should not be dependent on registration and that the authorities should refrain from any interference which would restrict this right or impede its exercise, unless public order is disturbed or its maintenance seriously and imminently endangered. With regard to COSYFOP, the Committee notes that it informed the Committee on Freedom of Association of its situation (Case No. 3434 submitted in March 2022). **The Committee expects the government to resolve the issue of registration of the CGATA and other trade union organizations awaiting registration under the new law without further delay.**

**In conclusion, the Committee urges the Government to further strengthen its efforts to ensure that full freedom of association is effectively guaranteed in law and in practice, and firmly hopes that the Government will hold consultations without delay with all of the social partners concerned to revise the provisions of Acts Nos 23-02 and 23-08 in the light of its comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.**

**[The Government is asked to reply in full to the present comments in 2024.]**

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

### [Previous comment](#)

The Committee notes the observations from the following representative employers' and workers' organizations received on: 12 February and 30 August 2023 from the General and Autonomous Confederation of Workers in Algeria (CGATA), 1 March 2023 from CGATA, the Trade Union Confederation of Productive Workers (COSYFOP), the National Autonomous Union of Public Administration Personnel (SNAPAP), the Autonomous National Union of Electricity and Gas Workers (SNATEG), Public Services International (PSI), the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and IndustriALL Global Union; 31 August from COSYFOP; and 1 September 2022 and 2023 from the International Trade Union Confederation (ITUC). The Committee notes the replies provided by the Government to certain observations.

*Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference.* The Committee notes with **concern** the observations provided regularly between 2022 and 2023 by national and international trade union organizations concerning acts of anti-union discrimination and interference against independent trade unions and their leaders. The Committee recalls that the



Committee on Freedom of Association has had before it several cases concerning harassment and dismissal of trade union leaders and members, as indicated in the observations of the trade union organizations. The Committee refers to the conclusions and recommendations of the Committee on Freedom of Association in the cases concerned, such as that of the Autonomous National Union of Electricity and Gas Workers (SNATEG) (see 403rd Report, June 2023, Case No. 3210).

The Committee further wishes to recall that the situation of the dismissed trade unionists and the cases of interference were also the subject of the conclusions and recommendations of a high-level mission that visited Algiers in May 2019, in the context of the recommendations of the Committee on the Application of Standards of the International Labour Conference concerning the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee previously expressed its concern at the allegations of anti-union discrimination and interference against the COSYFOP and affiliated trade union organizations, including threats against and dismissals of trade union leaders of BATIMETAL-COSYFOP, the Workers' Union of the Commission for Electricity and Gas Regulation (STCREG), the National Union of the Higher Institute of Management and the National Federation of Workers of the Social Security Funds, affiliated with the COSYFOP. The Committee expressed its expectation that the Government would ensure adequate protection for the leaders and members of these trade union organizations against any acts of anti-union discrimination and interference by the employers and administrative authorities concerned. ***Noting that the Government refers to its previous replies to the Committee and other supervisory bodies, while recalling that this information focuses on the reinstatement of dismissed workers in the public administration and workers of the SONEGAS group, the Committee is bound to reiterate its request to the Government to provide without delay its comments concerning the allegations of threats and anti-union dismissals affecting the above-mentioned organizations affiliated with the COSYFOP, indicating whether the organizations concerned continue their activities and are able to engage in collective bargaining in the establishments concerned.***

*Adoption of new legislation.* The Committee notes the adoption of Act No. 23-02 of 25 April 2023 on the exercise of the right to organize, and of Act No. 23-08 of 21 June 2023 concerning the prevention and settlement of collective labour disputes and the exercise of the right to strike. These two Acts contain provisions implementing the Convention, some of which will be examined below.

*Procedures for protection against anti-union discrimination.* In general terms, the Government indicates that Act No. 23-02 gives greater protection in that it provides expressly that trade union leaders may not face any punishment, dismissal or discrimination on grounds of their trade union activities. This protection is also guaranteed to any worker who is a member of a trade union organization, whether representative or not. The Government draws attention to the new procedure allowing a salaried worker who considers him or herself to be the victim of an act of anti-union discrimination to refer the matter to the labour inspector covering the relevant area, who now has enhanced powers to investigate, give notice to comply to an employer who has committed an act of anti-union discrimination, or address a violation notice to the competent courts if the employer refuses to comply (sections 133 to 147 of Act No. 23-02). ***In the light of the repeated allegations of the trade union organizations concerning the failure of the labour inspectorate to act on the actions lodged with it following acts of anti-union discrimination and dismissals affecting organizations affiliated with the COSYFOP, the Committee requests the Government to provide information on the implementation of sections 133 to 147 of Act No. 23-02 on procedures for the protection of salaried workers in the private sector and public servants and employees in public institutions and administrations against discrimination, including statistical data on the number of actions lodged with labour inspectorates, and the percentage of investigations carried out by the inspectorate that resulted in formal notice being given to the employer, or in violation notices on the employer's refusal to comply.***

Furthermore, the Committee recalls that it previously noted 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 against trade unions and their members by certain enterprises and authorities. The Committee also noted the difficulty, identified by the mission, in the application of *Article 1* of the Convention for the founding members of unions. It noted that 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 therefore requested the Government to take, in consultation with the social partners, the necessary measures to ensure adequate protection to trade union leaders and members during the period in which an established trade union is applying for registration. **Noting that Act No. 23-02 makes no such provision and in the absence of information from the Government, the Committee requests the Government to indicate whether consultations have been held or are envisaged to address the issue of the protection of trade union leaders and members during the period in which an established trade union is applying for registration. If not, the Committee requests the Government to initiate consultations with the social partners on the issue and to indicate any progress made in this regard.**

*Protection against interference.* With regard to protection against interference, the Government states that the law prohibits any natural or legal person from interfering in the functioning of a trade union organization, except as expressly provided for by law (section 8 of Act No. 23-02). **In this regard, the Committee requests the Government to specify the exceptions provided for in section 8 of Act No. 23-02, to provide the relevant legislation and to indicate whether in the implementation of the law, such exceptions have been invoked in alleged cases of interference.**

*Determination of trade union representativeness.* The Committee notes that under the terms of section 69 of Act No. 23-02, the representativeness of a trade union organization is conditional upon its achievement of a specific unionization rate and a minimum voting strength in professional elections, under sections 73 to 77 of the Act, but that the financial transparency of its accounts and its political neutrality are also taken into consideration. The Committee underscores the importance of ensuring that the criteria to be applied to determine the representativeness of organizations are objective, preestablished and precise so as to avoid any opportunity for partiality or abuse. In this regard, the Committee: (i) notes that the criterion of political neutrality contained in this provision could give rise to difficulties in that it could allow objections and thereby give rise to risks of partiality or abuse; and (ii) wishes to know how the criterion of financial transparency is applied. **The Committee therefore requests the Government to clarify the extent to which the criteria of financial transparency and political neutrality have been applied in practice when determining representativeness following professional elections. Furthermore, the Committee requests the Government to consult the social partners on the means of recognition of representativeness under section 69 et seq of Act No. 23-02, with a view to their revision.**

The Committee further observes that pursuant to sections 79 et seq of the Act, the maintenance of the representative status of trade union and employers' organizations is conditional upon their obtaining, every three years, a certificate issued by the competent governmental authority after the organizations concerned have provided, via an electronic platform, information relating to their members, which, according to the Act, would make it possible to ascertain their representativeness (section 81 of Act No. 23-02). The Committee wishes to know how section 81 is implemented in practice, and, in particular, how it is applied to trade union organizations that have acquired representative status via election results pursuant to section 73 of the Act. The Committee considers that the requirement to provide information concerning the members of a representative organization in order to maintain representative status would obviate the criterion of election results.

The Committee would also like to draw the Government's attention to the requirement to provide the employer with information relating to the criteria for representativeness, under the terms of section 79(3) of the Act. The Committee notes the completeness of the information requested (the name and social security number of each member, their membership card number and date, and dues paid). It notes the concerns expressed by trade union organizations concerning the risks of anti-union discrimination that could ensue. In this regard, the Committee considers it unnecessary to draw up a list of names of members of trade union organizations in order to determine membership numbers, since this could be established from a statement of union dues without drawing up a list of names, which would entail a risk of acts of anti-union discrimination. ***The Committee therefore requests the Government to take the necessary measures in this respect, in consultation with the representative organizations concerned, and to remove the requirement to provide information that could facilitate acts of anti-union discrimination.***

***Lastly, noting that the administrative approval mechanism for the validation and maintenance of the representative status of trade union organizations could have an impact on the development of industrial relations and collective bargaining, the Committee requests the Government to provide timely information on the renewal of the representative status of organizations, and to indicate the number of certificates provided each year and the number of refusals to renew, appeals and outcomes thereof.***

***Article 4. Promotion of collective bargaining. The Committee requests the Government to clarify the extent to which it is anticipated that, if no trade union attains the requisite threshold to be declared representative in professional elections, minority organizations might unite to negotiate a collective agreement applicable to the negotiating unit or, at least, conclude a collective on behalf of their respective members. The Committee therefore requests the Government to specify the applicable regulations that allow minority trade unions of the unit to bargain collectively, at least on behalf of their members, when there is no union that represents the majority of the workers.***

***Application of the Convention in practice. Noting the data provided on the total number of collective agreements and accords signed since the enactment of labour laws in 1990, the Committee encourages the Government to provide, as previously for the period from 2016 to 2020, statistics on the number of collective agreements and accords registered by the Labour Inspectorate, and to specify the sectors concerned as well as the number of workers covered.***

***[The Government is asked to reply in full to the present comments in 2025.]***

## Angola

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

(ratification: 1976)

#### Previous observation

***Article 1 of the Convention. Adequate protection of workers against acts of anti-union discrimination.*** In its previous observation the Committee urged the Government to provide its comments regarding the observations made by 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 province of the country. The Committee notes with ***regret*** that the Government has still provided no reply in this regard. ***The Committee therefore urges the Government to ensure that action has been taken to fully address, in accordance with the Convention, the concerns raised by the SINPROF and EI and to provide information in this respect.***

***Article 4. Measures to promote collective bargaining. Compulsory arbitration.*** In its previous comments, the Committee noted the indication of the Government that there was a contradiction between sections 20 and 28 of Act No. 20-A/92 on collective bargaining which impose compulsory

arbitration on an array of non-essential services and the General Labour Act of 2015, and that the two mentioned provisions of Act No. 20-A/92 would be amended. The Committee notes that the government reiterates the statements contained in its previous report. **Recalling that compulsory arbitration in the context of collective bargaining is only acceptable in a very limited set of situations (General Survey of 2012, paragraph 247), the Committee requests the Government to take without delay the necessary action to amend sections 20 and 28 of Act No. 20-A/92 so as to put the legislation in conformity with the Convention. The Committee requests the Government to provide information in this respect.**

*Article 4 and 6. Collective bargaining of public servants not engaged in the administration of the State.* The Committee notes that the Government indicates that: (i) the right to collective bargaining of public servants not engaged in the administration of the State is protected under Act No. 20-A/92 and the General Labour Act of 2015; (ii) the National Assembly is in the process of approving the Act on Strike, Trade Union and the Right to Collective Bargaining, whose provisions are more specific with respect to the content of the Convention; and (iii) the text of the Act will be submitted with the Government's next report. The Committee takes due note of these elements while observing that the Government has not provided information about how collective bargaining would take place in practice in the public sector. It recalls that in its previous comments, it noted that the only public employees covered by the General Labour Act and Act No. 20-A/92 were those in public enterprises. The Committee recalls in this respect that the public servants not engaged in the administration of the State mentioned by *Article 6* of the Convention are not confined to workers of public enterprises, but also cover, for instance, employees in municipal services, public sector teachers or public sector health workers. **In the context of the adoption of the Act on Strike, Trade Union and the Right to Collective Bargaining and the revision of Act No. 20-A/92, the Committee therefore requests the Government to take all the necessary measures to ensure that all categories of public servants not engaged in the administration of the State are granted the right to bargain collectively. The Committee requests the Government to provide information in this respect.**

**The Committee requests the Government to provide information on any proposed legislative reforms relating to the Convention and reminds it, in this context, of the possibility to avail itself of the technical assistance of the Office.**

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

## Antigua and Barbuda

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

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

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

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

## Argentina

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

#### Previous comment

The Committee notes the Government's reply to the 2020 observations of the Confederation of Workers of Argentina (CTA Autónoma). The Committee also notes the observations of the Federation of Energy Workers of the Argentine Republic (FETERA), received in 2021, and the observations of the Federation of Construction Workers of the Argentine Republic (UOCRA), received in 2022, which, like the observations of the General Confederation of Labour of the Argentine Republic (CGT RA), the CTA Autónoma and the Industrial Confederation of Argentina (UIA) received on 1 September 2023, raise issues which are examined in this comment. The Committee also notes that the Committee on Freedom of Association (CFA) recently examined a complaint concerning the alleged unlawful detention of Ms Milagro Sala, leader of the Túpac Amaru Civil Association, detained since 2016, and observed that the court cases for which she had been sentenced to imprisonment were not related to the exercise of trade union activities or to the exercise of activities of another nature that could have affected the exercise of trade union rights ([Report 401, Case No. 3225, March 2023](#)).

*Social Dialogue Commission.* Since the Social Dialogue Commission was established in 2019, the Committee has been encouraging the Government to reinforce this body and has expressed the hope that the matters raised in its comments will be examined and addressed in a tripartite manner within the framework of the standards subcommission of the Social Dialogue Commission. The Committee welcomes the Government's indication that on 4 October 2023 a meeting was held to relaunch the standards subcommission and that on 18 October a second meeting was held at which the CGT, CTA Workers and CTA Autónoma, together with the UIA, adopted regulations for the standards subcommission and reaffirmed the interest in strengthening and deepening social dialogue, giving priority to honouring the commitments made with regard to the ILO and aiming to address at national level the representations made under article 24 of the ILO Constitution and the cases pending before the CFA.

***Underlining the key role played by constructive tripartite dialogue to ensure full respect for freedom of association and collective bargaining, the Committee trusts that in the context of the standards subcommission of the Social Dialogue Commission it will be possible to achieve agreements through voluntary conciliation. The Committee also trusts that the other matters raised below will be submitted to the subcommission with a view to the adoption of specific measures in this respect. The Committee requests the Government to continue providing information on progress made in the work of this social dialogue body.***

*Articles 2, 3 and 6 of the Convention. Trade union independence and non-interference by the State.* The Committee recalls that for many years it has been asking the Government to take steps to amend the following provisions of Act No. 23551 of 1988 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 notes the Government's reiteration that the Supreme Court of Justice of the Nation and other national and provincial courts have found various provisions of the above-mentioned legislation unconstitutional, particularly with regard to trade union status and trade union protection. The Committee duly notes and welcomes the opinion of 4 March 2021 of the Public Prosecutor submitted to the Supreme Court indicating, as in previous opinions, that the trade union dues check-off system 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 emphasizes that the Government continues to delay bringing the LAS into conformity with the Convention. **Recalling that it has been requesting the amendment of the legislation referred to above for over 20 years, the Committee urges the Government to adopt specific measures in the very near future to bring the LAS and its implementing Decree into full conformity with the Convention. The Committee strongly encourages the Government to address these issues in a tripartite manner in the Social Dialogue Commission and expects to 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.* The Committee and the CFA have been asking 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 CTA Autonomous provides a long list of cases in which union registration or the granting of union status was refused, and denounces the fact that some complaints are still awaiting resolution after delays of between 5 and 20 years. The CTA Autonomous also underlines the fact that to date the Social Dialogue Commission has not addressed the problem of delays in processing applications for union registration. The Committee also notes that the Government provides a table indicating progress on dealing with applications for union registration or union status and states that in many of the cases referred to by the CTA Autonomous the administrative authority has granted union registration or union status where justified, and that in other cases formalities are pending until the legal requirements are fulfilled. The Committee also notes FETERA's indication that, over 21 years after requesting union status, the National Labour Appeals Chamber ordered the Ministry of Labour to grant it legal status and that this was done on 20 September 2021. **The Committee welcomes this information and firmly hopes that this precedent will mark an important step towards improving the functioning of the procedures for granting trade union status.** The Committee notes that in cases examined recently the CFA once again underlines the importance of the Government taking steps, with regard to applications for the granting of trade union status, to ensure that the authorities take decisions in this respect without unjustified delays (Cases Nos 3331 and 3232 examined in October 2021 (Report No. 396) and October 2023 (Report No. 404), respectively). **In light of the above and duly noting the information provided by the Government on the status of the various formalities, the Committee urges the Government to take the necessary steps to avoid unjustified delays or refusals in the procedures for the registration of trade unions or the granting of trade union status. The Committee also trusts that this issue will be examined by the Social Dialogue Commission and requests the Government to keep it informed of all progress made in this respect.**

*Article 3. Right of trade unions to elect their representatives in full freedom and to organize their administration and activities.* After noting allegations of interference by the Government in trade union

elections, and delays in the certification of trade union authorities, the Committee expressed the firm hope that these matters would be examined in the standards subcommission of the Social Dialogue Commission, with a view to the adoption of appropriate measures. ***Since it has not received any information on this matter, the Committee reiterates its previous comment.***

## Armenia

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2006)

#### Previous comments

The Committee notes the observations of the Confederation of Trade Unions of Armenia (CTUA) transmitted with the Government's report and the additional observations of the CTUA received on 29 August 2023, which refer to the issues raised by the Committee below and to the application of the Convention in practice. ***The Committee requests the Government to provide its comments thereon.***

*Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations.* The Committee previously urged the Government to take necessary measures to amend the Law on Trade Unions to ensure that employees of the Prosecutor's Office, judges (including of the Constitutional Court), civilians employed by the police and security services, self-employed workers, those working in liberal professions, and workers in the informal economy can establish and join organizations for furthering and defending their interests. The Committee notes with ***regret*** that the Government reiterates that, while the possibility of amending the Law on Trade Unions is being discussed, the right of civilian personnel in the police and security services to join trade unions is not restricted by either section 6 of the Law on Trade Unions, the Law on the Police Service or the Law on the Service in the National Security Bodies. In this regard, the Committee recalls once again, that it stems from section 6 of the Law on Trade Unions, as amended in 2018, that only those with employment contracts can be members of a trade union and that pursuant to paragraph 3 of the same section, employees of the armed forces, police, national security, Prosecutor's Office, as well as judges, including judges of the Constitutional Court, cannot be members of a trade union organization. The Committee also recalls once again that all workers, without distinction whatsoever, should have the right to establish and join organizations of their own choosing and that the only authorized exceptions concern members of the police and the armed forces. It considers, however, that civilians employed in such services should be granted the right to establish and join organizations to further and defend their interests.

In addition, the Committee notes that, as observed by the CTUA, the Constitutional Court decided on 11 April 2023 that section 6(5) of the Law on Trade Unions is unconstitutional insofar as it prescribes an absolute ban on freedom of association for the employees of the armed forces, the police, national security, the Prosecutor's Office, as well as judges (including of the Constitutional Court). For the same reason, the Constitutional Court found the following provisions to be unconstitutional: section 39(1) of the Law on the Police Service, section 43(1) of the Law on the Service in the National Security Bodies, and section 8(1) of the Law on Military Service. The Committee notes that the Constitutional Court has set a deadline of 11 November 2023 for the National Assembly to bring these provisions into compliance with the Armenian Constitution. ***The Committee expects that the Government will take all necessary measures to give effect to the above-mentioned decision of the Constitutional Court and to amend the above-mentioned laws so as to ensure that employees of the Prosecutor's Office, judges (including of the Constitutional Court), civilians employed by the police and security services, self-employed workers, those working in liberal professions, and workers in the informal economy can establish and join organizations for furthering and defending their interests. The Committee requests the Government to provide information on progress made in this respect in its next report, including copies of the amended laws if adopted.***

*Minimum membership requirement.* The Committee recalls that it previously requested the Government to amend section 4 of the Law on Employers' Unions, providing for the number of employers required to form employers' organizations at the national level (over half of employers' organizations operating at the sectoral and territorial levels), sectoral level (over half of employers' organizations operating at the territorial levels) and territorial level (majority of employers in a particular administrative territory or employers' organizations from different sectors in a particular administrative territory); and to also amend section 2 of the Law on Trade Unions, setting out similar prerequisites for federations of trade unions at the territorial, sectoral and national levels, so as to lower the minimum membership requirements. The Committee recalls that it considers the minimum membership requirements as set out in the above legislative provisions to be too high as they would appear to ensure that there is in fact only one national level organization, one organization per sector and one territorial level organization per territory or a particular sector in the territory. The Committee notes that the Government reiterates that it is working on amending the Law on Trade Unions as well as the Law on Employers' Unions, and adds that it is receiving technical assistance from the ILO in the process of amending the Law on Employers' Unions. **Noting that the Government benefits from the technical assistance of the ILO, the Committee trusts that amendments will be made in the near future, in consultation with the social partners, to both the Law on Trade Unions and the Law on Employers' Unions, so as to reduce the minimum membership requirements and ensure the possibility of creation of more than one organization at different levels. The Committee requests the Government to provide information on progress made in this respect.**

*Article 3. Right of organizations to organize their administration and activities in full freedom.* The Committee previously requested the Government to amend sections 13(2)(1) and 14 of the Law on Employers' Unions, which regulate in detail matters that should be decided upon by organizations themselves (such as the obligatory use of the words "employers' union" for all employers' organizations and "Armenia" for a national organization and the rights and responsibilities of the congress of an employers' organization). **Noting that the amendment process for the Law on Employers' Unions is under way, the Committee expects that, in consultation with the social partners, the Law on Employers' Unions will be amended in the near future so as to ensure that only formal requirements are laid down in the national legislation with regard to the functioning of organizations.**

The Committee also requested the Government to amend the following sections of the Labour Code:

- section 74(1), which requires a vote by two-thirds of an organization's (enterprise's) employees to declare a strike (or a vote by two thirds of employees of the subdivision if a strike is declared by a subdivision of an organization, as the case may be), so as to ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level;
- section 77(2), according to which, minimum services are determined by the corresponding state and local self-governance entities, so as to ensure that social partners are able to participate in the definition of what constitutes a minimum service.

The Committee notes the Government's indication that Law HO-160-N was adopted on 3 May 2023, which amended sections 74(1) and 77(2) of the Labour Code. The Committee notes with **satisfaction** the amendment made to section 74(1), which lowers the strike vote requirement (a vote is now required by "the majority of votes of workers who participated in the vote, which cannot be less than half of the total number of workers or half of the employees of the organization", or of the subdivision if the strike is declared by a subdivision).

The Committee notes with **satisfaction** the amendment made to section 77(2) of the Labour Code, which now provides for negotiations with the social partners to determine the minimum services required during a strike.



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

(ratification: 2003)

### Previous comment

The Committee notes the observations from the Confederation of Trade Unions of Armenia (CTUA) received on 1 September 2023 concerning issues addressed in the present comment. The Committee had previously requested the Government to provide its comments on observations from the CTUA received on 30 September 2020 regarding alleged violations of the Convention in practice. **The Committee expects the Government to take all necessary actions to ensure full compliance with the Convention with respect to these alleged violations and to provide its detailed comments in this respect in its next report.**

*Legislative developments.* The Committee notes that the Government informs that Law HO-160-N, On Amendments and Additions to the Labour Code of the Republic of Armenia, was adopted on 3 May 2023.

*Article 3 of the Convention. Machinery for ensuring respect for the right to organize.* The Committee welcomes new clause 6 of section 25 of the Labour Code according to which the representatives of employees have the right to appeal to the court against the decisions and actions of employers which violate employees' rights. The Committee notes at the same time that the CTUA mentions that the draft law on Additions to the Code of Civil Procedure, by which the representatives of employees will be given the right to act as representatives in courts has not been circulated yet. **The Committee requests the Government to take all the necessary measures so that the right recognized in clause 6 of section 25 of the Labour Code can be exercised in court. The Committee requests the Government to provide a copy of the Additions to the Code of Civil Procedure once adopted.**

*Article 4. Promotion of collective bargaining.* The Committee had previously expected the Government to amend section 23 of the Labour Code according to which both trade unions and "workers' representatives" enjoyed the right to negotiate collective agreements at the enterprise level. The Committee notes with **satisfaction** that section 23 has been amended by Law HO-160-N and that, as a result, "workers' representatives" can only negotiate collective agreements in a determined enterprise in the absence of a trade union.

The Committee notes the amendment to section 45, "Collective agreements" paragraph 2 of the Labour Code according to which a party receiving notice of the desired collective bargaining is obliged to provide the other party its position on taking part in it within seven days pursuant to section 66. The Committee notes the observations from the CTUA that the amendment provides a deadline for expressing a position, but that trade unions do not have sufficient tools to invite employers to negotiate since there are no effective means set by the legislation to overcome a possible rejection. **Recalling that the principle of negotiation in good faith, which is derived from Article 4 of the Convention, takes the form, in practice of certain obligations, namely recognizing representative organizations, endeavouring to reach agreement, and engaging in real and constructive negotiation (General Survey of 2012 on the fundamental Conventions, paragraph 208), the Committee requests the Government to give clarifications on the application of section 45(2) of Law HO-160-N and on the available avenues in case of a rejection to enter into negotiations with a representative trade union.**

The Committee notes the amendments to paragraphs 1 and 2 of section 51 of the Labour Code, replacing the terms "registration" by "reckoning", and "state authorized body" by "inspection body", and the addition of paragraph 3 to the aforementioned section 51 as well as the addition of section 59.1. The Committee notes that paragraph 3 of section 51 states that the procedure for recording republican, branch and territorial collective agreements shall be defined by the Government. The Committee notes that section 59.1 of the Labour Code deals with the procedures relating to the reckoning of collective bargaining and the bringing into force of an organization's collective bargaining agreement. The Committee notes the Government's indication that with the amendments made to section 51 and 59.1

of the Labour Code, it is envisaged that the body exercising state control over labour legislation will also carry out the accounting of national, branch, territorial and organization collective agreements, and that these amendments will encourage workers' representatives to undertake collective negotiations aimed at concluding collective agreements. **Recalling that provisions whereby approval may be refused are only compatible if the agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation (General Survey of 2012 on the fundamental Conventions, paragraph 201), the Committee requests the Government to clarify: (i) the nature of the inspection body mentioned in sections 51 and 59.1; and (ii) if the referred provisions of the Labour Code have any impact on the smooth registration of collective agreements.**

The Committee had previously requested the government to amend sections 59(4) and 61(2) of the Labour Code, whereby if an enterprise is restructured or privatized, the collective agreement is considered to be unilaterally terminated, irrespective of its validity period. The Committee notes with **satisfaction** that the sections have been amended, particularly to remove the stipulation in section 59(4) that a collective agreement is no longer valid upon reorganization of the organization, as well as the case provided for section 61(2) of this Code when an organization is privatized.

The Committee finally notes from the observations of the CTUA concerning section 3 of the Labour Code (Principles of the labour legislation) that clause 9 of paragraph 1 of this section mentions "freedom" rather than the word "right" to collective bargaining. **The Committee requests the Government for clarification on the interpretation of this section.**

**Welcoming the mentioned amendments to the Labour Code, the Committee invites the Government to provide information on any further developments on the promotion and the protection of collective bargaining.**

## Australia

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

#### [Previous comment](#)

*Legislative reform process.* In its previous comment, the Committee requested the Government to provide information on any legislative developments or proposals concerning the industrial relations reform process. The Committee notes the Government's indication that numerous industrial relations reforms were adopted since its last report. The Committee notes, in particular: (i) the adoption of the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act, 2022 (assessed in more detail in its direct request); (ii) the adoption of the Industrial Relations and Other Legislation Amendment Act, 2022 (Queensland) (addressed in more detail in its direct request); (iii) the entry into force of the Human Rights Act, 2019 (Queensland), which protects freedom of association (section 22(2)) and also covers actions and decision-making of a public entity as an employer (section 58); (iv) the adoption of the Human Rights (Workers Rights) Amendment Act, 2020 (Australian Capital Territory), which introduces section 27B to the Human Rights Act, setting out the right to work and other work-related rights, including the right to form or join work-related organizations and trade unions; (v) legislative reforms in government procurement (Australian Capital Territory) aimed at including fair and safe conditions for workers and improving employment standards in procurement contracts; (vi) the adoption of the Union Encouragement Policy, 2018 (Australian Capital Territory) which details the Government's commitment to encourage union membership among its workers in the public sector; and (vii) the adoption of the Public Health and Wellbeing Amendment (Pandemic Management) Act, 2021 (State of Victoria), allowing for rapid pre-emptive responses to protect public health. **Taking note of these legislative reforms, the Committee trusts that they will be applied in line with the Convention.**

*Article 3 of the Convention. Right of organizations to freely organize their activities and to formulate their programmes.* The Committee previously requested the Government to review: (i) the provisions of the Competition and Consumer Act, 2010 prohibiting secondary boycotts; (ii) sections 423, 424 and 426 of the Fair Work Act, 2009 (FWA) relating to suspension or termination of protected industrial action in specific circumstances; and (iii) sections 30J and 30K of the Crimes Act, 1914, prohibiting industrial action threatening trade or commerce with other countries or among states, and 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, with a view to bringing them into full conformity with the Convention.

In relation to sections 30J and 30K of the Crimes Act, the Government reports that no changes were made to these provisions and no prosecutions were initiated.

Concerning the prohibition of secondary boycotts under the Competition and Consumer Act, the Committee notes the Government's indication that the Australian Productivity Commission invited public comments on the issue and discussed it with the social partners, following which it did not recommend any changes to the legislation. The Government indicates that the Australian Chamber of Commerce strongly opposed any potential changes in this area and the Maritime Union of Australia did not support changes to these provisions or the supporting compliance and enforcement activities but considered the applicable penalties extremely onerous. The Committee further notes the Government's indication that the relevant provisions were enforced on one occasion where a construction company and the Construction, Forestry, Maritime, Mining and Energy Union were both ordered to pay penalties for a boycott conducted in breach of competition laws.

While taking note of the above, in particular the limited use in practice of sections 30J and 30K of the Crimes Act and of the provisions of the Competition and Consumer Act prohibiting secondary boycotts, the Committee recalls that these provisions may nevertheless have a chilling effect on the right of workers' organizations to organize their activities and carry out their programmes in full freedom. ***The Committee therefore requests the Government to bring the above-mentioned provisions into conformity with the Convention, in consultation with the social partners. The Committee further requests the Government to continue providing detailed information on the application of these provisions in practice.***

With regard to sections 423, 424 and 426 of the FWA, which relate to suspension or termination of protected industrial action threatening trade or commerce with other countries or among states, the Committee notes the Government's indication that it is not considering any reforms to the relevant provisions. The Committee further notes the information transmitted by the Government on the rationale of these provisions and on their practical application, in particular, that: (i) in 2022, there were three applications to suspend or terminate protected industrial action under section 423 and three applications under section 426; (ii) the Fair Work Commission (independent tribunal and statutory regulator of federally registered unions and employers' groups) did not make any decisions in relation to sections 423 and 426 as all applications were withdrawn or discontinued, or orders were otherwise not required; (iii) there were 18 applications under section 424 in 2022 and 9 applications in 2023, with only one order to suspend or terminate an industrial action; (iv) from 2020 to 2023, the Fair Work Commission made decisions on section 424 concerning the railway sector (order to terminate an industrial action due to a threat to endanger the welfare of the population of New South Wales), an aircraft engineers union (application dismissed for lack of evidence on any threat to the life, personal safety or welfare of the population), a harbour towage enterprise (order to suspend an intended lockout of all harbour towage employees), the healthcare sector (order to suspend the intended industrial action for two weeks), a gas company (order to suspend a company lockout for 30 days), a transport workers' union employed in court security and custodial services operations (order to suspend an industrial action for two months), a transport workers' union (application to suspend the industrial action dismissed for lack of evidence on the link between the industrial action and the threat to life, safety and

health or welfare of the population) and the maritime transport sector (discontinuance of the application for termination of an industrial action).

Taking note of the detailed information provided by the Government, in particular as to the practical application of the above provisions, the Committee observes that while some of the sectors fall within essential services in the strict sense of the term or concern public servants exercising authority in the name of the State, and suspensions or terminations of industrial action would therefore not raise issues of compatibility with the Convention, in other cases which do not fall within these categories industrial action should not be fully restricted, although the Government may consider the establishment of negotiated minimum services. ***In line with the above, the Committee requests the Government to continue to provide information on the practical application of sections 423, 424 and 426 of the FWA and to indicate any measures taken to review these provisions.***

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: 1973)

[Previous comment](#)

*Legislative reform process.* The Committee notes the Government's indication that numerous industrial relations reforms were adopted since its last report. The Committee notes, in particular: (i) the adoption of the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act, 2022 (assessed in more detail in its direct request); (ii) the adoption of the Industrial Relations and Other Legislation Amendment Act, 2022 (Queensland) (assessed in more detail in its direct request); (iii) the adoption of the Human Rights (Workers Rights) Amendment Act, 2020 (Australian Capital Territory), which introduces section 27B to the Human Rights Act, setting out the right to work and other work-related rights, including the right to protection against anti-union discrimination in employment; and (iv) legislative reforms in government procurement (Australian Capital Territory) aimed at including fair and safe conditions for workers and improving employment standards in procurement contracts, including the right to collective bargaining. ***The Committee welcomes the objectives of the legislative reforms related to the Convention and hopes that their implementation will contribute to its full application.***

*Article 4 of the Convention. Promotion of collective bargaining. Scope of collective bargaining. Fair Work Act (FWA).* In its previous comment, the Committee requested the Government once again to review sections 186(4), 194 and 470-475 of the FWA, which impose restrictions on the content of collective bargaining by excluding certain "unlawful terms" from collective bargaining (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). The Committee notes the Government's indication that there have been no changes to these provisions. The Government adds, however, that the Secure Jobs, Better Pay Act amended the FWA to extend, in some aspects, the content of collective bargaining (sections 172A and 195(5), which confirm that "special measures to achieve equality" can form part of an enterprise agreement). While welcoming these amendments, the Committee observes that restrictions on the content of collective bargaining remain valid as per sections 186(4), 194 and 470-475 of the FWA and recalls the importance of leaving the greatest possible autonomy to the parties in collective bargaining to determine the content of such negotiations. ***The Committee therefore requests the Government once again to review these provisions, in consultation with the social partners, to align them with the Convention.***

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)

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 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.***

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

## Bahamas

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

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

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

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

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

- Section 20(2) of the IRA, so as to ensure that trade unions can conduct ballots for election or removal of trade union officers and for amendment of the constitution of trade unions without interference from the authorities;

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

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

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

The Committee notes the Government's indication that the National Tripartite Council is continuing to review the IRA and that no amendments have yet been made to any of the abovementioned sections, or to article 31 of the Constitution (which, among others, defines prison services as "disciplined force" along with the police and military). The Government indicates that priority has been given to sections 20(2), 74(3), 75(3), 76(2)(b) and 77(2) of the IRA in the reviewing exercise and that it is examining the possibility of repealing section 39 of the IRA. The Committee welcomes the Government's indication that it will request ILO technical assistance to finalize any relevant pieces of legislation. ***The Committee urges the Government to take all necessary measures, in consultation with the social partners, to amend its legislation in the near future, so as to ensure its full conformity with the Convention without further delay, and requests the Government to provide information on all developments in this respect.***

***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.

*Article 2 of the Convention. Adequate protection against acts of interference.* In its previous comments, the Committee had 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. While noting that the Government acknowledges the concerns of the Committee with regard to the absence of legislative provisions providing for protection against acts of interference, the Committee observes that it does not provide information on the measures envisaged in this regard. ***Recalling that it has been addressing this matter since 2013, the Committee firmly expects that the Government will provide information on the measures taken with a view to giving effect to Article 2 of the Convention without further delay. It requests the Government to provide information on any developments in this regard.***

*Article 4. Representativeness.* In its previous comments, the Committee had noted that section 41 of the Industrial Relations Act (IRA) provides that in order for a trade union to be recognized for bargaining purposes, it must represent at least 50 per cent of workers of the bargaining unit, and 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, collective bargaining rights should be granted to all the unions in the unit, jointly or separately, at least on behalf of their own members. While noting that the Government acknowledges the concerns of the Committee in this respect, it notes with ***regret*** that it does not provide any specific information on the measures taken or envisaged in order to align its legislation with the Convention. ***Recalling that it has been raising this issue since 2013, the Committee urges the Government to take all the necessary measures to review the IRA so as to bring it into line with the Convention. It requests the Government to provide information on any developments in this regard.***

*Right of prison guards to bargain collectively.* In its previous comments, the Committee had noted that sections 39–40 of the Correctional Officers (Code of Conduct) Rules 2014, allowed the Bahamas Prison Officers Association (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. Noting that these provisions did not appear to provide collective bargaining rights to the BPOA, the Committee requested the Government to take the necessary steps to ensure that prison guards can fully enjoy the rights and guarantees set out in the Convention. The Committee notes with **regret** the Government's indications that the above-mentioned provisions do not provide for the right of collective bargaining to the correctional officers and that there are no legislative discussions regarding the matter. **Recalling once again that the right to bargain collectively also applies to prison staff, and that the establishment of a simple consultation procedures for public servants who are not engaged in the administration of the State is not sufficient, the Committee firmly expects that the Government will 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.**

*Collective bargaining in practice.* **The Committee further requests the Government to provide information on the number of collective agreements signed and in force in the country and to indicate the sector 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.**

## Bangladesh

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

#### Previous comment

The Committee takes note of the Government's report of 19 September 2023 on progress made in the implementation of the road map of actions to address all outstanding issues in the complaint pending under article 26 of the ILO Constitution concerning this Convention, among others. It also notes the decision adopted by the Governing Body at its 349th Session (November 2023) in this regard, requesting the Government to report on further progress to its 350th Session (March 2024) and to defer the decision on further action to that session.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 27 September 2023 and of the Trade Union Committee of International Labour Standards (TU-ILS) (a committee of the workers' representatives from the National Coordination Committee for Workers' Education (NCCWE) and IndustriALL Bangladesh Council (IBC)) transmitted by the Government with its report, as well as the Government's comments thereon. Both the ITUC and the TU-ILS refer to matters addressed in this comment.

The Committee notes the observations of the Bangladesh Employers' Federation (BEF), which are incorporated in the Government's report.

The Committee observes from the Government's statement to the Governing Body, within the framework of the discussions on the article 26 proceedings, that the Parliament approved an amendment to the Bangladesh Labour Act (BLA) in November 2023.

*Civil liberties.* The Committee has been expressing deep concern at the allegations of violence and intimidation of workers for a number of years and has urged the Government to take all necessary measures to prevent such incidents in the future and ensure that, if they occur, they are properly investigated. In its previous comment, the Committee requested the Government to review all the allegations of violence, harassment and intimidation reported by the TU-ILS. The Committee notes with **regret** that the Government does not elaborate on any concrete investigations undertaken into these incidents but simply reiterates that the Industrial Police maintain law and order, prevent violence and threats against unionists and that any alleged excess of law enforcement officials is investigated

through established legal and administrative procedures. The Committee further notes from the Government's report in the framework of the pending article 26 proceedings that, in February 2023, the Ministry of Labour and Employment (MOLE) requested the Ministry of Home Affairs to create a dedicated committee for ensuring and monitoring proper investigation of alleged cases of violence and harassment by the police against workers, including in the context of protests. **While welcoming this initiative, the Committee strongly encourages the Government to speed up its efforts to approve and establish the committee and to provide information on its composition and functioning in practice. The Committee expects these measures to significantly contribute to speedy and transparent investigations of violations of trade unionists' civil liberties.**

The Committee further notes that, in its 2023 observations, the ITUC expresses concern as to the anti-union tendencies of the security and police forces in relation to the exercise of workers' rights and denounces new instances of violence and union busting. In particular, the Committee notes with **deep concern** the death of Shahidul Ismal, a labour organizer at the Bangladesh Garment and Industrial Workers' Federation (BGIWF), and the wounding of Ahmed Sharif, also a union organizer, in July 2023 in Dhaka. The two were attacked by a group of assailants after they were assisting garment workers to obtain unpaid salaries. The ITUC also reports: (i) injuries to at least 16 garment workers in April 2022 when, during a clash over unpaid salaries, the police charged them with batons; and (ii) a serious case of union busting in a garment factory in 2021 and 2022, involving intimidation, threats and torture of union officers. **The Committee requests the Government to provide its observations on the specific ITUC allegations, as well as those reported by the TU-ILS in 2022, and urges the Government to ensure that rapid investigations are conducted by an independent entity to determine those responsible, punish the guilty parties and prevent the repetition of any such acts.**

In its previous comments, the Committee also encouraged the Government to continue to provide all necessary training and awareness-raising to the police and other State agents on human and trade union rights and urged the Government to review their role to ensure that issues purely concerning labour relations are relegated to the unique authority of the relevant Ministry. The Committee notes the detailed information provided by the Government on the training and sensitizing programmes offered to Industrial Police personnel (1,348 personnel trained between January and June 2023), as well as continued training of workers, management and government officials on the applicable laws and regulations and the prevention of violence provided by the Department of Labour (DOL) and the Bangladesh Export Processing Zones Authority (BEPZA). The Government also indicates that a compendium of laws in Bangla has been drafted, allowing training of Industrial Police to focus on human and trade union rights, labour rights, labour law and other relevant laws and regulations. While taking note of the continued training and other initiatives undertaken, the Committee observes that, according to the TU-ILS, no steps were taken to relegate the authority regarding Industrial Police to the MOLE and the attitude towards trade union leaders has not changed, with new cases filed against them. The Committee is also aware, from publicly available information and the discussion in the Governing Body, of recent incidents of violence in the context of minimum wage protests, leading to injuries, arrests and the death of several workers. **In light of the above, the Committee requests the Government to continue to provide and indeed intensify targeted training to the Industrial Police on the use of minimum force when engaged in crowd control measures, in particular during labour protests, and urges the Government once again to review the role of the Industrial Police, with the workers' and employers' organizations concerned, so as to ensure that issues purely concerning labour relations are relegated to the unique authority of the relevant Ministry.**

*Article 2 of the Convention. Right to organize. Registration of trade unions.* For a number of years, the Committee has been addressing the need to simplify the registration process to make it user-friendly, objective, rapid and transparent, including by providing comprehensive training to the relevant officers responsible for registration. The Committee notes the Government's indication that training and workshops for DOL officials, as well as workers' representatives, are ongoing, as are discussions to



explore the possibility of further simplifying both online and regular registration systems. The Government provides updated statistics on registration between November 2022 and June 2023, which show that 421 new applications were received in addition to 83 pending applications, out of which 236 were accepted, 75 rejected, 172 filed and 102 remain pending. It further informs about the main reasons for rejecting trade union registration (lack of minimum membership, use of fake names, fraudulent practices, etc.). The Committee understands from the above that, in the specified period, registration was only granted to about half of all the applications received, that a large number of the applications were considered as invalid and were filed and that around 15 per cent of all the applications were rejected. It further observes that the Government does not distinguish in its report between the reasons that render a registration application invalid or inadmissible (the application is then filed without assessing whether the material requirements of registration are fulfilled) and those invoked by the Registrar to reject a valid registration application because it does not meet the registration requirements.

The Committee also observes that the ITUC and the TU-ILS raise a number of concerns and point to obstacles with regard to the registration process, including procedural complexities in the online application, delays in registration, DOL-created layers of approval (investigation hearings and other procedures) leading to arbitrary decisions, employers' opposition to trade union registration and lack of consultations on the simplification of the registration process. The ITUC also alleges that the rejection rate of applications by independent unions is higher than indicated by the Government as many of the approved applications only concern government-controlled unions. ***In these circumstances, the Committee urges the Government to continue to engage with workers' representatives on ways to further simplify the registration process and eliminate any legislative or practical obstacles that prevent it from becoming a rapid, objective and transparent process. The Committee also requests the Government once again to provide detailed information on the reasons which were found in practice to render applications for registration invalid or inadmissible, as well as the reasons which justify the rejection of applications because they do not meet the registration requirements. The Committee encourages the Government to continue to provide adapted training to the relevant officials who are responsible for assessing registration applications. The Committee expects that the Government will be in a position to report progress on this long-standing issue in its next report.***

***Minimum membership requirements.*** The Committee had previously pointed to the need to review the BLA with a view to reducing the minimum membership requirements to a reasonable level (currently at 20 per cent, section 179(2)); ending the possible cancellation of trade unions that fall below minimum membership requirements (section 190(f)); and addressing the limits on the number of trade unions in an establishment (currently at three unions, section 179(5)). The Committee notes the Government's indication that no union has yet been cancelled under section 190(f) of the BLA and that the tripartite constituents in the Tripartite Working Group (TWG) for the BLA have discussed the issue of further lowering the minimum membership requirement and will make a comprehensive recommendation on the issue. The Committee further observes from the Government's statement to the Governing Body, within the framework of the discussions on the article 26 proceedings, that the minimum membership requirement for enterprises with over 3,000 workers was reduced from 20 to 15 per cent and the minimum membership requirement in groups of establishments from 30 to 20 per cent (section 183(6)). While taking due note of these amendments, the Committee understands that very few enterprises employ over 3,000 workers and recalls that a minimum membership requirement of 15 per cent in such enterprises and 20 per cent in groups of establishments is still excessive. The Committee further observes with ***regret*** that the Government has once again failed to take the opportunity of a legislative reform to address the Committee's previous concerns in relation to sections 179(2) and (5) and 190(f) and notes that the ITUC points to difficulties in almost all factories to reach the minimum membership requirement. ***The Committee therefore requests the Government to continue to discuss the matter with a view to reducing the minimum membership requirements to a reasonable level (sections 179(2) and***

**183(6)), bearing in mind the recommendations of the tripartite constituents, and also with a view to amending sections 179(5) and 190(f) accordingly.**

With regard to the application of the BLA to workers in the agricultural sector, in its previous comment, the Committee requested the Government to provide detailed information on the practical application of the reduced minimum membership requirement in Rule 167(4) of the Bangladesh Labour Rules (BLR) applicable to groups of establishments, including small family farms (300 members). The Committee notes the Government's indication that there are 38 registered trade unions in groups of establishments in the agricultural sector in 20 out of 64 districts, covering 6,834 members and that the stakeholders did not report any hindrance in this regard. While taking note of this update, the Committee observes that the reported unionization rate in the agricultural sector seems extremely low given that tens of millions of workers are engaged in agricultural activities in Bangladesh, and that many of these may well be prevented from trade union activities as a practical matter. **Recalling that a minimum requirement of 300 members may in practice restrict the right to organize, especially in case of small family farms, the Committee requests the Government to continue to take measures, in consultation with the social partners, to reduce the requirement in Rule 167(4) so as to ensure that agricultural workers can exercise their right to organize without hindrance.**

*Articles 2 and 3. Right to organize, elect officers and carry out activities freely. Bangladesh Labour Act.* In its previous comment, the Committee urged the Government to ensure that worker representation in the National Tripartite Consultative Council (NTCC), which is reviewing the BLA, reflects the independent choice of the trade union movement. The Committee notes the Government's indication that with the assistance of the Office, it is developing institutional mechanisms and capacity-building for the NTCC, as well as a road map on social partners' awareness and capacity-building for social dialogue and collective bargaining. The Committee however observes the concerns raised by the ITUC and the TU-ILS that malpractices in the selection process of workers' representatives in tripartite delegations continue, including lack of transparency and independence. **Noting these allegations with concern, the Committee urges the Government once again to ensure that selection of workers' representatives into the NTCC reflects the independent choice of the labour movement, so as to allow the NTCC to expeditiously and transparently conduct its work in reviewing the BLA with the aim of aligning it with the Convention.**

In relation to the review of the BLA, the Government further informs that, with the assistance of the ILO, a draft amendment of the BLA was discussed and finalized by the TWG, the Tripartite Labour Law Review Committee and the NTCC. While the Committee does not have at its disposal an official translation of the BLA amendment approved by the Parliament in November 2023, it takes note of the Government's indication to the Governing Body in the framework of the discussions on the article 26 proceedings that several amendments agreed on with the Office could not be implemented for technical reasons. The Committee understands, from the draft version of the BLA submitted to the Parliament, that besides the slight reduction in the minimum membership requirements mentioned above (referring to very large enterprises and groups of establishments), amendments were made to section 185 (broadening of the right to organize of seamen). While welcoming these amendments, the Committee observes that most of the other provisions previously highlighted by the Committee as raising concerns with regard to their compatibility with the Convention were not addressed by the labour law review. The Committee is, therefore, obliged to recall the need to further review and amend, or provide information on, the following provisions of the BLA: (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), 175 and 185 (further amendments necessary on the right to organize of seamen)); (ii) restrictions on organizing in groups of establishments (sections 179(5) and 183(1)); (iii) restrictions on trade union membership (sections 2(65), 175, 193 and 300); (iv) 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); (v) 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)); (vi) 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)); (vii) 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 (viii) excessive preferential rights for collective bargaining agents (sections 202(24)(b), (c) and (e) and 204). Furthermore, the Committee is still awaiting information on whether workers in small farms consisting of less than five workers can, in law and practice, group together with other workers to form a trade union or affiliate to existing workers' organizations (section 1(4)(n) and (p) of the BLA). The Committee observes with *regret* that the Government did not avail itself of the opportunity to address these numerous and long-standing concerns during the recent amendment of the BLA despite continued and extensive technical assistance provided by the Office. **Further noting the commitment of the Minister of Law, Justice and Parliamentary Affairs expressed in the Governing Body to address other outstanding amendments previously discussed with the Office, the Committee has been subsequently informed that the President has sent the amended law back to the Parliament for further consideration and firmly expects that the opportunity will be taken to address its pending comments so as to ensure compliance with the Convention. The Committee requests the Government to provide detailed information on the progress made in this regard. The Committee requests the Government to provide an English translation of the amended BLA.**

The Committee also observes the Government's indication to the Governing Body that section 34 of the Bangladesh Economic Zones Act, 2010 (BEZA) was amended so as to make the BLA applicable in special economic zones, instead of the Export Processing Zones Labour Act, 2019 (ELA). **The Committee requests the Government to provide information on the practical application of this amendment, in particular to indicate when the BLA will start to be applicable in special economic zones and to provide statistics on the formation of trade unions in these zones. The Committee requests the Government to provide an English version of the amended BEZA.**

*Bangladesh Labour Rules.* In its previous comment, the Committee requested the Government to provide detailed information on the application of Rule 188 (formation of election committees that conduct the election of worker representatives to participation committees in the absence of a union), as well as on the results of the Government's efforts to pilot such elections without any representation of employers (compared to the amended rule of one employer representative in election committees). The Committee notes the Government's indication that the DOL has been supervising the election of workers' representatives to participation committees but observes that the Government does not elaborate on the practical application of the amended Rule 188 or on the pilot project. **The Committee therefore reiterates its previous request in this regard.**

In its previous comment, the Committee also took note of the 2022 BLR amendment and urged the Government to ensure an expedited review of the remaining issues of BLR compatibility with the Convention (Rules 2(g) and (j); 85, Schedule IV, sub-rule 1(h); 169(4); 190; 202; and 350)). The Committee notes that both the ITUC and the TU-ILS raise concerns in relation to the pending issues of BLR compatibility with the Convention and allege, in addition, that: employers use participation committees to suppress trade union activities at the factory level; Rule 172(3) requires both the Director General and the union to inform the employer about its registration; Rule 81(4) allows for a predominant role of employers in the selection of the safety committee secretary and Rule 81(10) gives employers, in certain circumstances, a role in determining workers' representatives in safety committees, leading to concerns as to the legitimacy of these committees, which are essential to ensure safe working conditions. The Committee further observes the amendment to Rule 183(2) which limits workers' representatives in

participation committees to permanent workers. **The Committee requests the Government to provide its observations on the practical application of these amendments and urges the Government once again to ensure an expedited review of all the remaining issues in relation to the Bangladesh Labour Rules, detailed in its previous and current comments, so as to bring them into conformity with the Convention.**

*Right to organize in export processing zones.* In its previous comment, the Committee urged the Government to expedite the review of the ELA to provide EPZ workers with all the rights guaranteed in the Convention, including on matters concerning the minimum membership requirements to establish Workers' Welfare Associations (WWAs) and federations and the right to associate with other entities. The Committee further requested the Government to provide detailed information on the number of applications and registrations of WWAs, WWA federations and employers' associations.

The Committee notes the Government's indication that: (i) the amendment process of the ELA started in July 2023, including consultations with the social partners, and should be completed by 2025; (ii) the issues raised by the Committee will be thoroughly reviewed in the process; (iii) the BEPZA and the ILO jointly conducted workshops on improving labour standards in the EPZs and trainings for relevant stakeholders; (iv) the BEPZA engaged in an exchange of views with WWA representatives on labour rights in EPZs and in consultations with workers' and employers' representatives on labour rights and best practices, the ELA and the EPZ Labour Rules adopted in 2022. The Committee also takes note of the statistical information provided on the formation and registration of WWAs between November 2022 and July 2023, showing that 31 applications for registration were received and granted. While taking due note of the Government's initiatives and welcoming the continued technical assistance of the Office, the Committee must recall that an exceptionally large number of provisions still need to be repealed or substantially amended to ensure the conformity of the ELA with the Convention and that many of the issues raised under the ELA continue under the newly adopted EPZ Labour Rules (an official translation has not yet been made available to the Committee for a detailed assessment). It also observes the allegations of the ITUC that the situation of the right to organize worsened with the implementation of the ELA, as workers can only join a WWA, where they may not be given the full scope of collective bargaining. **The Committee therefore urges the Government to expedite the review of the ELA and the EPZ Labour Rules, in full consultation with the social partners, to ensure the conformity of the legislation with the Convention, in particular on the pending issues highlighted by the Committee in its previous and current comments. The Committee recalls that these include, among others, scope of the law, minimum membership requirements, various forms of interference in WWAs' or WWA federations' internal affairs, unduly broad powers and interference of the Zone Authority, and excessive restrictions on the administration and functioning of WWAs, federations and employers' organizations. The Committee further requests the Government to continue to provide statistics on the number of applications and registrations of WWAs, WWA federations and employers' organizations in EPZs, and to provide an English translation of the EPZ Rules.**

In its previous comment, the Committee also encouraged the Government to continue to review the inspection framework set out in the EPZ Labour Rules to ensure the necessary independence of the Department of Inspection for Factories and Establishments (DIFE) and to continue to provide statistical information on inspections of the DIFE in EPZs. The Government informs that the DIFE inspection modality of EPZ factories had been incorporated in the EPZ Labour Rules and that the DIFE is conducting inspections independently and frequently (52 EPZ factories inspected as of July 2023). While taking note of this indication, the Committee recalls that sections 168(1) and 180(g) of the ELA stipulate that the BEPZA Chairperson retains ultimate supervision of labour standards in EPZs and that Rule 290 of the EPZ Labour Rules provides that the DIFE shall submit inspection reports to the Additional Inspector General of the zones who shall direct the concerned establishment to implement the recommendations which he deems feasible. **Considering that these provisions may hinder the independent nature and proper functioning of labour inspection, the Committee requests the Government to continue to review**

***the inspection framework set out in the EPZ Labour Rules to ensure the necessary independence of the DIFE and to continue to provide statistical information on DIFE inspections of EPZs. The Committee once again requests the Government to continue to take steps to ensure that unrestricted access for and jurisdiction over labour inspection activities in EPZs is provided to DIFE inspectors. The Committee refers to its more detailed comments on this point made under the Labour Inspection Convention, 1947 (No. 81).***

***Finally, noting the Government's indication that all relevant ministries and departments have been engaged in the implementation of the road map established to address all outstanding matters contained in the article 26 complaint, and recalling the overlapping nature of these matters and those raised in the present comment, the Committee expects full and genuine engagement of the Government in addressing these issues. In particular, the Committee firmly expects any upcoming measures taken by the Government, including any legislative amendments, to duly take into account the Committee's present and previous detailed comments to achieve a timely implementation of the road map and full compliance with the Convention.***

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

(ratification: 1972)

[Previous comment](#)

The Committee takes note of the Government's report dated 19 September 2023 on progress made in the implementation of the road map of actions to address all outstanding issues in the complaint pending under article 26 of the ILO Constitution concerning this Convention, among others, as well as the decision adopted by the Governing Body at its 349th Session (November 2023) requesting the Government to report on further progress made to its 350th Session (March 2024) and to defer the decision on further action to that session.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 27 September 2023 and of the Trade Union Committee of International Labour Standards (TU-ILS) (a committee of the workers' representatives from the National Coordination Committee for Workers' Education (NCCWE) and IndustriALL Bangladesh Council (IBC)) submitted by the Government, as well as the Government's response to the latter observations. Both the ITUC and the TU-ILS refer to matters addressed in this comment, pointing to legislative and practical difficulties in the application of the Convention. The Committee also notes the Government's reply to the 2019 and 2020 ITUC observations alleging massive anti-union dismissal of garment workers.

The Committee notes the observations of the Bangladesh Employers' Federation (BEF), transmitted with the Government's report.

The Committee notes the 2022 amendment to the Bangladesh Labour Rules (BLR) and the adoption in 2022 of the Bangladesh Export Processing Zones Labour Rules (EPZ Labour Rules). The Committee further observes from the Government's statement to the Governing Body, within the framework of the discussions on the article 26 proceedings, that the Parliament approved an amendment to the Bangladesh Labour Act (BLA) in November 2023. ***The Committee has however been subsequently informed that the President has sent the amended law back to the Parliament for further consideration and firmly expects that the opportunity will be taken to address its pending comments. The Committee requests the Government to provide detailed information on the progress made in this regard.***

*Articles 1 and 3 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comment, the Committee requested the Government to continue to provide detailed statistics on the follow-up to complaints of anti-union discrimination and encouraged continued training of the relevant labour officials. It requested information on the functioning in practice of the Workers' Resource Centre and expressed its expectation that the online database on anti-union discrimination

would be fully functional. The Committee notes the Government's indication that between 2020 and April 2023, 60 complaints of anti-union discrimination and unfair labour practices were received by the Department of Labour (DOL), out of which 39 were settled (37 settled amicably and 2 cases filed in labour courts) and 21 cases are undergoing investigation. The Government also informs on trainings and workshops concerning the standard operating procedures (SOPs) on unfair labour practices and anti-union discrimination provided to relevant government officials and workers' and employers' representatives. It further provides information on the Workers' Resource Centre and a link to the online database on anti-union complaints. While welcoming this information, the Committee observes that the ITUC and the TU-ILS raise concerns as to anti-union tendencies of the security forces and anti-union discrimination by factories without investigations and dissuasive sanctions, as well as a backlog of labour cases in the courts. They allege that: there is a lack of appropriate procedures and remedies for unfair labour practice complaints in the BLR; DOL investigations of anti-union practices lack transparency and do not follow the SOPs; filing a case to the court remains a prerogative of the DOL, instead of the concerned workers; and there is a need for awareness-raising among workers on the online database. **Taking note of the above, the Committee requests the Government to continue to engage in training activities of the relevant officials to ensure an efficient and transparent handling of anti-union discrimination complaints in line with the applicable SOPs and to provide the relevant statistics on the follow-up to the complaints, specifying the number and the nature of the sanctions imposed. The Committee also requests the Government to clarify whether, in line with section 213 of the BLA, a worker can address a complaint concerning anti-union discrimination directly to the labour court or whether referral to the DOL is a mandatory step in the procedure. The Committee further encourages the Government to promote the use of the online database among the workers, including through the Workers' Resource Centre, and to work together with representative workers' organizations on improving the functioning of the database.**

The Committee also requested the Government to take the necessary measures, after consultation with the social partners, to increase the amount of the fines imposable for acts of anti-union discrimination. The Committee understands from the Government's statement to the Governing Body, within the framework of the discussions on the article 26 proceedings, that an amendment was made to section 291(1) of the BLA which increases the penalty for unfair labour practices and anti-union discrimination acts of employers (violations of sections 195 or 196A) from 10,000 Bangladeshi taka (BDT) (equals to US\$120) to BDT15,000 (equals to US\$136). While taking due note of this amendment, the Committee observes that the increase in penalties for acts of anti-union discrimination would still appear not to represent a sufficiently dissuasive sanction. **The Committee therefore urges the Government to take the necessary measures, after genuine consultation with the social partners, to review the relevant provisions of the BLA so as to increase the amount of penalties imposable on employers for acts of anti-union discrimination in order to ensure that such acts give rise to a just reparation and sufficiently dissuasive sanctions.**

In its previous comment, the Committee also requested the Government to provide further information on the outcome of the 5,407 labour-related complaints received and solved through the helpline in the ready-made garment sector and on the measures taken to ensure anonymity of the process. It encouraged the Government to continue to formally expand the helpline to other geographical areas and industrial sectors. While observing that the Government does not provide any details as to the outcome of the complaints or the measures to ensure anonymity, the Committee welcomes the Government's statement that the helpline has now been expanded to all geographical areas and industrial sectors. The Government also indicates that 1,307 complaints were received between 2022 and 2023, out of which 1,210 were solved and 97 are being processed. **Further noting the TU-ILS suggestion to conduct mass-level awareness raising campaigns among workers and to categorize the outcomes of the complaints to allow for appropriate remedial action, the Committee encourages the Government to engage with the social partners to further improve the functioning of**

***the complaint procedure and to raise awareness about it among the workers. The Committee trusts that the helpline will contribute to a speedy resolution of reported labour complaints, including those related to anti-union practices.***

*Allegations of anti-union discrimination following the 2018–19 minimum wage protests.* In its previous comment, the Committee requested the Government to clarify its involvement in the investigations into the massive dismissals of workers following the 2018–19 minimum wage protests and to provide information on the concrete remedies applied in all cases of termination for anti-union reasons. The Committee notes with **regret** that the Government does not provide any updates in this regard and simply reiterates previously provided information. It adds that 29 committees composed of officials from the DOL and the Department of Inspection for Factories and Establishments (DIFE) were formed in eight labour intensive districts to, among others, publicize about a newly introduced DIFE helpline and to dispose of issues relating to termination or dismissal of workers. ***Given the time that has elapsed since the 2018–19 minimum wage protests and observing that the Committee on Freedom of Association is also examining these incidents in the framework of Case No. 3263, the Committee expects the Government to ensure that, where this has not yet been the case, independent investigations will be conducted and, where appropriate, adequate remedies and sufficiently dissuasive sanctions ordered.***

*Case concerning dismissed workers in the mining sector.* In its previous comment, the Committee expressed its expectation that the case pending against dismissed workers in the mining sector who were charged with illegal activities would be completed rapidly. The Committee notes the Government's indication that the case is currently pending at the District Sessions Court, Dinajpur and that despite several hearings having been scheduled, they did not take place due to requests by both parties for time extension. ***Regretting the delay in concluding these proceedings, which relate to incidents dating back to 2012, the Committee requests the Government to provide information on the outcome of the judgment and, in particular, to indicate any aspects of the case relating to alleged anti-union practices.***

*Allegations of anti-union discrimination in practice and of inadequate judicial response.* The Committee observes the TU-ILS concerns that incidents of anti-union discrimination are very common and that cases in labour courts are lengthy and often dismissed. ***Recalling that improving measures to address instances of anti-union discrimination and unfair labour practices is one area of the Government's road map established in the framework of the article 26 proceedings and recalling that the Government regularly reiterates its commitment to reduce the backlog of cases in labour courts, including through the development of conciliation and arbitration as alternative dispute resolution mechanisms, the Committee urges the Government to provide updates in this respect and expects serious and concrete measures to be taken to eliminate the occurrence of systematic anti-union discrimination in practice. The Committee further requests the Government to provide information on the average duration of judicial proceedings relating to allegations of anti-union discrimination.***

*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 detailed statistics on the follow-up to anti-union discrimination complaints brought to the competent authorities in EPZs. While taking note of the Government's indication that, as of July 2023, out of the total of 7,192 calls received through the helpline established in EPZs, none were related to anti-union discrimination, the Committee observes that the Government does not refer to any of the other procedures that it had previously indicated were in place to ensure protection against anti-union discrimination, including inspection and monitoring by the Bangladesh Export Processing Zones Authority (BEPZA) and other complaint procedures. The TU-ILS suggests that statistics compiled by the Government should be published to be accessible to workers' organizations. ***In line with the above, the Committee requests the Government once again to provide statistical information on anti-union discrimination complaints in EPZs, whether received through the helpline or otherwise brought to the attention of the competent authorities, and to indicate, in particular, their follow-up and remedies and sanctions imposed.***

The Committee further recalls from its previous comment that a number of provisions of the Bangladesh Export Processing Zones Labour Act (ELA) needed to be amended to ensure that all workers covered by the Convention are adequately protected against acts of anti-union discrimination. The Committee notes the Government's indication that the Committee's recommendations will be placed before the Tripartite Standing Committee at the time of revision of the law and points to ongoing trainings on this matter provided by the BEPZA. The Committee also observes from the Government's report under the Freedom of Association and the Right to Organise Convention, 1948 (No. 87) that the amendment process of the ELA started in July 2023, including consultations with the social partners, and should be completed by 2025. **Recalling the need to substantially amend the ELA to achieve its compliance with the Convention, the Committee expects the Government to ensure that the pending issues highlighted in its previous comment, which relate to sections 2(48), 93, 115(2), 121(2)-(4), 151 and 157, will be duly reviewed and addressed in the ongoing legislative reform, so as to ensure that all workers covered by the Convention are adequately protected against acts of anti-union discrimination.**

The Committee also requested the Government to provide its observations on the allegations communicated by the ITUC referring to widespread anti-union practices in the country, illustrated by the dismissal of 36 workers in two EPZ factories in April 2019 following unsuccessful attempts at collective bargaining. The Government indicates that the BEPZA does not have sufficient information to provide a reply on this point. **Considering that the Committee does not have in its possession any other details in this regard, it invites the Government to forward the 2019 ITUC observations to the relevant EPZ authorities and invites the ITUC to provide any relevant details that may assist the authorities in providing their observations and addressing the denounced practices.**

*Articles 2 and 3. Lack of legislative protection against acts of interference in the BLA and the ELA.* In its previous comment, the Committee requested the Government to take all necessary measures to broaden the scope of protection against acts of interference in the BLA and the ELA. The Committee notes the Government's indication that the applicable legal provisions offer sufficient protection against acts of interference. It also points to trainings, workshops and consultations with representatives of workers and employers in EPZs on the applicable legislation, promotion of labour rights and best practices. Taking note of the above, the Committee recalls that while the BLA and the ELA contain provisions which prohibit certain acts of interference, they do not cover all acts 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 and to exercise pressure in favour or against any workers' organization. **The Committee therefore requests the Government once again, including in the framework of the legislative reform, to engage in consultations with the social partners, with a view to broadening the current scope of protection against acts of interference both in the BLA and in the ELA. 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.* In its previous comment, the Committee encouraged the Government to consider amending Rule 202 of the BLR, which prohibits certain trade union activities in a way that could impinge on collective bargaining. The Committee observes with **regret** that although the BLR were amended in 2022 and the TU-ILS submitted a proposal for amendment in 2023, Rule 202 has not been substantially modified. **Observing the Government's indication that this issue may be considered in further amendments to the BLR following the 2023 BLA amendment, the Committee trusts that Rule 202 will be amended to ensure that it does not unduly impinge on the right to collective bargaining.**

*Higher-level collective bargaining.* In its previous comment, the Committee requested the Government to consider further revisions to 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. It also requested the



Government to continue to provide statistics in relation to higher-level collective agreements concluded and in force. The Committee notes the Government's indication that: (i) collective bargaining is conducted at the level of the enterprise or industry, except for wage fixation in the tea and shipping sectors, which are done at the sectoral level; (ii) despite provisions to this effect (section 210(3) of the BLA), employers generally fail to submit concluded bipartite collective agreements to the DOL, leading to a lack of statistics on this point but training programmes are being used to sensitize employers on this issue; (iii) when bipartite negotiations do not lead to an agreement, they are referred as disputes to the DOL and resolved through tripartite negotiations; and (iv) the DOL was involved in 34 such demands between January 2018 and May 2023, 32 of which were settled. The Committee also notes, from the Government's report under the article 26 proceedings before the Governing Body, that the DOL has developed a road map on social partners' awareness and capacity building for social dialogue and collective bargaining at all levels. Furthermore, according to the TU-ILS, workers' organizations are in favour of creating a legal basis for collective bargaining at the sectoral and national levels. **Taking note of the above, the Committee requests the Government to take, in consultation with the social partners, the necessary measures, including of a legislative nature, to ensure that collective bargaining is allowed and promoted at all levels, including at the sectoral and national levels, both in law and in practice. The Committee also requests the Government to continue to engage in training of employers to increase compliance with section 210(3) of the BLA so as to allow for collection of statistics in this regard.**

*Collective bargaining in the agricultural sector.* The Committee requested the Government to provide any available statistics on collective bargaining in the agricultural sector and to clarify the functioning in practice of tripartite negotiations in the sector. The Committee notes the Government's indication that there are 38 registered trade unions in the agricultural sector covering 6,834 members but that the DOL has not received any charters of demands from such unions. According to the TU-ILS, the excessive minimum membership requirement of 300 workers to create a trade union in the sector prevents trade union formation and collective bargaining. **In light of the above and referring to its comments under Convention No. 87 on the minimum membership requirements, the Committee requests the Government to take, both in law and in practice, and in consultation with the social partners, active measures to promote collective bargaining in the agricultural sector and to clarify the functioning in practice of tripartite negotiations in the sector, previously mentioned by the Government.**

*Determination of collective bargaining agents.* In its previous comment, the Committee requested the Government to clarify whether, in a 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. The Government informs that if there are more unions in an establishment, they either elect a collective bargaining agent or the Director General of Labour can, upon application by either of the unions or the employer, hold a secret ballot to determine which union will be the collective bargaining agent for the establishment. According to the Government, in practice, at least one union reaches the required threshold to be the exclusive bargaining agent under section 202(15)(e) of the BLA. **Further noting the Government's indication that simplification of the determination process is being considered as part of the revision of the BLA, the Committee requests the Government to provide information in this regard and to ensure that, where no union reaches the required threshold for the acquisition of the exclusive bargaining agent status under section 202 of the BLA, the existing unions can negotiate, jointly or separately, at least on behalf of their own members.**

*Promotion of collective bargaining in EPZs.* In its previous comment, the Committee requested the Government to continue to provide statistics on collective bargaining in EPZs and to endeavour to further amend section 180 of the ELA to ensure that the determination of collective bargaining agents is the prerogative of an independent body. The Committee also requested 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. While noting the Government's indication that Workers' Welfare Associations (associations formed for the purpose of regulating relations between workers and employers – WWAs) can engage in collective bargaining and are performing their activities in full freedom, the Committee observes that the Government does not provide any information on the Committee's previous comments. It also observes that the issue raised in relation to section 180 of the ELA (determination of the legitimacy of a WWA and its capacity to act as a collective bargaining agent by the Executive Chairperson) has been reproduced in Rule 195 of the EPZ Labour Rules. Furthermore, the ITUC alleges that the situation of workers in EPZs worsened with the implementation of the ELA, as workers can only join WWAs, where they may not be given the full scope of collective bargaining. ***In view of these concerns, the Committee requests the Government once again to endeavour to amend section 180 of the ELA and to take further measures to promote collective bargaining in EPZs. It also requests the Government to provide statistics on collective bargaining agreements in EPZs and to clarify the implications in practice of section 117(2) of the ELA.***

The Committee also observes, from the EPZ Labour Rules that: (i) Rule 4 gives the Additional Inspector General discretion to shape the outcome of service rules and determine their conformity with the law; (ii) Rule 130(4) provides that the EPZ Wage Board can function with a quorum of 50 per cent of all members including the chairperson and one representative from workers and employers each and allows for proceedings in subsequent meetings not to be interrupted in the absence of any such member; and (iii) Rule 131(6) allows the chairperson to remove any member if it is contrary to public interest, for misconduct or any other reason. The Committee recalls that, according to *Article 4* of the Convention, collective bargaining takes place between employers or employers' organizations and workers' organizations, and that collective bargaining must be free and voluntary and respect the principle of the autonomy of the parties ([General Survey of 2012 on the fundamental Conventions](#), paragraph 200). ***The Committee requests the Government to provide information on the application of these Rules in practice and, in particular, to ensure that Rule 4 is not used to limit collective bargaining.***

*Compulsory arbitration in the ELA.* The Committee recalls from its previous comment that sections 131(3)-(5) and 132 of the ELA read in conjunction with section 144(1) allow for unilateral referral of disputes to EPZ Labour Court which could result in compulsory arbitration. ***Taking note of the Government's indication that the Committee's recommendations will be taken up by the Tripartite Standing Committee at the time of review of the ELA, the Committee expects the Government to ensure that the issue is properly addressed and recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (Article 6 of the Convention), in essential services in the strict sense of the term or in cases of acute national crisis.***

*Articles 4 and 6. Collective bargaining in the public sector.* The Committee requested the Government to indicate whether trade unions in the public sectors previously referred to by the Government (sector corporations, city corporations and municipalities, port authorities, secondary and higher secondary education boards, water development boards, energy sectors, banks and financial institutions, power sectors, jute mills and sugar mills) have the right to undertake collective bargaining and to provide examples of collective bargaining agreements. While noting the Government's indication that between January 2018 and May 2022 there were 32 collective bargaining agents formed in the public sector and the DOL settled 12 cases of charters of demands in 12 different public sectors, the Committee observes that the Government does not clarify whether organizations in all of the mentioned sectors can undertake collective bargaining and it does not provide examples of specific collective agreements.

The Committee further recalls from its previous comment the distinction made by the Government between public autonomous organizations, in which workers can form trade unions, and other public sector entities. The Government also indicated that only staff and not officers of public autonomous organizations can form trade unions. The Committee requested the Government to provide a list of public sector services or entities where collective bargaining is not allowed and to

indicate the criteria used to distinguish between staff and officers for the purposes of collective bargaining. The Committee notes the Government's indication that, in line with section 1(4) of the BLA, collective bargaining is not allowed for the Government or any office under the Government (except the railway department, posts, telegraph and telephone departments, roads and highways department, public works department, public health engineering department and Bangladesh Government press), security printing press and ordnance factories. In accordance with *Article 6* of the Convention, the Committee recalls that, only public servants engaged in the administration of the State may be excluded from the scope of the Convention while all other persons employed by the Government, by public enterprises or by autonomous public institutions, should benefit from the guarantees provided for in the Convention (*General Survey of 2012 on the fundamental Conventions*, paragraph 172). ***The Committee therefore requests the Government to ensure that collective bargaining is granted to all workers covered by the Convention, including public sector workers and public servants not engaged in the administration of the State. It requests the Government to clarify whether trade unions in the sectors previously referred to by the Government have the right to undertake collective bargaining and to provide examples of collective bargaining agreements concluded in the public sector. The Committee also requests the Government to indicate the criteria used to distinguish between staff and officers for the purposes of collective bargaining.***

*Collective bargaining in practice.* The Committee, in its previous comment, expressed hope that significant progress would be made to bring both the legislation and the practice relating to collective bargaining into conformity with the Convention. In reply, the Government informs about progress made in the promotion of effective conciliation and arbitration as a means of alternative dispute resolution. The Committee further notes the measures mentioned above in relation to higher-level collective bargaining and observes from the Government's statement to the Governing Body during the article 26 proceedings that amendments were made to the BLA to provide for SOPs on expert support during collective bargaining. The Committee, however, notes in this regard that the ITUC alleges that trade unions face serious obstacles when carrying out their activities which is demonstrated by the low number of collective agreements signed, including in the garment sector where only four trade unions reached an agreement with their management through conciliation. The Committee further observes that, according to ILOSTAT, the coverage of collective bargaining in 2020 was only 1.6 per cent. ***In view of the above, the Committee requests the Government to step up its efforts in bringing both the legislation and practice in line with the Convention and to take active measures to promote collective bargaining as a means of achieving balanced and sustainable industrial relations.***

***Finally, noting the Government's indication that all relevant ministries and departments have been engaged in the implementation of the road map established to address all outstanding matters contained in the article 26 complaint, and recalling the overlapping nature of these matters and those raised in the present comment, the Committee expects full and genuine engagement of the Government in addressing these issues. In particular, the Committee firmly expects any upcoming measures taken by the Government, including any legislative amendments, to duly take into account the Committee's present and previous comments to achieve a timely implementation of the road map and full compliance with the Convention.***

## Barbados

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

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the

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

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

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

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

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

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.***

## Belarus

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

#### Previous comment

The Committee takes note of the observations of the Belarus Congress of Democratic Trade Unions (BKDP), received on 24 and 31 August 2023, and of the International Trade Union Confederation (ITUC), received on 27 September 2023, referring to matters addressed in this comment.

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

The Committee notes the [Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus](#), adopted at the 111th Session (June 2023) of the International Labour Conference. The Committee notes that the Conference urged the Government of Belarus to receive as a matter of urgency an ILO tripartite mission with a view to gathering information on the implementation of the recommendations of the Commission of Inquiry and subsequent recommendations of the supervisory bodies of the ILO, including a visit to the independent trade union leaders and activists in prison or detention. The Committee further notes that at its 349th Session (October-November 2023), the Governing Body discussed the follow-up to the Conference resolution (see [GB.349/INS/13\(Rev.1\)](#)) and urged the Government to do the same.

The Committee recalls that in its previous comments it expressed deep concern regarding the situation of civil liberties in Belarus and the application of the Convention in law and in practice, and had urged the Government to take a number of measures to address them. At the outset, the Committee notes with ***deep regret*** that in its report, the Government once again merely reiterates the information it had previously provided and considers that the Committee misunderstands and misinterprets the situation on the ground.

***Civil liberties and trade union rights.*** The Committee recalls that it urged the Government to immediately release all trade union leaders and members arrested for participating in peaceful assemblies or for exercising their civil liberties pursuant to their legitimate trade union activities, and to drop all related charges. The Committee also urged the Government to provide detailed information concerning the situation of these trade unionists, including charges brought against them, and give

access, as a matter of urgency, to visitors, including officials of the ILO, to ascertain the conditions of arrest and detention and the welfare of the above-mentioned persons. If, in the meantime, any of the above trade unionists had been brought to court, the Committee urged the Government to provide information on the outcome of any proceedings against them and to communicate copies of any court decisions issued in their cases.

The Committee notes with **deep concern** the list of 47 trade union leaders and activists currently detained or whose freedom of movement is restricted, transmitted by the BKDP. The Committee further notes with **deep concern** the deteriorating conditions of imprisonment of the BKDP chairperson, Mr Aliaksandr Yarashuk. After a four-year prison sentence to a general regime colony was issued in December 2022, Mr Yarashuk was transferred to a strict regime prison where he is kept in a cell nearly all the time, with only the right to take short walks in the yard, while other normal prison privileges, such as telephone calls and visits from relatives, are reduced. The Committee also notes with **deep concern** the information provided by the ITUC to the Governing Body at its 349th Session to illustrate the conditions in which trade unionists were detained. The ITUC also indicates that while several trade union leaders arrested in April 2022 have been released, they still face charges. The ITUC further alleges that over the past months, throughout the country, police have proceeded with mass arrests and the detention of employees, deemed “disloyal to the regime”. The ITUC also refers to an instruction issued by the Belarus authorities to its embassies not to renew passports of Belarusian citizens abroad, in order to force them to return to the country and face persecution.

The Committee notes the Government’s indication that it had repeatedly drawn attention to the lack of grounds and outright absurdity of allegations that the country’s trade unions and citizens were persecuted for carrying out trade union activities and legally and peacefully exercising civil rights and liberties. According to the Government, the ILO is being misled by the complaints of politically motivated individuals and organizations, and therefore continues to erroneously assume that the 2020 protests were motivated by economic and social considerations, were lawful and peaceful, and were directed at protecting civil and trade union rights and liberties. The Government insists that purely political events, unrelated to the processes of social dialogue in the workplace and the exercise of trade union rights, should not serve as a basis for assessing compliance with the Convention and should not be considered when monitoring the implementation thereof. The 2020 protests were artificially encouraged by outside forces, were unlawful and intended to seize power by unconstitutional means. The protestors’ demands (the resignation of the Head of State, fresh elections, exoneration of law breakers) had nothing to do with the protection of citizens’ labour, social and economic interests or the tasks that trade unions are bound to perform. The Government considers that the authors of the complaints deliberately brought political issues to the ILO in order to discredit Belarus internationally, justify unprecedented unilateral restrictive measures against the country, escalate political pressure on the legitimate authorities and launch another wave of sanctions based on ILO decisions. The Government reiterates that all citizens and trade unions referred to in the complaints and comments of the ILO supervisory bodies had been prosecuted for specific unlawful acts not connected with the lawful and peaceful exercise of trade union rights and freedoms. Thus, all calls for the dismissal of all charges against them and their immediate release had no objective legal basis. The review of sentences, interaction with the convicted persons and their release from custody falls within the exclusive competence of law enforcement agencies and courts, interference in the activities of which is inadmissible and entails liability in accordance with the law. In this regard, and with reference to the above-mentioned list of detained trade unionists, the Government indicates that this was yet another attempt to convince the ILO of the alleged persecution of “independent” trade unions in order to escalate pressure on Belarus. The Government recalls that the activities of the BKDP and its member organizations were terminated by Supreme Court decisions on the basis that they contradicted the national Constitution and other legislation, and caused harm to the State or public interests. The Government indicates that six of the 47 persons listed as prisoners have already served their respective sentences and that four of them have not even been sent to

correctional institutions. Regarding another 13 individuals (Ms Mikhniuk, Ms Britikova, Mr Yarashuk and Mr Antusevich (who was released after serving the entire sentence and after the receipt of the Government's report), Mishuk, Khanevitch, Zhernak, Berasneu, Fiadynich, Areshka, Gromov, Chichmarev and Sliazhou), the Government indicates that these citizens had been found guilty of committing specific serious offences. The Government further indicates that ten persons from the list were members of a group "Rabochy Rukh" ("Workers' movement"), an extremist formation, the activities of which are prohibited. In view of the gravity of the offences committed (creation and/or participation in an extremist formation, treason against the State, slander, unlawful acts with firearms, ammunition and explosives, and so forth), these citizens were sentenced to longer periods of deprivation of liberty. Other citizens on the list had been prosecuted for specific unlawful acts such as gross violation of public order resulting in disruption of transport and enterprise operations; violence against internal affairs officers; calls for actions aimed at harming national security; incitement to national or social enmity and discord on the grounds of national and social affiliation; and incitement to ethnic or social hatred and discord on the grounds of national or social origin. The Government points out that these acts are unrelated to the lawful and peaceful exercise of trade union activities, civil or other rights and freedoms. According to the Government, in the vast majority of cases, the sentences imposed on them did not exceed three years. Four persons were serving their sentences (restriction of liberty) at their place of residence, and two persons were serving their sentences in open-type correctional institutions.

The Committee **deplores** the Government's unwillingness to take steps for the release of the detained trade union leaders and members. The Committee further **deplores** that on the one hand the Government reiterates that trade unionists had been prosecuted for specific unlawful acts not connected with the lawful and peaceful exercise of trade union rights and freedoms and, on the other, it fails to provide a copy of the judicial decisions as previously requested by the Committee. **The Committee once again requests the Government to communicate copies of court decisions issued in their cases.**

The Committee further recalls that for a number of years the ILO supervisory bodies, including this Committee, have been drawing the Government's attention to the International Labour Conference 1970 resolution concerning trade union rights and their relation to civil liberties, which emphasizes that the rights conferred upon workers' and employers' organizations must be based on respect for civil liberties, as their absence removes all meaning from the concept of trade union rights. With reference to its previous comments and the 402nd Report (March 2023) of the Committee on Freedom of Association (CFA) on Measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry, the Committee considers that the failure of the Government to acknowledge, address and redress very serious allegations of violation of civil liberties or to act on the repeated specific requests of the ILO supervisory bodies, including those made by this Committee, reinforces the reality of wilful Government non-compliance with its obligations stemming from its membership in the Organization. **In these circumstances, the Committee reiterates its previous request to immediately release all trade union leaders and members arrested for participating in peaceful assemblies or for exercising their civil liberties pursuant to their legitimate trade union activities, and to drop all related charges. The Committee urges the Government to receive without further delay an ILO tripartite mission with a view to gathering information on the implementation of the recommendations of the Commission of Inquiry and subsequent recommendations of the supervisory bodies of the ILO, including a visit to the independent trade union leaders and activists in prison or detention.**

*Application of the Convention.* The Committee recalls that the outstanding issues of the application of the Convention relate to the following concerns: (1) right to establish workers' organizations, which includes the issue of legal address and the right, in practice, to form trade unions outside the Federation of Trade Unions of Belarus (FPB); (2) the right of workers' organizations to receive and use foreign gratuitous aid (funding obtained from abroad); (3) the right, in law and in practice, to demonstrate and

hold mass events; (4) the right to strike; (5) consultation with organizations of workers and employers; and (6) labour disputes resolution system. The Committee observes with **deep regret** the absence of information on the concrete measures taken by the Government to give effect to the Committee's previous requests aimed at addressing these concerns. Instead, the Government merely reiterates the information it has previously provided and points to a lack of contradiction between national law and practice and the Convention. **The Committee is therefore bound once again to urge that the Government take measures to amend without further delay Decree No. 3 (on receiving and using foreign gratuitous aid), the Law on Mass Activities and the accompanying Regulation, as well as section 342-2, 369, 369-1 and 369-3 of the Criminal Code providing for restrictions on mass events and associated penalties, in order to bring them into compliance with the Government's international obligations regarding freedom of association. It also once again urges the Government to take measures to revise sections 388(1), (3) and (4), 390, 392 and 393 of the Labour Code restricting the right to strike; as well as section 42(7), which expressly allows an employer to dismiss or terminate a labour contract with a worker who is absent from work in connection with serving an administrative penalty in the form of an administrative arrest; who forces other workers to participate in a strike or calls on other workers to stop performing work duties without sound reason; or who participates in an illegal strike or other forms of withholding labour without sound reasons. The Committee expects the Government to provide information on all steps taken in this regard.**

In its previous comment, the Committee deplored the effect of the dissolution of the BKDP on the work of the National Council on Labour and Social Issues (NCLSI) and of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (the tripartite Council). In this respect, the Committee noted that with the dissolution of the BKDP, the only representation of workers' voice in these structures was now the Federation of Trade Unions of Belarus (FPB), which enjoyed the publicly expressed support from State authorities at the highest level, and whose independence from the authorities was questionable. In these circumstances, the Committee questioned the continuing legitimacy of the NCLSI and the tripartite Council. Considering that the development of free and independent organizations and their involvement in social dialogue is indispensable to enable a government to confront its social and economic problems and resolve them in the best interests of the workers and the nation, the Committee urged the Government to take steps to review the situation of the dissolved trade unions in this light so as to ensure that they may again function.

The Committee notes the Government's indication that the tripartite Council resumed its work in 2023 and had two meetings (on 26 May, to consider the recommendation of the CFA regarding a non-judicial mechanism for settling labour disputes and at which it was decided to establish an expert group from among its members to examine communications from trade unions and employers' organizations; and on 22 September, to consider information provided by the ILO on the right to strike and the interpretation of the Convention, as well as the issue of collective bargaining at various levels of social partnership). The Government further informs that the NCLSI also met twice: on 14 April 2023, to consider the implementation of the General Agreement (2022–2024) and the implementation of a set of measures to reduce the shortage of workers in 2022–2023 and on 26 July 2023, to discuss regulation of the crisis management mechanism to aid the financial recovery of insolvent organizations and the situation of the consumer market. While noting the above information, the Committee notes with **deep concern** the absence of any measures taken to review the situation of the dissolved trade unions so as to ensure that they may again function and fully participate in national tripartite bodies. **The Committee reiterates in the strongest terms its previous requests and expects the Government to indicate concrete steps taken to that end.**

The Committee notes that Law No. 225-Z of 12 December 2022 on Employers' Associations will enter into force on 16 December 2023. The Committee notes that the Law provides for the notion of a "confederation of employers of the Republic of Belarus", defined as the most representative employers' organization. The Committee observes that two employers' organizations are currently members of the



tripartite Council and are signatories of the General Agreement. ***The Committee requests the Government to indicate the impact of the certification of one employers' organization as confederation under the Law on the membership of the tripartite Council.***

The Committee ***deplores*** the total lack of progress in implementing the recommendations of the 2004 Commission of Inquiry and in addressing the outstanding recommendations of the ILO supervisory bodies, as well as the continuing deterioration of freedom of association in the country. ***The Committee once again urges the Government to engage with the ILO with a view to fully implementing all outstanding recommendations of the ILO supervisory bodies without further delay.***

The Committee notes that in its resolution, the International Labour Conference decided to hold at its future sessions a special sitting of the Committee on the Application of Standards for the purpose of discussing the application of the Convention by the Government and the implementation of the recommendations of the Commission of Inquiry, so long as the Government has not been shown to have fulfilled its obligations.

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

#### [Previous comment](#)

The Committee recalls that in its previous comments it had noted a number of concerns raised by the Belarus Congress of Democratic Trade Unions (BKDP) with regard to the application of the Convention, in law and in practice, referring to inadequate protection against acts of anti-union discrimination and interference, the system of collective bargaining and the work of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (hereinafter, tripartite Council).

The Committee notes with ***deep regret*** that in its report, the Government once again merely reiterates the information it had previously provided and indicates that the legislation and practice are in compliance with the Convention.

The Committee observes with ***grave concern*** the dissolution of the BKDP and all of its affiliates and the effect it has had on the work of the national tripartite bodies, including the tripartite Council under the auspices of which General Agreements are signed and their implementation is monitored, and social dialogue at all levels. The Committee further ***deplores*** the continuing deterioration of freedom of association in the country, as described in detail in its comments on the application of Convention No. 87.

The Committee notes that in its [Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus](#), adopted at the 111th Session (June 2023), the International Labour Conference decided to hold at its future sessions a special sitting of the Committee on the Application of Standards for the purpose of discussing the application of the Convention by the Government and the implementation of the recommendations of the Commission of Inquiry, so long as the Government has not been shown to have fulfilled its obligations.

***The Committee once again urges the Government to engage with the ILO with a view to fully implement all outstanding recommendations of the ILO supervisory bodies without further delay.***

## **Belize**

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

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

**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.

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

*Article 4. Promotion of collective bargaining.* In its previous comments under the Collective Bargaining Convention, 1981 (No. 154), the Committee raised the need to amend section 25 of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act (TUEOA), which provides that the tripartite body entrusted with the certification of the representative trade unions may, before granting any certification to a trade union, include additional employees to the bargaining unit, or exclude some employees therefrom in order to render the unit more appropriate. The Committee notes that the Government states that section 25 of the TUEOA was not amended but that discussions continue at the Labour Advisory Board and the Tripartite Body regarding the TUEOA, which is likely to be amalgamated with the Trade Unions Act. **Taking note of the above, the Committee requests the Government to take the necessary measures to ensure that objective and pre-established criteria for the certification of the representative trade unions are provided under the new legislation. The Committee requests the Government to provide information of any progress made in this regard and to provide a copy of the text once adopted.**

The Committee previously requested the Government to continue promoting social dialogue in order to bring section 27(2) of the TUEOA, which stipulates that a trade union may be certified as the bargaining agent if it is supported by at least 51 per cent of employees, into conformity with the Convention. The Committee notes that the Government states that no agreement was reached on any legislative changes in this regard, but that discussions continue at the Tripartite Body and the Labour Advisory Board regarding a proposed new Trade Union and Employers' Organizations Act which would amalgamate the Trade Unions Act and the TUEOA. The Committee recalls that the requirement of too high a percentage for representativity

to be authorized to engage in collective bargaining may hamper the promotion and development of free and voluntary collective bargaining within the meaning of the Convention ([General Survey of 2012 on the fundamental Conventions](#), paragraph 233). Noting the Government's indication that ten collective agreements covering a total of 1592 workers were concluded between 2007 and 2021, the Committee considers that the very low coverage of collective agreements in the country could appear to be related to the restrictive requirements to engage in collective bargaining contained in the legislation. In this regard, the Committee also recalls that under a system of the designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members ([General Survey of 2012 on the fundamental Conventions](#), paragraph 234). **The Committee requests the Government to take the necessary measures, within the framework of the discussions concerning the proposed new Trade Union and Employers' Organizations Act, to bring its legislation into line with the Convention with respect to the representativity of bargaining agents. The Committee requests the Government to provide information on any developments in this regard and reminds it of the possibility to avail itself of ILO technical assistance.**

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

**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)

#### [Previous comment](#)

*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 indicates that the Supreme Court has issued a technical notice on the draft new Labour Code and that the provisions of the latter are being updated in order to respond to the changes of the labour market. **The Committee trusts that the process of the revision of the Labour Code will be concluded shortly and that the Government will finally be able to report on the revision of section 83 of the Labour Code. The Committee requests the Government to provide a copy of the revised Labour Code once adopted.**

*Article 3. Right of workers' organizations to organize their activities.* With regard to the Committee's previous comments concerning Act No. 2001-09 on the exercise of the right to strike, as amended by Act No. 2018-34, the Committee notes with **concern** that the Government merely indicates that: (i) the provisions of the Act aim essentially at ensuring continuity of the public service, the vitality of the economy, and the well-being of the population; and (ii) it notes the Committee's recommendations. In the absence of information on how it envisages giving effect to such recommendations, the Committee is bound to recall that it is expected that the Government take the necessary steps in order to amend the following provisions of the Act in question:

- *New section 2 of the Act. Scope of the Act in terms of the persons covered.* Having noted that military personnel, paramilitary personnel (police, customs, water, forestry and hunting) and healthcare

staff may not exercise the right to strike, the Committee recalls 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 [General Survey of 2012 on the fundamental Conventions](#), paragraphs 130 and 131).

- *New section 17. Requisitioning in the event of a strike.* The Committee notes the general wording of the criteria set out in new section 17 of the Act - according to which 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. The Committee recalls, however, 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 [General Survey of 2012 on the fundamental Conventions](#), paragraph 151).
- *New section 13. Duration of the strike.* In light of the very restrictive provisions under new section 13 of the Act - which provides that the exercise of the right to strike is subject to certain conditions of duration which may not exceed ten days in any one year, seven days in a six-month period, and two days in the same month; and that regardless of the duration, the stoppage of work during a day shall be considered as a full day of strike action - the Committee recalls that workers and their organizations should be able to call a strike for an indefinite period if they so wish (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 146).
- *New section 2. Sympathy strikes.* Having noted that sympathy strikes are prohibited under new section 2 of the Act, the Committee recalls 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 [General Survey of 2012 on the fundamental Conventions](#), paragraph 125).

***In light of the foregoing, the Committee once again urges the Government to take the necessary measures to, in the near future, 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)

#### [Previous comments](#)

In its previous comment, the Committee noted the observations of the International Trade Union Confederation (ITUC) of 2013, referring to a confrontation between the police and trade union demonstrators, which resulted in seven persons being wounded and 37 arrested and prosecuted. In the absence of a reply from the Government, the Committee requested it to provide information on the investigations and judicial procedures conducted. The Committee notes that the Government expressed its commitment to freedom of association and freedom of demonstration, in the framework of the rights

and obligations established in the Constitution. However, the Committee **regrets** that the Government has never provided any information on the investigations and judicial procedures conducted in relation to the ITUC's observations. ***In the absence of a specific reply, the Committee once again reiterates its previous request.***

*Articles 2, 3 and 4 of the Convention. Legislative issues.* The Committee notes that, in its examination of Case No. 3413 in October-November 2022, the Committee on Freedom of Association recalled that the obligation imposed on trade union organizations to obtain the consent of a central trade union organization in order to be registered is in contradiction with the principle of the free establishment of organizations set out in Article 2 of the Convention, and referred the legislative aspects of the case to the Committee of Experts (see Report No 400). ***Likewise, the Committee requests the Government to initiate a dialogue with the parties concerned with a view to identifying the reforms necessary to ensure that workers can freely establish the organizations of their own choosing, even in the absence of the authorization of a higher-level trade union organization. The Committee requests the Government to inform in this respect.***

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 section 129 of Regulatory Decree No. 224 (of 23 August 1943) of the General Labour Act does not allow the executive authorities to dissolve trade unions unilaterally. A third party must justify the dissolution on the basis of specific grounds and the dissolution resolution cannot be a direct power of the State. The State can only intervene in response to requests from higher trade union bodies, and the Ministry of Labour must monitor compliance with the statutes without influencing the decisions of workers' organizations. In this respect, the Committee recalls the need to ensure the conformity of the legislative provisions with the Convention, even when they are no longer directly 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 indications that the State's social and labour legislation seeks to protect trade union activity and strikes, not criminalize them, by introducing measures to protect social and trade union mobilization, while noting that the Government does not expressly indicate whether or not it has repealed sections 1 and 2 of the above-mentioned Decree and recalls once again the need to repeal these provisions.
- With regard to 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 Committee takes due note of the Government's indication that the fourth final provision of Act No. 1715 of 18 October 1996 – the Act on the national agrarian reform service – includes rural employees in the scope of the General Labour Act, under a special regime.
- With regard to 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), the Committee takes due note of the Government's indication that the intervention of labour inspectors is limited to the legalization of acts protecting labour rights, such as the signing of

collective agreements, and to the prevention of labour disputes. The Ministry of Labour, Employment and Social Welfare ensures that trade unions observe their obligations without interfering in their internal decisions, in accordance with their statutes and the regulations in force, guaranteeing their autonomy and avoiding any undue surveillance.

The Committee also notes that the Government has provided information regarding other legislative issues that it has been raising for a long time:

- With regard to the denial of the right to organize of public servants (section 104 of the General Labour Act), the Committee notes the Government's indication that while the legislation in force prohibits the unionization of public servants and does not provide for collective bargaining for such workers, the Political Constitution recognizes the right to freedom of association, and collective bargaining is generally considered a democratic method, which has led to legislative reforms granting certain labour protections to workers in the municipal public administration, with the aim of adapting the law to contemporary needs and to changes in the public administration. The Committee nevertheless notes that the prohibition established in section 104 remains in force.
- With regard to 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 Committee notes the Government's indication that the Ministry of Labour, Employment and Social Welfare issued Ministerial Resolution No. 123/06 of 2006, which issued a criterion for an interpretation of the provision in question. According to this interpretation, the establishment of trade union committees is permitted in enterprises and institutions with fewer than 20 workers, thus ensuring the right to organize, and no reports or complaints have been filed by trade union organizations since its implementation. The Committee notes that the above-mentioned Ministerial Resolution does not address the prohibition on the establishment of trade unions where less than 50 per cent of the employees are trade union members, in the case of industrial trade unions.
- With regard to the majority established in 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, the Committee notes that, according to the Government, these provisions require a holistic interpretation, where the requirement of three quarters of workers for the declaration of a strike refers to workers in active service, that is, those on duty, and not to the total number of employees in the enterprise. The Committee also notes the Government's indication that the possibility for the executive authorities to impose compulsory arbitration guarantees the enforcement of awards and respect for labour rights, in accordance with the principle of legality and avoiding non-compliance due to bad faith, since these awards constitute enforceable judgments by operation of law. The Committee also notes that the Government does not refer to the question of the illegality of strikes in the banking sector (section 1(c) of Supreme Decree No. 1958 of 1950).
- With regard to the provisions establishing requirements for trade union leadership, as well as the power of the authorities, in certain circumstances, to disqualify *ex officio* trade union leaders, the Committee notes that, according to the Government, section 138 of the General Labour Act, which sets out the requirements for leadership of trade union organizations, is currently being revised in order to bring it into line with the principles of inclusiveness enshrined in the Constitution of 2009, respecting the right to freedom of association without state intervention in decisions on trade union organizations, while maintaining the role of the State as guarantor of the labour regulations in force.

**Recalling that the above-mentioned provisions are incompatible with the right of workers' organizations, without distinction whatsoever, to establish and join organizations, to organize their activities freely, to formulate their programmes and to elect their representatives in full freedom, the Committee urges the Government to take the necessary measures to amend or repeal them in order to ensure their conformity with the Convention. The Committee requests the Government to provide detailed information in this regard.**

The Committee recalls that in its 2016 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 indication that the State is committed to developing social and labour legislation that reflects the ethical and moral values of the Constitution, promoting well-being, development, security and dignity, as well as intercultural and multilingual dialogue. **Noting with regret the absence of progress in this respect over this many years the Committee urges the Government to adopt the new legislation governing public servants and the new Labour Code 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 once again reminds the Government that it may, if it so wishes, avail itself of the technical assistance of the Office.**

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

(ratification: 1973)

[Previous comment](#)

The Committee notes the observations of the Confederation of Private Employers of Bolivia (CEPB), received on 31 August 2021 and 1 September 2023, which follow joint 2019 observations by the CEPB and the International Organization of Employers. The Committee notes that the CEPB alleges that, since 2006, the Government violates the principle of free and voluntary negotiation with regard to wages by: (i) it unilaterally fixing each year both the minimum wage and a margin for wage increases applicable to the private sector; (ii) obliging employers, on pain of a fine, to negotiate a collective agreement to implement the aforementioned wage increases within a specific deadline; (iii) making collective agreements on wages subject to approval by the Ministry of Labour, Employment and Social Welfare (MTEPS); and (iv) giving priority to dialogue on wages with the workers to the detriment of employers, which is in addition to the restrictive conditions and deadlines that contravene the essence and process of collective bargaining, which must be voluntary and autonomous. The CEPB states that such violations are evidenced by the provisions of Supreme Decree No. 4928 of 1 May 2023 and Ministerial Resolution No. 752/23 of 18 May 2023. The Committee also notes the Government's indications that: (i) it has held meetings with both employers and workers in order to maintain the equality of both sectors; and (ii) section 6 of Supreme Decree No. 4928 establishes that the wage increase in the private sector shall be agreed by employers and workers on the basis of a 3 per cent minimum increase, in accordance with article 49 of the Bolivian Political Constitution, which states that "the law shall regulate labour relations regarding contracts and collective bargaining agreements; general and sectoral minimum wages and salary increases; [...]". The Committee also notes that, under section 6 of Ministerial Resolution No. 752/23, "failure to submit the collective agreement on wage increase shall be penalized in accordance with the provisions of section 7 of Ministerial Resolution No. 212/18 of 1 March 2018".

The Committee notes these various points. The Committee wishes to emphasise that: (i) the fixing by the authorities of generally applicable protective floors, including in respect of remuneration, is not contrary to the Convention provided that, on this basis, the parties have a genuine opportunity to engage in free and voluntary negotiations; (ii) the imposition by the Government of the conclusion of a collective agreement is, however, contrary to the principle of free and voluntary negotiation; and (iii) it is incumbent on the Government to promote a climate of dialogue and trust with and between the social

partners in order to facilitate the implementation of the Convention. **While recalling its long-standing comments to the Government in the context of the Minimum Wage Fixing Convention, 1970 (No. 131) on the need for full consultation with both employers' and workers' organisations, the Committee requests the Government to take the necessary measures to eliminate legislative or regulatory provisions providing for the compulsory signing of collective agreements and the related penalties. The Committee requests the Government to provide information on any progress in this regard. The Committee also requests the Government to provide its comments on the observations of the CEPB concerning the approval of collective agreements by the MTEPS.**

*Articles 1, 2 and 4 of the Convention. Legislative issues.* In its previous comment, the Committee recalled two main issues relating to the above-mentioned Articles of the Convention, namely: (i) the urgency of updating the fines established in Act No. 38 of 1944, which currently range from 1,000 to 5,000 Bolivian pesos, in order to make them more effective in preventing discrimination and anti-union interference; and (ii) the need to guarantee the right to collective bargaining for both public servants not engaged in the public administration and agricultural workers (for the latter, such recognition is already provided for in the Constitution, but the General Labour Act has not yet been amended in this respect). The Committee also noted the Government's reply indicating that it was still working on updating fines in collaboration with the Bolivian Workers' Federation (COB), drafting a new law for public servants not engaged in the public administration, and drafting a new Labour Code to address the issue of the exclusion of agricultural workers. **Noting with regret the lack of progress in this regard, the Committee firmly expects that the new Public Servants 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 report on any developments in this regard and once again reminds the Government that it may avail itself of the technical assistance of the Office if it so wishes.**

*Application of the Convention in practice.* The Committee requested 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. **In the absence of information in this respect, the Committee expresses the firm hope that the Government will be able to collect the statistical data in question in the near future and requests it to provide such data as soon as it becomes available.**

## Bosnia and Herzegovina

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

#### [Previous comment](#)

*Article 2 of the Convention. Scope of application.* In its previous comment, the Committee noted that both in the Federation of Bosnia and Herzegovina (FBiH) and in the Republika Srpska (RS), there were two main laws regulating the right to associate: on the one hand, the FBiH Labour Act and the RS Labour Act and, on the other hand, the FBiH Act on Associations and Foundations and the RS Act on Associations and Foundations. As the scope of these laws differs, the Committee noted that specific categories of workers were not covered by all the guarantees of the Convention. It therefore requested the Government to revise the relevant legislation to ensure that all workers, including workers without an employment contract, domestic workers, agricultural workers, workers in the information economy and self-employed workers enjoy, in law and in practice, all the rights guaranteed by the Convention. **In the absence of any further information on this matter provided by the Government, the Committee reiterates its previous request in this respect.**

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)

#### Previous comment

The Committee notes the observations of the Botswana Federation of Trade Unions (BFTU) received on 4 October 2022, relating to matters examined in the present comment, and the Government reply thereto, as well as their observations communicated with the Government report.

*Legislative developments. Employment and Labour Relations Bill.* The Committee takes note of the Government's indication regarding the imminent finalization of the Employment and Labor Relations Bill, 2023 (the Bill), which will replace both the Trade Disputes Act (TDA) and the Trade Unions and Employers Organizations Act (TUEO) and is to be tabled before the Parliament at its November 2023 session. The Government refers to a training for drafters organized by the ILO in early 2023, that provided in-depth understanding of international labour standards. The Committee notes with **interest** that the proposed Bill, if adopted would take into consideration its previous comments, regarding the following matters:

- penalties imposed on the officers of trade unions or federations who fail to apply for registration within 28 days of the establishment of the organization pursuant to section 8 of the TUEO will be repealed;
- section 86(4) of the Bill provides for an opportunity to rectify the absence of certain formal registration requirements;
- section 86(7) of the Bill provides that nothing prevents an unregistered or de-registered trade union from continuing to organize and to recruit members subject to the provisions of the Act;
- the prohibition of election of young members (15–18 years old) from being officers or trustees of a workers' or employers' organization enshrined in section 20(3) of the TUEO will be repealed;
- the broad supervisory powers of the Registrar over the financial assets of a trade union, provided in section 41(3) of the TUEO will be repealed. The Bill in section 108(1) only requires annual submission of a balance sheet giving a true record of the state of the financial affairs of such trade union at the end of every financial year;
- the power of the Registrar or the Attorney-General to apply for an interdict to restrain any unauthorized or unlawful expenditure of funds or use of any trade union property pursuant to section 39 of the TUEO, and the power of the Registrar to conduct inspection of accounts, books and documents of a trade union at "any reasonable time" provided in section 43 of the TUEO will be repealed;
- the denial of facilities at the enterprise to small unions pursuant to 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, will be repealed. The Committee observes that the Bill grants authorized representatives of unions the right to represent members in case of complaints under section 239(1) and grants to all such representatives access to trade union premises under sections 234 and 237, regardless of the registration status of the unions they represent;
- the authorization for the employer to use replacement labour within 14 days of the commencement of the strike regulated by section 43(3) of the TDA will be repealed: section 265 (5) of the Bill restricts this practice to "the extent that it is necessary to maintain a minimum service, or in the circumstances where a disruption of service constitutes an acute national crisis";
- section 275(1) of the Bill allows peaceful picketing.

The Committee notes however, that certain other longstanding issues, that will be examined below, remain unaddressed in the Bill. The Committee notes the Government's indication that while the drafting continues, consultations are ongoing at various levels to get inputs on issues on which no consensus was reached. **The Committee requests the Government to continue its consultation with the social partners with a view to incorporating all legislative issues raised in this comment into the reform agenda and to provide information on the steps taken in this respect.**

*Public Service Bill.* The Committee recalls that the Government previously informed the Committee that a process of review of Public Service Act of 2008 (PSA) was under way. The Committee notes in this respect the latest indications of the Government reaffirming that the PSA is included in the labour law review process and the bill will be presented to the parliament during the November 2023 session. **The Committee requests the Government to provide information on the outcome of the review process and to send a copy of the latest draft or the law if adopted.**

*Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. Prison staff.* The Committee had previously requested the Government to 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. The Committee notes that section 3 of the Bill continues to exclude the prison service from the scope of trade union rights. The Committee notes the Government's indication that the Labour Law Review Committee (LLRC) considered this issue and engaged the Ministry but noted that any amendment to the provisions on prison service would require prior amendment of the Constitution. Some work on the review of the Constitution was done in 2021-2022 and the conclusions will guide the way forward. The Government adds that the Prisons Service Department maintains that prison staff perform a security function and are a disciplined force. The Committee further notes the observation of the BFTU confirming that the Prison Service Act is part of the laws being reviewed by the LLRC but that the matter has not been brought to a tripartite discussion with the relevant Ministry since 2018 and suggesting that tripartite discussion should be resumed to achieve progress. The Committee recalls that while the exclusion of the armed forces and the police from the right to organize is not contrary to the provisions of the Convention, the functions exercised by prison staff do not justify their exclusion from the rights and guarantees set out in the Convention. **The Committee therefore requests the Government to initiate consultations on this issue, with the participation of all stakeholders including the parent Ministry and representatives of workers concerned, with a view to amending the law so as to recognize and guarantee the freedom of association of prison staff. The Committee requests the Government to provide information on any steps taken in this respect.**

*Article 3. The right of organizations to elect their representatives in full freedom.* The Committee notes that section 111(1) of the Bill provides that a member of an organization or the Registrar may apply to the Industrial Court for an interdict to prohibit an officer of an organization from holding office in or controlling the funds of such an organization. Section 111(2) provides that the Industrial Court may grant the interdict where it is satisfied that there is a *prima facie* case against the officer in question for fraudulent misuse of the funds of the organization, or that such officer is disqualified from holding office. The Committee notes that this provision allows the removal of a union officer after an *ex parte* proceeding, where only the establishment of a *prima facie* case is required. **The Committee recalls that any removal or suspension of trade union officers which is not the result of an internal decision of the trade union, a vote by the members or normal judicial proceedings, seriously interferes in the exercise of trade union office and requests the Government, in full consultation with social partners, to review section 111 of the Bill, with a view to ensuring the right of organizations to elect their representatives in full freedom in conformity with Article 3 of the Convention.**

*The right of organizations to organize their administration and activities and to formulate their programmes.* The Committee notes that sections 86(6), 87(6) and 89(1) of the Bill provide that an

unregistered organization or an organization whose registration has been cancelled “shall not enjoy the rights, immunities and privileges reserved for a trade union, federation of trade unions, employers’ organization or federation of employers’ organizations under this Act”. The Committee notes that pursuant to section 90 of the Bill, these rights include immunity from certain suits or other legal proceedings in a civil or penal court, including civil suits “in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on the grounds only that such act induces some other person to breach a contract of employment or that it is in interference with the trade, business or employment of some other person or with the rights of some other person to dispose of his or her capital or labour as he or she determines”. The Committee recalls in this respect that, although the official recognition of an organization through its registration constitutes a relevant aspect of the right to organize, as it is the first measure to be taken so that organizations can fulfil their role effectively, the exercise of legitimate trade union activities should not be dependent upon registration. **Considering that the exposure of unregistered organizations to the kind of legal action referred to in section 90 can significantly restrict their right to conduct legitimate trade union activities, the Committee requests the Government, in full consultation with the social partners, to review the above-mentioned provisions of the Bill with a view to ensuring that unregistered organizations can freely exercise their legitimate trade union activities.**

**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 the Committee’s comments.**

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

### [Previous comment](#)

The Committee notes the observations of the Botswana Federation of Trade Unions (BFTU) received on 4 October 2022 and 6 June 2023 regarding, on the one hand, issues examined in the present comment, and, on the other hand, allegations of anti-union discrimination in the mining sector, including cases of non-renewal of contracts and dismissal of trade union members. The Committee notes the Government’s indication that: (i) labour inspections were carried out in 33 out of 55 identified companies in the diamond cutting subsector in May and June 2023; and (ii) engagement with stakeholders, including the Botswana Diamonds Workers Union (BDWU), Diamond Hub and Botswana Diamond Association, is scheduled to begin in October 2023. The Committee observes, based on the Labour Inspection Report of the diamond processing companies transmitted by the Government, that (i) there are impediments faced by trade unions regarding recognition by employers since the latter prefer to work with internal Workers’ Committees; and (ii) there were cases both of non-renewal of contracts and of the dismissal of certain trade union members, which the management states is unrelated to their union membership. The Committee takes due note of these elements. **Based on the above, the Committee requests the Government to continue to take all the necessary measures to ensure that unions, including unregistered ones, and their members in the mining sector are adequately protected against all acts of anti-union discrimination. The Committee requests the Government to continue to provide information on the action taken and the results achieved in this respect.**

*Legislative reform.* The Committee notes the Government’s indication that the Employment and Labour Relations Bill, 2023 (hereinafter referred to as the Bill), which has the object of replacing the Employment Act, the Trade Disputes Act (hereinafter referred to as the TDA) and the Trade Union and Employer’s Organizations Act, was to be tabled before the Parliament at its November 2023 session. The Committee welcomes: (i) the explicit objective of the Bill to bring the legislation in conformity with the present Convention and with the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); and (ii) the Government’s indication that, with ILO assistance, the drafters of

the Bill received an in-depth training on International Labour Standards. The Committee examines below the extent to which the Bill addresses its previous comments on the application of the Convention.

*Scope of the Convention. Prison officers.* The Committee had previously requested the Government to take the necessary measures to grant members of the prison service their rights guaranteed under the Convention. The Committee notes that section 3 of the Bill continues to exclude prison officers from the scope of trade union rights. It notes the Government's indication in its report concerning the application of Convention No. 87, that the Labour Law Review Committee (LLRC) considered this issue and engaged the Ministry but noted that any amendment to the provisions on prison service would require prior amendment of the Constitution. Some work on the review of the Constitution was done in 2021–22 and the conclusions will guide the way forward. The Committee also notes the observation of the BFTU confirming that the Prison Service Act is part of the laws being reviewed by the LLRC, but that the matter has not been brought to a tripartite discussion with the relevant Ministry since 2018, and that these discussions should resume to achieve progress. ***In view of the foregoing, the Committee urges the Government to take the necessary measures to initiate consultations on this matter with the parent Ministry and the representatives of the workers concerned, with a view to changing the legislation and ensuring that prison officers enjoy the rights and guarantees set out in the Convention. The Committee requests the Government to continue providing information on any progress in this respect.***

*Article 1 of the Convention. Protection against acts of anti-union discrimination.* The Committee requested the Government to take the necessary measures to ensure that all union committee members, including those of unregistered trade unions, enjoy an adequate and specific protection against anti-union discrimination. The Committee notes with ***interest*** that section 22 of the Bill that protects workers, both prior and during employment, from discrimination against trade union affiliation and trade union activities makes no distinction between registered and non-registered unions.

*Article 2. Protection against acts of interference.* The Committee previously requested the Government to adopt specific legislative provisions that ensure adequate protection against acts of interference by employers coupled with effective and sufficiently dissuasive sanctions. The Committee observes that although section 82(1) prescribes that trade union independence, defined as the absence of any kind of direct or indirect control or interference from any employer or employers' organization, is a prerequisite for trade union recognition, as the Bill does not contain provisions that explicitly prohibit acts of interference or sanction such acts. ***The Committee requests the Government to take the necessary measures in line with its previous request to ensure that the legislation includes provisions that give full effect to Article 2 of the Convention. The Committee requests the Government to provide information in this respect.***

*Article 4. Promotion of collective bargaining. Trade union recognition.* The Committee previously requested the Government to take the necessary legislative measures to ensure that in the absence of a union that represents at least one third of the employees in a bargaining unit, existing unions are given the possibility to bargain collectively, at least on behalf of their own members. The Committee notes that the Bill: (i) still refers to the one third threshold as the first condition for a union to be recognized for collective bargaining purposes at the company level (section 245.1); (ii) provides however that if no union meets the referred threshold, the union with the most members may be recognized for the purpose of collective bargaining (section 245.2); (iii) mentions additional criteria to be taken into account for the recognition of a union for bargaining purposes (including the composition of the workforce and the importance of non-standard forms of employment, section 245.4); and (iv) prescribes that an employer may request the withdrawal of collective bargaining recognition if the union falls below the referred threshold (section 248.1). While welcoming the possibility set by the Bill to recognize unions that would not meet the one third threshold as bargaining agents, the Committee notes that it will only be able to determine to what extent this possibility will effectively contribute to broadening the opportunities for collective bargaining in accordance with *Article 4* of the Convention once this provision

is implemented. **The Committee therefore requests the Government to provide any information in this regard and expects that, if the Bill is adopted as it stands, sections 245.2 and 245.4 of the Bill will be applied taking full account of the obligation established by the Convention to promote collective bargaining.**

The Committee also requested the Government to amend section 35(1)(b) of the TDA that permits an employer or employers' organization to apply to the Commissioner to withdraw the recognition for the purpose of collective bargaining granted to a trade union on the grounds that the trade union refuses to negotiate in good faith. The Committee notes with *interest* that the Bill does not contain a similar provision.

**Compulsory arbitration.** The Committee recalls that, with a view to promote free and voluntary collective bargaining, it requested the amendment of section 20(3) of the TDA that 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. The Committee notes that, per section 283.1 of the Bill, arbitration in the context of a collective dispute can take place when: (i) both parties agree to refer the dispute to arbitration or the referring party to the Mediation and Arbitration Commission has requested arbitration; (ii) parties to the dispute are engaged in an essential service; and (iii) the Industrial Court has directed the Commission to arbitrate the dispute. The Committee observes that these provisions mandate compulsory arbitration in situations that exceed the scope of what the Committee considers is compatible with the Convention i.e.: (i) in essential services in the strict sense of the term; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis ([General Survey of 2012 on fundamental Conventions](#), paragraph 247). **The Committee therefore requests the Government to take the necessary measures to ensure that the future legislation will not allow compulsory arbitration beyond the set of situations described above. The Committee requests the Government to provide information in this respect.**

**Articles 4 and 6. Collective bargaining in the public sector.** The Committee notes the indications of the BFTU and the Government that the Public Service Bargaining Council (PSBC) has not been resuscitated but that the Public Service Act, 2008 was included within the scope of the Labour Law Review Commission. **Recalling its on-going dialogue with the Government with a view to ensuring that the material scope of collective bargaining for public sector workers not engaged in the administration of the State is in conformity with the Convention, the Committee requests the Government to: (i) provide further information on the content of any on-going reform that would address the right to bargain collectively in the public sector; and (ii) provide practical examples of the content of collective agreements applicable to civil servants not engaged in the administration of the State.**

**Collective bargaining in practice.** The Committee notes the Government's indications that there are 69 collective agreements signed and in force in the country, concluded both at the sector level and the company-level across various sectors. The Government indicates that statistics on workers covered by the agreements, although unavailable currently, would be collected hereon. **While noting that, according to ILOSTAT, the coverage of collective bargaining in 2020 was 34.5 per cent, the Committee requests the Government to continue to make efforts to collect and provide information on the number of collective agreements signed and in force in the country along with statistics on the sectors and workers covered.**

**The Committee hopes that the Government will be in a position to soon inform about the adoption of the Bill and that its content will contribute to the full implementation of the Convention. The Committee reminds the Government that it may continue to avail itself of the technical assistance of the Office with respect to all issues raised in the present comments.**

## Brazil

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

#### Previous comment

The Committee notes the observations of the National Confederation of Industry (CNI), received on 31 August 2023 and also forwarded by the Government with its report. It also notes the observations of the Single Confederation of Workers (CUT), transmitted by the Government in its report. The Committee notes that these observations and the corresponding replies by the Government concern matters examined in the present comment.

With reference to the 2022 allegations by the CUT in relation to Act No. 14.437/2022 on the implementation by the executive authorities of alternative labour measures and an emergency programme for employment and income maintenance with a view to responding to the social and economic consequences of a state of public calamity, the Committee notes the Government's reply and refers to its 2020 comments on Act No. 14.020 in view of the similarity in content of the two instruments. The Committee observed on that occasion that the Act was not intended to set aside collective agreements and accords that are in force, but to establish a temporary system for reduced activity and income compensation that can be set in motion by individual agreement or collective accord. The Committee therefore emphasized the importance of promoting the full utilization of collective bargaining machinery as a means of achieving balanced and sustainable solutions in a time of crisis.

*Application of the Convention and respect for civil liberties.* In its previous comments, the Committee noted with deep concern the allegations of the International Trade Union Confederation (ITUC) concerning the murders of three trade union leaders and members in 2020 as well as several cases of death threats against other union leaders.

The Committee notes that the Government confines itself to indicating that: (i) there is no legal provision conferring upon the Ministry of Labour powers in criminal matters to undertake investigations or punish the instigators of violations against trade union leaders; and (ii) it is necessary to ascertain the progress made by the criminal justice or administrative procedures in that regard. The Committee also notes the observations of the CUT in which it deplors the Government's reply and calls on it to provide full information on the murders in question.

The Committee notes with **regret** the absence of information from the Government on the progress made in the investigations of the crimes alleged by the ITUC and the protection measures adopted for trade union leaders who have received death threats. Emphasizing that compliance with ratified Conventions is incumbent on all the competent authorities, the Committee is bound to recall that the rights set out in the Convention, and particularly those respecting free and voluntary collective bargaining, can only be exercised in a climate free from violence and threats. **The Committee once again urges the Government to ensure that the necessary measures are taken to: (i) identify and punish the perpetrators and instigators of the alleged crimes; and (ii) ensure effective protection for the trade union leaders whose physical safety is under threat. The Committee urges the Government to provide detailed information on this subject without delay.**

*Article 1 of the Convention. Adequate protection against anti-union discrimination.* The Committee recalls that, while noting the existence of constitutional and legislative provisions that provide general protection for trade union activities, it has been requesting the Government for many years to take measures to set out explicitly in the legislation specific sanctions that are sufficiently dissuasive against all acts of anti-union discrimination. **Noting the absence of new information on this subject and recalling the essential importance of ensuring effective protection against anti-union discrimination, the Committee is therefore bound to reiterate its request and hopes that the Government will be in a position to report tangible progress in this regard.**

*Article 4. Promotion of collective bargaining. Relationship between collective bargaining and the law.*

In its previous comments, the Committee requested the Government, in consultation with the representative social partners, to take the necessary measures to amend sections 611-A and 611-B of the Consolidation of Labour Laws (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. In this regard, the Committee took note of the concerns expressed in 2021 by the ITUC, the CUT and the National Confederation of Workers in Teaching Establishments (CONTEE) with regard to the implementation of these provisions in the context of the economic crisis provoked by the COVID-19 pandemic which could in their view result in workers being obliged to accept, through collective bargaining, a sharp deterioration in their conditions of work and employment.

The Committee notes that the Government reaffirms that: (i) the primacy of collective bargaining over the legislation introduced by Act No. 13.467 of 2017 contributes to reinforcing confidence in bargaining mechanisms in accordance with the Convention and the Federal Constitution of 1988; (ii) by guaranteeing that the rights of workers set out in the Constitution (section 611-B of the CLT) cannot be derogated through collective bargaining, the legislator sought to clarify the scope of collective bargaining while conserving the fundamental rights of workers with constitutional standing; and (iii) the Supreme Federal Court confirmed in a ruling of June 2022 the validity, irrespective of the specific compensatory benefits outlined, of collective agreements which limit or restrict certain labour rights where they are not guaranteed by the Constitution.

The Committee also notes the information provided by the Government on the number of collective agreements and accords concluded in the country, according to which: (i) between January 2019 and June 2023, there were 181,838 registered collective instruments, of which 149,096 were collective labour accords (concluded at the level of one or several enterprises) and 32,742 were collective labour agreements (concluded at a broader level, such as a sector of activity or an occupation); (ii) in 2022, some 41,742 collective accords and agreements were concluded, in comparison with the 47,672 concluded in 2017. Finally, the Government reports the adoption of Decree No. 11.477 of 6 April 2023 creating an inter-ministerial working group responsible for preparing a proposal for the restructuring of industrial relations and the promotion of collective bargaining.

The Committee notes that the observations of the CNI confirm the information provided by the Government, with the employers' organization adding that since the entry into force of the reform, the number of court actions challenging the validity of the clauses of collective agreements has fallen by 80 per cent. The Committee notes the affirmation by the CUT that according to the analysis of the Inter-union Department for Statistics and Socio-economic Analyses: (i) collective bargaining has become more difficult since the entry into force of the 2017 reform, resulting in a decrease in the number of collective labour agreements and accords and greater discretionary power for enterprises; (ii) it is undeniable that the changes introduced by the labour reform, and particularly those set out in section 611-A of the CLT, are in violation of ILO Conventions Nos 98 and 154; and (iii) nothing has been done by the Government to give effect to the Committee of Experts' comments in this regard, while the commission established in 2023 to restructure industrial relations and promote collective bargaining has not currently included in its work plan action to follow up the Committee of Experts' comments.

The Committee notes the different information provided by the national tripartite constituents and notes the statistical indications that the total number of collective instruments concluded has fallen by 12.5 per cent since 2017 (the number of collective agreements concluded is stable, while the number of collective accords concluded at the enterprise level has fallen by 17.6 per cent). The Committee also notes the lack of action taken by the Government for the amendment of sections 611-A and 611-B of the CLT. The Committee recalls that it has 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 the protective

provisions of 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. **While noting the limits already set out in section 611-B of the CLT, the Committee once again requests the Government, in consultation with the representative social partners, to take the necessary measures to amend 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. The Committee requests the Government to provide information on the progress made in this regard. The Committee also requests the Government to continue providing information on developments in the number of collective agreements and accords concluded in the country, including data on the agreements and accords which contain clauses derogating from the legislation, with an indication of the nature and scope of such derogations.**

*Relationship between collective bargaining and individual contracts of employment.* The Committee recalls that, by virtue of Act No. 13.467 of 2017, section 444 of the CLT has the effect that, in the domain covered by section 611-A of the CLT, the clauses of individual contracts of employment of employees who have a higher education diploma and who receive a salary that is at two times higher than the ceiling for benefits under the general social security scheme prevail over the content of collective agreements and accords, including where the clauses of individual employment contracts are less protective. The Committee recalls in this regard that: (i) 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 members of the armed forces and the police (*Article 5*) and public servants engaged in the administration of the State (*Article 6*) may be excluded from its scope of application; and (ii) as explicitly set out in Paragraph 3 of the Collective Agreements Recommendation, 1951 (No. 91), 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. **Noting the absence of information in this regard, the Committee 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.* The Committee recalls that, following the extension of the definition of self-employed workers resulting from new section 442-B of the CLT, it commenced a dialogue with the Government concerning the access of these workers to the right of collective bargaining. In this regard, the Committee: (i) welcomed 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; (ii) noted the indication by the CUT that, although section 511 of the CLT recognizes the right of autonomous workers to organize, this provision does not however grant them the possibility to have access to collective bargaining machinery, particularly in view of the absence of a counterpart and, in practice, the fact that the transition from the status of employee to that of autonomous worker under the terms of section 442-B would have the effect of excluding the workers concerned from the coverage of the collective agreements in force; and (iii) noted the Government's indication that the emergence of various non-standard forms of work is an additional challenge for collective bargaining in all countries, particularly in view of the low unionization rate. In light of these considerations, the Committee invited the Government to: (i) 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 would cover these categories of workers; and (ii) engage in consultations with all the parties concerned with the objective of identifying appropriate modifications to be introduced into collective bargaining machinery to facilitate its application to autonomous and self-employed workers.



**Noting the absence of information from the Government on this subject, the Committee reiterates its previous requests to the Government and hopes that it will provide specific information on any collective agreements covering these categories of workers and on the holding of the requested consultations with the social partners,**

*Relationship between the various levels of collective bargaining.* The Committee recalls that, under the terms of section 620 of the Consolidation of Labour Laws, as amended by Act No. 13.467, 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). The Committee therefore recalled 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 information provided by the Government in its report on the relationship between the various levels of collective bargaining, 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 its more recent comments, after noting the Government's indication that section 623 of the CLT, adopted in 1967, is not in accordance with the objectives of the Constitution of 1988 and is therefore no longer applied, the Committee emphasized the need to remove from the statutes this provision that is contrary to the principle of free and voluntary collective bargaining set out in *Article 4* of the Convention. **Once again noting the absence of new information from the Government, the Committee again requests it to take the necessary measures to repeal section 623 of the CLT and to provide information in its next report on any measures adopted in this regard.**

**The Committee trusts that the inter-ministerial working group created in April 2023 to draw up a proposal for the restructuring of industrial relations and the strengthening of collective bargaining will take fully into account the various points raised and recommendations made in this comment and that the Government will soon be in a position to report tangible progress in this respect.**

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

## Bulgaria

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

#### [Previous comment](#)

The Committee notes the adoption of the Protection of Persons Who Report or Publicly Disclose Information on Breaches Act, 2023 which protects persons in the public and private sectors who report or publicly disclose information on violations of the legislation, including labour legislation, which have become known to them in the course of or in connection with the performance of their work or official duties or in another context.

The Committee previously requested the Government to provide its comments on the 2019 observations of the Confederation of Independent Trade Unions in Bulgaria (CITUB) that the Civil Servants Act is insufficient to guarantee in practice the right to organize of civil servants, as well as of other workers under a labour relation; and that, together with the Ministry of Interior Act and the Judiciary Act, it should be amended to fully guarantee all rights under the Convention to these workers and their organizations. The Committee notes the Government's detailed comments on the provisions granting the right to organize to the above categories of workers and, in particular, that the regime for the establishment, operation and closure of public servants' unions is governed by the regime for associations under the Not-for-Profit Legal Entities Act (NPLEA). ***In view of the CITUB's concerns as to the lack of administrative or criminal safeguards to protect the right to organize of several categories of public servants, the Committee requests the Government to provide further details on the applicable procedures that guarantee and protect in practice the right to organize of public servants, including procedures applicable in case of alleged violations of the right to organize.***

In its previous comment, the Committee also requested the Government to provide information on the 2019 observations of the Bulgarian Industrial Association (BIA) alleging interference in freedom of association of employers' organizations, in particular as regards the autonomy and operation of branch associations of producers and traders, through certain sectoral regulations – the Forestry Act, the Act on Wine and Alcoholic Beverages and the Act on Tobacco and Related Products. The Committee takes due note of the Government's detailed observations, and its intention to amend some of the aforementioned legislation. ***The Committee trusts that any amendments to the legislation will be fully in line with the Convention and adopted in consultation with the social partners.***

*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 has been requesting the Government 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 concerned and section 11(3), which requires the strike duration to be declared in advance. In its previous comment, the Committee requested the Government to provide information on any developments concerning these provisions and to indicate what the requirements are for continuing a strike action beyond its initially determined duration. The Committee notes the Government's indication that no changes were made to section 11(2) and (3) of the CLDSA and that a change in the initial duration of a strike should be made in the same way as the strike decision, that is, by a decision of the workers. The Committee recalls once 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 [General Survey of 2012 on the fundamental Conventions](#), paragraph 147). The Committee also recalls 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. ***In line with the above, the Committee requests the Government to take the necessary measures to amend section 11(2) and (3) of the CLDSA to ensure its full compliance with the Convention.***

The Committee has also been raising the need to revise section 51 of the Railway Transport Act (RTA), which provides that, where industrial action is taken, satisfactory transport services must be provided to the population corresponding to no less than 50 per cent of the volume of transportation provided before the strike. In its previous comment, the Committee, while welcoming a proposal to amend the provision by providing for the participation of the social partners in the determination of the minimum services and for a mechanism for dispute resolution, noted that the proposed amendment retained an obligation to provide no less than 50 per cent of the amount of transport services. The Committee notes the Government's reiteration that the current text of section 51 has not precluded the

exercise of the right to strike by railway workers and that the proposal of the Confederation of Labour Podkrepa to reduce the volume to 20 per cent would result in an inability to serve the rail transport needs of the population, even in a minimal volume. The Government adds that the Ministry of Transport and Communications proposed a new amendment, which provides that the managers and the railway undertakings shall annually negotiate and agree on a list of trains which shall provide the required percentage of transport (not less than 50 per cent) and will include the list on the contract for access to and use of the railway infrastructure. The managers and railway undertakings shall subsequently agree with any representative organizations of their workers on the type and number of staff needed to carry out the required volume of transport. The Committee observes that while the proposed amendment provides for the participation of the social partners in the definition of minimum services, it does not reduce the quantity of the service to be provided, which remains at no less than 50 per cent. While taking note of the Government's concerns about providing sufficient railway transport services to the population, the Committee recalls once again that minimum service must be limited to the operations 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 by the strike. A minimum service that is as broad as no less than 50 per cent restricts one of the essential means of pressure available to workers to defend their economic and social interests. ***The Committee therefore once again requests the Government to revise section 51 of the RTA, in consultation with the most representative organizations, in order to ensure its compliance with the Convention. The Committee trusts that, through such consultations, a solution can be identified that will guarantee the right of workers' organizations to organize their activities through collective action while at the same time providing for transport services to meet the basic needs of the population or the minimum requirements of the service. The Committee requests the Government to provide information on all developments in this regard.***

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

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

### [Previous comment](#)

The Committee takes note of the observations of the Confederation of Independent Trade Unions of Bulgaria (CITUB) transmitted with the Government's report in 2019 concerning issues examined in the present comment.

The Committee welcomes the Government's indication that the Labour Code was amended in 2020 to promote social dialogue and collective bargaining and that the amendments were drafted with active participation of experts of the social partners and adopted after consultations with the nationally representative organizations of workers and employers in the National Council for Tripartite Cooperation. The relevant amendments are assessed in more detail below.

The Committee further notes the adoption of the Protection of Persons Who Report or Publicly Disclose Information on Breaches Act, 2023. The Government indicates that the Law is also applicable to public disclosure of information on violations of labour legislation and legislation related to the performance of public service.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comment, the Committee invited the Government to collect statistical information on the application of the existing mechanisms against anti-union discrimination. It also encouraged the Government to hold consultations with the most representative organizations to assess, in light of the statistical information, the need for any additional measures in this respect. While observing that the Government does not provide any updated information in this regard, the Committee takes note of the judicial decisions provided in the Government's report, which mainly concern preliminary protection of

trade union officials in the event of dismissal set out in section 333 of the Labour Code. **The Committee requests the Government to collect statistical information on the application of the existing mechanisms to protect against anti-union discrimination and to provide information in this regard.**

*Article 2. Adequate protection against acts of interference.* In its previous comment, having observed that national legislation does not provide adequate protection of workers' organizations against acts of interference by employers or employers' organizations, the Committee requested once again the Government to take the necessary measures to amend the national legislation accordingly. **Noting the absence of a reply from the Government on this issue, the Committee reiterates its previous request.**

*Article 4. Promotion of collective bargaining.* The Committee welcomes the Government's indication that the 2020 amendments to the Labour Code aim to renew the interest in collective bargaining and notes the Government's indication that: (i) section 2 sets that the State shall regulate industrial relations through dialogue with the workers and employers and their organizations; (ii) section 57 allows workers who are not members of a trade union party to a collective agreement to accede to the agreement by an application to the employer or to the leadership of the union, and provides that any monetary contributions from these workers shall be determined by the parties to the collective agreement; and (iii) section 51b improves and supports the procedure for extending sectoral or branch collective agreements (a joint request by the parties to the collective agreement and a written consent of all workers' and employers' organizations representatives at the national level), thereby increasing the coverage of collective bargaining. **The Committee takes due note of these amendments and requests the Government to provide information on the practical application of the new extension procedure and its impact on the collective bargaining coverage.**

*Articles 4 and 6. Collective bargaining in the public sector.* In its previous comment, the Committee urged 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. **In the absence of any information from the Government on this point, the Committee reiterates its request and trusts that the Government will be in a position to provide updates on this matter in its next report.**

*Application of the Convention in practice.* In its previous comment, the Committee requested the Government to provide statistics on collective bargaining and to inform on the measures taken to promote it. The Committee notes that the Government: (i) refers to the annual reports of the National Institute for Conciliation and Arbitration (NICA) for detailed information on the dynamics of collective agreements and collective labour disputes (available in Bulgarian) without giving details to the Committee on the statistical information requested; and (ii) states that the Ministry of Labour and Social Policy promotes social dialogue and collective bargaining mechanisms through, inter alia, capacity-building of the social partners and the development of an online information resource on collective bargaining agreements and collective labour disputes, which was welcomed by the CITUB. The Committee observes at the same time that, according to the CITUB: (i) there are many cases of employers who refuse to negotiate, delay negotiations or violate concluded collective agreements; (ii) measures to encourage the full development of collective bargaining in line with *Article 4* of the Convention are absent; and (iii) there is a need to develop a methodology for calculating the coverage of collective agreements and monitoring the process at different levels, involving the expertise of the General Labour Inspectorate and the NICA. **Based on the above, the Committee once again 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. The Committee further requests the Government to continue to take measures to encourage and promote the full development and utilization of collective bargaining at all levels and to provide information in this respect.**

## Burkina Faso

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

#### Previous comment

The Committee notes the Government's comments in response to 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/UNS); 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 notes the Government's indication that the suspension measures against the trade unions in the transport sector have been lifted but, with regard to the prison officials' union, that the activities in question have been suspended since they were not lawful as they aimed at inciting militants to engage in assaults and stop work illegally, and that legal proceedings are under way. **Noting that such suspension measures involve a serious risk of interference in the very existence of organizations, and recalling that these measures should be accompanied by all the necessary guarantees, in particular adequate judicial safeguards (see the [General Survey of 2012 on the fundamental Conventions, paragraph 162](#)), the Committee requests the Government to provide information on the legal proceedings in question.**

In its previous comments, the Committee requested the Government to amend certain legislative and regulatory provisions relating to the right to strike. The Committee notes the Government's indication that the process of adoption of the Labour Code has been further delayed, owing to the prevailing socio-economic situation in the country, and its reiteration that the process is under way and that the concerns expressed regarding the non-conformity of certain provisions have been taken into account. Under these conditions, the Committee is bound to recall that the Government is expected to take the necessary measures to amend, in particular, the following legislative and regulatory provisions:

- 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 once again 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. 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)

[Previous comment](#)

The Committee notes the Government's comments in reply to the joint observations of six trade union confederations (the General Labour Confederation of Burkina Faso (CGT-B), the National Confederation of Workers of Burkina Faso (CNTB), the Trade Union Confederation of Burkina Faso (CSB), Force ouvrière - National Trade Union Alliance (FO-UNS), the National Organization of Free Trade Unions (ONSL), and the Trade Union of Workers of Burkina Faso (USTB)), received on 29 August 2019, relating in particular to acts of anti-union discrimination against trade union activists and leaders in the public sector. The Committee notes the Government's indication that: (i) measures have been taken to remove sanctions against the trade union activists and officers in question; and (ii) the public servants suspended in the context of their trade union activities have been reinstated by court decision, even though some cases are still pending. **Recalling that public servants and public sector employees not engaged in the administration of the State – including those who are not trade union officers – must be afforded effective protection against acts of anti-union discrimination within the meaning of the Convention (see [General Survey of 2012 on the fundamental Conventions, paragraph 188](#)), the Committee requests the Government to ensure that all the public servants suspended in the context of their legitimate trade union activities are reinstated in their posts, and to provide information in this regard.**

*Articles 4 and 6 of the Convention. Collective bargaining in the public sector.* In its previous comments, the Committee once again asked the Government 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, whether or not they are considered in national law as belonging to the category of public servants (see [General Survey of 2012 on the fundamental Conventions, paragraph 172](#)). **Noting the Government's indication that it is seeking technical assistance from the Office, the Committee trusts that the Government will be in a position to provide information in its next report on any new developments in this regard and on any collective agreement concluded in the public sector.**

## Burundi

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

[Previous comment](#)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 29 August 2023, concerning matters examined in the present comment.

*Revised Labour Code.* The Committee notes the adoption of Act No. 1/11 of 24 November 2020 revising the Labour Code (revision of legislative decree No. 1/037 of 7 July 1993).

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Public officials.* The Committee notes that section 2 of the revised Labour Code excludes from its scope of application State civil servants governed by the General Civil Service Regulations. In its previous comments, the Committee noted that in the absence of regulations concerning the exercise of the right to organize of magistrates, the Minister of Justice was due to set up a committee to revise the Magistrates' Regulations by incorporating provisions relating to the exercise of the right to organize.

**Noting the Government's indication that the reform process remains under way, the Committee once again requests the Government to ensure that the Magistrates' Regulations are revised in the near future in order to ensure that judges benefit from the guarantees laid down in the Convention, and to provide a copy of the revised regulations once they have been adopted.**

*Minors.* The Committee notes with **satisfaction** that the provision of section 271 of the Labour Code of 1993, which provided that minors under 18 years of age may not join a trade union without the express authorization of their parents or guardians, has been repealed in context of the revision of the Code.

*Article 3. Election of trade union officers.* The Committee recalls that it requested the Government to amend section 275(3) of the Labour Code, so that a conviction for an act that does not call into question the integrity of the person concerned does not constitute grounds for exclusion from trade union office. The Committee notes with **interest** that new section 595(3) of the Labour Code provides that members with responsibility for the administration or management of a trade union must not have been sentenced "to more than six months' imprisonment without suspension of sentence for acts which, by their nature, call into question the integrity of the person concerned and present a real risk for the performance of trade union duties".

The Committee also recalls that it recommended deleting the provision under section 275(4) disqualifying candidates who have not worked in "the occupation or trade for at least one year" from trade union office, and allow persons who had previously worked in the occupation to stand for office or lift the requirement to belong to the occupation for a reasonable proportion of trade union officers. The Committee notes in this regard that new section 595(4) of the Code provides that members with responsibility for the administration and management of a trade union "must be working in or have worked in the occupation or trade".

*Right of organizations to organize their activities and to formulate their programmes in full freedom. Procedures for the exercise of the right to strike.* In its previous comments, the Committee urged the Government to adopt and provide a copy of the text to be issued under the Labour Code on the modalities for the exercise of the right to strike. In this regard, the Committee notes the Government's indication that the revised Labour Code provides that: (i) an order of the Minister responsible for labour, further to the opinion of the National Labour Committee, shall determine indispensable services and the procedures for the exercise of the right to strike in these services (section 507), and (ii) an order of the Minister responsible for labour, further to the opinion of the National Labour Committee, shall specify the procedures for the application of Chapter III of the Code, *The right to strike and lockout* (section 514). In respect of the "indispensable" services referred to in section 507, the Committee notes that the definition of these services under section 4 of the revised Labour Code is potentially broader than that which the Committee deems essential services in the strict sense of the term, in that it includes services that must be maintained in order to safeguard "freedom of movement" and "freedom of communication and information". **Recalling the importance of the right to strike for promoting and defending the interests of unionized workers, the Committee requests the Government to take the necessary steps to adopt and provide a copy of the regulations implementing the Labour Code in relation to procedures for the exercise of the right to strike. The Committee also requests the Government to take the necessary steps to clarify the definition of indispensable services, so that prohibition of the right to strike is only possible in services "whose interruption 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).**

The Committee recalls that it requested the Government to take the necessary steps to: (i) amend section 213 of the Labour Code of 1993, which provides that strikes are lawful when they are called with the approval of a simple majority of the employees of the workplace or enterprise; and (ii) to repeal the legislative decree prohibiting the exercise of the right to strike and the right to demonstrate throughout

the country during electoral periods. On the first point, the Committee notes the Government's indication that under new section 502, a strike is lawful "when it is carried out by a group of workers with the approval of a simple majority of the workforce affected by the dispute". While observing that the provision no longer refers to the "employees of the workplace or enterprise", but to "the workforce affected by the dispute", the Committee wishes to recall 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. With regard to the second point, the Committee notes that the Government still does not provide information on the repeal of the legislative decree concerned. **Accordingly, the Committee requests the Government to take the necessary steps to revise new section 502 of the Labour Code in order to ensure that the simple majority required to decide whether to call a strike relates to the votes cast, rather than to the workers affected by the dispute, and to repeal the above-mentioned legislative decree.**

*Internal administration of trade unions.* The Committee notes that section 606 of the revised Code provides that "trade unions are required ... to provide all information requested by the Minister responsible for labour, insofar as this relates exclusively to trade union activities" and that failure to comply with this requirement may affect the very existence of the organization concerned (section 615 of the Code). In this regard, the Committee wishes to recall: (i) the principle, established by the Convention, that the public authorities are prohibited from interfering with the internal affairs of trade unions and (ii) the importance of ensuring that workers' and employers' organizations have the right to organize their activities in full freedom for the purpose of defending the occupational interests of their members. In this regard, the Committee notes that it has had occasion to welcome the removal, in some national laws, of the requirement for trade unions to submit to the labour authority all reports that the latter might request from them (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 113). **In view of the above, the Committee requests the Government to take the steps to repeal the requirement under section 606 of the revised Labour Code to provide "all information requested by the Minister responsible for labour" concerning trade union activities, in order to avoid any risk of interference by the public authorities in trade union activities.**

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)

### [Previous comment](#)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 29 August 2023, which relate to matters examined in the present comment. The Committee also notes the indication by COSYBU that the situation of workers who are members of the Trade Union of Workers of the University of Burundi (STUB) has been regularized, unlike that of its President, who has still not been reinstated in his job, despite a court ruling in his favour. **Recalling that the reinstatement of a worker dismissed by reason of trade union membership or legitimate trade union activities with retroactive compensation constitutes the most effective remedy for acts of anti-union discrimination ([General Survey of 2012 on the fundamental Conventions](#), paragraph 182), the Committee requests the Government to provide updated information on the situation of the President of the STUB.**

*Revised Labour Code.* The Committee notes the adoption of Act No. 1/11 of 24 November 2020 revising the Labour Code (revision of Legislative Decree No. 1/037 of 7 July 1993).

*Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* In its previous comments, the Committee emphasized that the sanctions established by the Labour Code for acts of anti-union discrimination and interference were not dissuasive and expressed the hope that the respective provisions would be amended in the context of the revision. With reference to the allegations made by the COSYBU of cases of anti-union discrimination in various economic



sectors, the Committee notes with **regret** that they have not been referred to in the Government's comments. The Committee notes that, according to the Government, the principles protected by the Convention are applied by sections 588 and 589 of the revised Labour Code (which relate, respectively, to protection against acts of discrimination liable to prejudice freedom of association in relation to employment and protection against acts of interference), and section 20(1) of Act No. 1/03 of 8 February 2023 amending Act No. 1/28 of 23 August 2006 issuing the General Regulations of public employees (which include trade union activities among the prohibited grounds of discrimination). The Committee also notes that the COSYBU, in its observations, calls for the adoption of additional measures, including effective and dissuasive sanctions and particularly for measures to be taken to amend section 158 of the revised Labour Code, which provides that, where the reinstatement of a worker who has been unjustifiably dismissed is not possible, in the absence of agreement between the parties (section 157 of the new Labour Code): "damages and interest shall be calculated taking into account the seniority of the worker in the enterprise, the workers' s age and salary (subsection 1). The amount to be paid by the employer to the unjustifiably dismissed worker shall correspond to one-third of the sum of the age and years of seniority multiplied by the last monthly remuneration (subsection 2). However, the amount of the damages and interest may not be higher than 36 months of the last remuneration (subsection 3)". The COSYBU observes that the average compensation would be around 15 months' salary, which in its view is very inadequate in relation to the damage suffered. The Committee recalls that the effectiveness of legal provisions prohibiting acts of anti-union discrimination depends not only on the effectiveness of the remedies envisaged, but also the sanctions provided for which should, in the view of the Committee, be effective and sufficiently dissuasive ([General Survey of 2012 on the fundamental Conventions](#), paragraph 193). While reaffirming that the reinstatement of a worker dismissed by reason of trade union membership or legitimate trade union activities constitutes the most effective remedy for acts of anti-union discrimination, the Committee recalls that, when a country opts for a system of compensation, it considers that the compensation envisaged for anti-union discrimination should fulfil certain conditions, namely: (i) be higher than that prescribed for other kinds of dismissal, with a view to the effective dissuasion of this type of dismissal; (ii) be adapted in accordance with the size of the enterprises concerned; and (iii) the amount be reviewed periodically ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 182 and 185). ***In light of the above and in order to be able to assess whether the revised Labour Code ensures adequate protection against anti-union dismissal within the meaning of Article 1 of the Convention, the Committee requests the Government to: (i) specify the method of calculating damages and interest established by section 158 of the revised Labour Code; and (ii) provide information on the application in practice of section 158 of the revised Labour Code.***

*Article 4. Promotion of collective bargaining.* The Committee previously requested the Government to provide its comments on an allegation by the International Trade Union Confederation (ITUC) that section 224 of the Labour Code that was then in force authorized collective agreements with non-unionized workers and that section 227 of the Labour Code allowed interference by the authorities in collective bargaining. The Committee notes the Government's indication that the revised Labour Code gives effect to the provisions of the Convention through sections 515 to 521. The Committee observes in this regard that: (i) section 515, which replaces section 224, provides that it is only in the absence of the most representative unions or federations that staff representatives on the enterprise council or workers can engage in collective bargaining; and (ii) section 520 of the Labour Code, which replaces section 227, provides that representatives of the labour administration shall participate in collective bargaining in an advisory capacity. ***While taking due note of the changes in the legislation, the Committee requests the Government to provide information on the application in practice of section 515 of the revised Labour Code, by specifying: (i) the manner in which the representative or most representative nature of a union organization is determined for the purposes of collective bargaining; and (ii) the number of collective agreements concluded by unions, and the number of collective***

**agreements concluded by other actors under the terms of this section. The Committee also requests the Government to provide information on the application in practice of section 520 of the revised Labour Code concerning the role played by the representatives of the labour administration in collective bargaining.**

The Committee further notes that the COSYBU: (i) reiterates that collective agreements have not been concluded in all sectors since 2012; (ii) once again denounces the suspension of the bonuses and allowances linked to the economic situation established in the national inter-occupational collective agreement of 3 April 1980 governing long-service bonuses; and (iii) reaffirms that an agreement signed with the Government on 23 February 2017 to re-establish regulations on the exercise of freedom of association and collective bargaining has still not been applied. The Committee also notes that, in its reply, the Government reiterates that the ways and means of implementing the agreement signed on 23 February 2017 are under examination. **Recalling that mutual respect for commitments made in collective agreements is an important element of the right to collective bargaining (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 208), the Committee once again requests the Government to provide information on any developments concerning the implementation of the agreement of 23 February 2017 and to respond to the allegations of the COSYBU concerning the suspension of the bonuses and allowances linked to the economic situation established in the national inter-occupational collective agreement of 3 April 1980. Noting the persistence of the divergent appraisals by the Government and the COSYBU regarding the implementation in practice of the right to engage in collective bargaining, the Committee also requests the Government to provide information on the measures adopted to encourage and promote collective bargaining and their impact. The Committee further requests the Government to provide detailed information on the collective agreements concluded, the sectors concerned and the number of workers covered.**

**Articles 4 and 6. Right of collective bargaining of public servants not engaged in the administration of the State.** In its previous comments, the Committee requested the Government to provide detailed information on the measures adopted to promote collective bargaining by this category of workers, including in the context of the national wage policy. **Noting with regret the absence of a response from the Government on this subject, the Committee requests it to ensure that information is provided on the measures adopted or envisaged to ensure that the organizations of public servants not engaged in the administration of the State have at their disposal machinery through which they can negotiate all of their terms and conditions of work and employment, including remuneration.**

## Cambodia

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

#### [Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 27 September 2023 concerning: numerous obstacles to union registration; violence against trade unionists and impunity of perpetrators; misclassification of collective labour disputes and denial of judicial remedies; and gaps remaining in the Cambodian legislation which are incompatible with the Convention. Moreover, the ITUC alleges specific cases of serious union busting, police violence and the arrest and imprisonment of trade union leaders. The ITUC further refers to serious incidents of reported violations of the basic civil liberties of trade unionists including repression of their freedom of expression, accompanied by police intimidation and the persecution of union leaders for participating in peaceful strikes. The ITUC expresses its deep concern at the widespread anti-union climate in the country and the persistence of longstanding legal and practical obstacles to the exercise of freedom of association. **The Committee requests the Government to provide its detailed comments on these serious allegations, as well as the remaining matters raised by the ITUC in its 2021 observations.**

The Committee **deeply regrets** that the Government has not provided a report this year on the application of the Convention nor on the progress made in respect of the recommendations of the direct contacts mission which took place in March 2022 at the request of the Conference Committee on the Application of Standards in June 2021. The Committee therefore finds itself obliged to consider the matters raised in its previous comments and the direct contact mission recommendations without the benefit of any feedback from the Government on the measures that it may have taken or envisaged.

### Trade union rights and civil liberties

*Murders of trade unionists.* The Committee recalls that its previous comment related to its long-standing recommendation, as well as that of the Conference Committee on the Application of Standards, 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). While noting that the Government of Cambodia came before the Committee on Freedom of Association within the framework of paragraph 69 of its special procedures, with a view to informing the Committee of the progress made in this regard (Case No. 2318, 404th Report, November 2023, paragraph 6), the Committee must observe with **deep concern** that the Government has yet to provide any information on the progress made in this regard. **Recalling once again the need to conclude the ongoing investigations and to bring to justice the perpetrators and instigators of these crimes, the Committee firmly urges the competent authorities to take all necessary measures to expedite the process of investigation and report on meaningful progress.**

*Incidents during the January 2014 demonstrations.* As regards the trade unionists facing criminal charges in relation to incidents during the January 2014 demonstrations, the Committee, in its previous comment requested the Government to continue providing information on the pending legal procedures against trade unionists, in particular on any verdicts issued, and to provide detailed information on any court rulings resulting from the conclusions of the fact-finding committees investigating the allegations of killings, physical violence and arrests of protesting workers, as well as all materials from the fact-finding committees' reports that do not directly implicate internal affairs of the country. The Committee notes the 2022 recommendation of the direct contacts mission that the Government review the lists of workers who still have criminal charges pending with the unions concerned and provide greater clarity in respect of any remaining charges and action taken, as well as any final court judgments. The Committee **deeply regrets** that the Government has provided no information in this respect, over one year since the direct contacts mission visited the country and issued its recommendations. **The Committee therefore urges the Government to review the list of pending cases with the trade unions concerned and provide detailed information on each and every case of criminal prosecution related to the January 2014 demonstrations.**

*Violence, intimidation, arrest and imprisonment of trade unionists for carrying out peaceful industrial action. Training of police forces in relation to industrial and protest action.* The Committee further recalls the conclusions of the Committee on the Application of Standards calling upon the Government to take all necessary measures to stop arbitrary arrest, detention and prosecution of trade unionists for undertaking legitimate trade union activity. The Committee notes with **deep concern** the latest allegations from the ITUC of ongoing arrests of workers involved in a dispute with a casino operation. The Committee notes that this matter has been raised before the Committee on Freedom of Association, which urged the Government to ensure the immediate and unconditional release of the union President (see 404th Report, paragraphs 203 and 207(c)). Recalling its previous request that the Government provide information on the number of police officers participating in training sessions, the duration of such training and the subjects covered, including whether disciplinary consequences of the use of excessive force are part of the training, the Committee notes the direct contacts mission recommendation concerning the criminalization and politicization of trade union activity and the need for clear instructions to be given so that resort to police in relation to strike action is only made if there

is a genuine threat to public order and so that the intervention is proportionate to the threat to public order and avoids the danger of excessive violence. **The Committee urges the Government to ensure that all trade unionists detained for undertaking legitimate trade union activity are immediately released. It requests the Government to provide detailed information on the measures taken to consider further measures, including through the development of guidelines, to ensure that peaceful industrial action is not repressed. It also requests information on the progress made to ensure regular and systematic training programmes of labour inspectors, labour dispute officers, police officers, workers and employers, as recommended by the direct contacts mission. Regretting that the Government has not provided any information in reply to its previous request, the Committee reiterates its request for detailed information on the number of police officers trained, the duration of the training, the subjects covered and whether disciplinary consequences for the use of excessive force are also part of the training.**

### Legislative issues

*Article 2 of the Convention. Rights of workers and employers, without distinction whatsoever, to establish and join organizations. Civil servants and public sector teachers.* **Noting with regret that the Government has not provided any information on the manner in which the freedom of association rights of civil servants are protected, the Committee must once again urge the Government to take appropriate measures, in consultation with the social partners concerned, to ensure that civil servants – including public sector teachers – who are not covered by the Law on Trade Unions (LTU) are guaranteed their rights under the Convention, and that the legislation applicable to them is amended accordingly.**

*Domestic workers.* The Committee recalls that in its previous comments it observed the deep concern expressed by workers' organizations relating to the difficulties faced by domestic workers and workers in the informal economy in forming or joining unions, since the LTU provides for an enterprise union model, whose requirements are often very difficult to meet by these workers. **The Committee requests the Government to provide detailed information on the steps taken to promote the full and effective enjoyment of the rights under the Convention by domestic workers and workers in the informal economy, and recalls that consideration of the adaptation of the legislative framework to expressly enable the formation of unions by sector or profession may facilitate the exercise of the rights under the Convention by those workers.**

*Application in practice. Trade union registration.* The Committee recalls the 2021 conclusions of the Committee on the Application of Standards calling upon the Government to ensure that workers are able to register trade unions through a simple, objective and transparent process. The Committee notes in this respect the conclusions and recommendations of the 2022 direct contacts mission that practical hurdles to the formation and functioning of trade unions, particularly on trade union registration or recognition of their most representative status, should be rapidly addressed. The direct contacts mission proposed that simplifying the registration forms and ensuring that clear instructions are given to Ministry officials that only the requirements that are specifically set out in the law can be requested in order to grant registration would facilitate the process. The direct contacts mission further recommended that all discretionary authority be eliminated (such as requests to the union to provide the employee list) and training provided, including with ILO technical assistance, to build the capacity of Ministry officials and trade unions in the understanding of expectations in this regard. Lastly, the direct contacts mission suggested that an online database showing requests for registration, pending issues and final resolution would help the transparency of the process and demonstrate the consistency of application. **Regretting that the Government has not provided any information on the steps taken to address the various practical hurdles to registration, the Committee urges it to provide detailed information in this regard.**

*Articles 2 and 3. Financial audit and maintenance of registration.* In its previous comment, the Committee observed that the 2019 amendments to the LTU introduced: (i) a new section 27 requiring organizations not only to present a financial statement to their members but also to have them audited by an independent firm if so requested by either any donor or by a percentage of its members (10 per cent for local unions and 5 per cent for federations or confederations); and (ii) a new section 17 on maintenance of registration, requiring not only the submission of annual financial statements and activity reports, but also their audit by an independent audit firm if so requested by either any donor or by a percentage of its members (10 per cent for local unions and 5 per cent for federations or confederations). **Observing that these provisions could subject unions to the threat of frivolous audit requests, which would entail an onerous burden to maintain registration, the Committee once again requests the Government, in consultation with the social partners concerned, to revise sections 17 and 27 of the LTU, so that audits to the financial statements and activity reports are only required if there are serious grounds for believing that the actions of an organization are contrary to its rules or to the law.**

*Article 3. Right to elect representatives freely. Requirements for leaders, managers, and those responsible for the administration of unions and of employer associations.* **In the absence of any information from the Government, the Committee once again requests the Government to take the necessary measures to remove the requirement to read and to write Khmer from sections 20, 21 and 38 of the LTU and to provide information on the progress made in this regard.**

*The right of workers' organizations to organize their activities and formulate their programmes.* In its previous comments, the Committee referred to the need to amend section 326(1) of the Labour Law whereby, in the absence of agreement between the parties on the minimum service in an enterprise for the protection of the facility installations and equipment where a strike is taking place, the Ministry of Labour and Vocational Training (MLVT) is empowered to determine the minimum service in question. The Committee also requested the Government to provide information on the application in practice of section 326(2) of the Labour Law, in particular any example of the sanctions imposed on workers for serious misconduct. **Regretting that the Government has not provided any additional information in this respect, the Committee requests the Government to indicate the steps taken, in consultation with the social partners concerned, to amend section 326 of the Labour Law and to provide information on its application in practice.**

The Committee also noted in its previous comments that the ITUC denounced, as common practices, the replacement of workers and the granting of injunctions to preclude industrial action, even when all the procedures had been followed by the unions. The Committee notes the conclusions of the direct contacts mission concerning the need to clarify the role of the Committee on Strike and Demonstration in labour dispute resolution and ensure that it does not restrict the legitimate right of workers' organizations to engage in industrial action in defence of their members' interests. **The Committee once again requests the Government to hold a comprehensive tripartite dialogue on the issues raised concerning the legality of the exercise of industrial action, with a view to reviewing existing regulations and their application in practice, and undertaking any necessary measures to guarantee the lawful and peaceful exercise of the right to strike.**

*Article 4. Dissolution of representative organizations.* The Committee recalls that its previous comments concerned section 28(2) of the LTU, which provides that a union is automatically dissolved in the event of a complete closure of the enterprise or establishment and the need to ensure that workers' or employers' organizations should only be dissolved on the basis of the procedures laid down by their statutes, or by a court ruling. **The Committee once again requests the Government to take the necessary measures to amend section 28 of the LTU by repealing section 28(2) and to provide information on the steps taken in this regard.**

*Grounds to request dissolution by the Court. Recalling that the manner in which members may request dissolution should be left to the organization's by-laws, the Committee once again requests the Government to take the necessary measures to amend section 29 of the LTU so as to leave to the unions' or employers' associations own rules and by-laws the determination of the procedures for their dissolution by their members.*

#### Practical application

*Independent adjudication mechanisms.* In its previous comments, the Committee noted the ITUC's observations denouncing the refusal of the MLVT to allow upper-level trade unions to represent or provide support to their members in collective disputes and the example given where the authorities allegedly declared that leaders of federations and confederations were not allowed to speak during the meeting of a collective labour dispute conciliation case. The Committee **regrets** that the Government has not provided any information in reply and observes that these concerns relate to the functioning of independent adjudication mechanisms, such as the Arbitration Council (AC). The Committee recalls in this respect its previous comments concerning the importance of ensuring the effectiveness of the judicial system as a safeguard against impunity, while at the same time, its encouragement to the Government in its commitment to strengthen the AC as an important means to protect workers' freedom of association rights during labour disputes. The Committee notes from the conclusions of the direct contacts mission that there were several complaints regarding the classification of disputes before the AC, such as the classification of termination of a trade union officer as an individual dispute, preventing that specific allegation from being heard. The Committee notes the recommendation in the report of the direct contacts mission that dismissals of trade union leaders prior to or after the union's registration should be considered as a collective dispute that may be referred for rapid action to the AC. Additionally, the direct contacts mission recommended that any evolution in the functioning of the AC considered by the Government should take place only after full and meaningful consultations with all parties and stakeholders. Lastly, the Committee notes the strong recommendation of the direct contacts mission that urgent action be taken to recruit and train new arbitrators and that union confederations and federations be able to represent their members without requiring prior approval from the MLVT. **Emphasizing the importance of the independence of adjudication mechanisms, the Committee requests the Government to provide detailed information on any evolution in the functioning of the AC, and to include statistics on the number and nature of disputes brought before it and the extent of compliance with non-binding AC awards, as well as on any court rulings to ensure that the AC awards, when binding, are duly enforced.**

Finally, the Committee notes that the direct contacts mission observed that the road map and progress reports on the implementation of the 2017 direct contacts mission's recommendations were to some degree administratively complex, focusing more on procedure than action-oriented results. The direct contacts mission therefore suggested that the Government simplify the road map and its progress report, in full consultation with the social partners and with the support of the ILO, to identify priority areas of urgent action on the basis of its recommendations and those of the ILO supervisory bodies with clear deliverables and time frames, ensuring accountability and transparency. Regular review of the adequacy of the steps taken should be conducted with all the parties involved. **The Committee regrets that the Government has not provided any information on the steps taken in this regard and requests it to indicate the measures taken to engage the social partners concerned in prioritizing areas for action with reference to all its above requests, setting out clear deliverables, responsible bodies and time frames.**

**The Committee notes with deep concern: the long-standing nature of important issues raised in this comment; the lack of progress on the development of a road map with the social partners, as recommended by the DCM, prioritizing matters for rapid attention and resolution; the new allegations of serious violations of basic civil liberties essential to the exercise of freedom of association, including**

***the arrest and detention of trade unionists and; the total absence of a report from the Government this year. In these circumstances, the Committee considers that this case meets the criteria set out in paragraph 109 of its General Report to be asked to come before the Conference.***

***[The Government is asked to supply full particulars to the Conference at its 112th Session and to reply in full to the present comments in 2024.]***

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 27 September 2023, alleging union busting practices in the garment and footwear industries, and denouncing a widespread anti-union climate, the persistence of long-standing legal and practical obstacles to the exercise of freedom of association, and the Government's failure to take action on the issues raised by the unions and the ILO supervisory bodies over the years. ***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 ITUC, received on 21 September 2020, alleging that the December 2019 amendments to the Trade Unions Law failed to bring it in conformity with the Convention and arguing in particular that anti-union discrimination sanctions remain far too low to be dissuasive. ***The Committee requests the Government to provide its comments in this respect.***

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 MLVT 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 MLVT 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.**

**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)

#### Previous comment

The Committee notes the observations of the Federally Regulated Employers – Transportation and Communications (FETCO), communicated with the Government's report, which are of a general nature.

*Article 2 of the Convention. Right to organize of certain categories of workers. Province of Alberta.* In its previous comments, the Committee noted the exclusion of agricultural workers, as well as budget officers, systems analysts and auditors working in the public sector, from either the Labour Relations Code (LRC) or the Public Service Employee Relations Act (PSERA), and requested the Government to indicate the manner in which these workers could enjoy their right to organize and all guarantees under the Convention. The Committee also noted the Government's indication that nothing prevented domestic workers from associating and organizing, and requested it to specify under which legislative provisions they could enjoy their right to organize and all guarantees under the Convention. The Committee notes with **regret** that the Government does not provide any new information in this regard. **The Committee once again requests the Government to indicate how agricultural workers, as well as budget officers, systems analysts and auditors working in the public sector, can enjoy their right to organize and all guarantees under the Convention. The Committee also once again requests that the Government specify under which legislative provisions domestic workers may enjoy their right to organize and the guarantees provided by the Convention.**

The Committee also noted the exclusion of certain categories of professional employees such as architects, dentists, land surveyors, lawyers, doctors and engineers from the LRC and the PSERA, and requested the Government to confirm that all these categories of workers, from both the public and private sector, could exercise all freedom of association rights under the Convention. The Committee notes the Government's indication that under the LRC, land surveyors are considered employees, and while the other professional categories are excluded from its scope, these employees still benefit from the right to freedom of association. With respect to workplaces covered by the PSERA, the Government indicates that the above-mentioned categories of workers can apply to the Labour Relations Board to be included in a bargaining unit. **Taking due note of the information provided regarding land surveyors and workplaces covered by the PSERA, the Committee requests the Government to indicate the manner in which workers from the other excluded professional categories, such as architects, dentists, lawyers, doctors and engineers, can enjoy the freedom of association rights provided by the Convention in workplaces covered by the LRC.**

*Province of Ontario.* In its previous comments, the Committee noted that agricultural workers were excluded from the Labour Relations Act (LRA), and that the Agricultural Employees' Protection Act (AEPA) did not clearly state that such employees had the right to join a trade union and did not grant them the right to strike. The Committee requested the Government to gather and provide information on the number of workers represented by an employee association or trade union under the AEPA, and to take any additional measures to guarantee that agricultural workers enjoy the rights recognized in the Convention. The Committee notes the Government's indication that it considers that the AEPA protects the right of agricultural workers to form associations and does not prohibit them from exercising their freedom to collectively withdraw their services. The Committee notes with **regret** that the Government on the one hand, does not point to the specific provisions conferring trade union rights to agricultural workers and on the other, states that it does not plan to amend its legislation and does not have the requested data. **Recalling that the guarantees under the Convention should apply, in law and in practice, to all workers, including agricultural workers, the Committee once again requests that the Government take the necessary measures to guarantee that this category of workers can benefit from the trade union rights enshrined in the Convention, both in law and practice. The Committee also reiterates its request that the Government collect and compile statistical data on the number of workers represented by an employee association or trade union under the AEPA.**

Furthermore, the Committee noted the exclusion of other categories of workers (architects, dentists, land surveyors, lawyers, doctors, engineers, principals and vice-principals in educational establishments, community workers and domestic workers) from the LRA, and invited the Government to ensure that these categories have the rights recognized under the Convention. The Committee notes the Government's indication that "professional engineer" is defined in section 1 of the LRA and not listed in any excluded category. The Government also states that no changes to the employee exclusions from the LRA were made during 2020-2023, and that labour laws originally enacted for industrial settings are not always suited to non-industrial workplaces, such as private homes and professional offices, which is the case with the above-mentioned categories of workers. The Committee recalls that *Article 2* of the Convention applies to all workers, without distinction whatsoever (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 53). **While noting the information provided with respect to engineers, the Committee once again invites the Government to take the necessary steps, in consultation with the social partners, to ensure that all other above-mentioned categories of workers benefit from the trade union rights provided by the Convention, both in law and practice.**

*Province of New Brunswick.* The Committee previously expressed the hope that consultations held in 2016 regarding possible amendments to the Employment Standards Act, from which domestic workers were excluded, and an ongoing technical review of the Domestic Workers Convention, 2011 (No. 189), would be finalized in the near future, and that the Government would ensure that domestic workers enjoy the right to organize and other guarantees under the Convention. The Committee notes

that the Government indicates that no legislative changes have been made to date, and that Canada's recent ratification of the Violence and Harassment Convention, 2019 (No. 190), as well as its technical review of the Occupational Safety and Health Convention, 1981 (No. 155), have taken precedence over its technical review of Convention No. 189. **The Committee requests the Government to take the necessary measures, including through the possible amendment of the Employment Standards Act, to ensure that domestic workers enjoy all rights under the Convention, and to keep it informed of any progress made in this regard.**

*Other provinces. Nova Scotia, Prince Edward Island and Saskatchewan.* In its previous comments, the Committee noted the exclusion of architects, dentists, land surveyors, doctors and engineers in Nova Scotia, Prince Edward Island and Saskatchewan, as well as the Government's indication that nothing impedes these categories from associating and organizing. The Committee requested the Government to specify under which legislative provisions these categories of workers enjoy the rights recognized in the Convention. The Committee notes the Government's indication that: (i) according to section 6-4 of the Saskatchewan Employment Act, employees have the right to organize, form, join or assist in the establishment of a union of their choice, and no provisions exclude the above-mentioned categories of workers from the application of the Act; and (ii) Doctors Nova Scotia is an association that can bargain with the Government of Nova Scotia on behalf of doctors and residents, and a similar association exists in Saskatchewan. While taking due note of the above, the Committee notes that the Government does not provide any information regarding Prince Edward Island. **The Committee once again requests the Government to indicate whether there are legislative provisions that expressly allow architects, dentists, land surveyors, doctors and engineers in these provinces to enjoy the rights recognized in the Convention.**

The Committee also noted that domestic workers in Saskatchewan faced a practical limitation on organizing as a result of the definition of "employer" in the Saskatchewan Employment Act (defined as "an employer who customarily or actually employs three or more employees"), and invited the Government to ensure that they enjoy the rights provided under the Convention. The Committee notes that the Government does not provide any information in this respect, but also notes from publicly available information that, following an amendment to section 2-1 (g) of the Act in 2020, the definition of "employer" now encompasses "any person who employs one or more employees". **The Committee takes note of this positive development and requests the Government to indicate how domestic workers will now enjoy, in law and in practice, the right to organize under the Convention.**

*Article 3. Right of employers' and workers' organizations to organize their activities and to formulate their programmes. Province of Saskatchewan. Employment Act.* The Committee previously pointed out that the definition of "employee" in the Employment Act excluded anyone exercising authority and performing managerial or confidential functions, and that the term "union", "labour organization" and "strike" were defined with reference to the term "employee". The Committee 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 the right 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 a substantial proportion of their present or potential membership. It hoped that the Government would bring the Act into full conformity with these considerations, while also requesting it to provide information on the number of employees declared "confidential". The Committee notes the Government's indication that the provisions which provided for the exclusion of supervisors from the same bargaining unit as employees were repealed from the Employment Act in January 2022. The Government also states that information on the number of employees declared "confidential" is not collected by the provincial government. **Noting with interest the recent amendment to the Employment Act, the Committee requests the Government to indicate whether workers performing confidential functions may now also be allowed in the same bargaining unit as employees.**

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

## Central African Republic

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

#### Previous comments

The Committee notes the draft revised Labour Code communicated by the Government and notes that the Government received technical assistance from the Office in this regard.

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

- section 17, which limits the right of foreign nationals to join trade unions by imposing conditions of residence (two years) and reciprocity;
- section 24, 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, 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, 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), under which no confederation may be established without the prior existence of occupational or regional federations.

The Committee welcomes the fact that sections 17 and 24 of the Labour Code are not included in the draft revised Labour Code. However, it notes with **regret** that sections 25, 26 and 49(3) are not amended as indicated by the Committee, and are set out in similar terms in sections 32, 33 and 57(3) of the draft Labour Code.

*Registration of trade unions.* The Committee further observes that section 27 of the draft Labour Code does not clearly define the procedures for the registration of trade unions without prior authorization. The Committee notes that, pursuant to section 27(2) of the draft Labour Code, the regional labour inspectorate is responsible for issuing an opinion on the registration of a trade union, which is submitted to the Ministry of Labour under section 27(3). The Committee recalls that the legislation does not clearly define the procedures for the formalities which have to be observed or the reasons which may be given for refusal, and confers upon the competent authority a discretionary power to accept or refuse an application for registration, which may be tantamount in practice to imposing “previous authorization”. The Committee notes that the amendments to the statutes and changes in the management and administration of a trade union referred to in section 28 of the draft Labour Code must be notified to the same authorities in the same forms and under the same conditions as in section 27, and are therefore subject to the same concerns. **The Committee requests the Government to amend sections 27 and 28 of the draft revised Labour Code in order to ensure that neither the opinion of the labour inspectorate nor the approval of the Ministry of Labour amounts to a form of previous authorization, which is not compatible with Article 2 of the Convention.**

*Holding of elections.* The Committee notes that section 69 of the revised Labour Code establishes that candidates for the election of staff delegates are presented on a list by the most representative trade union in the enterprise and that, failing this, the employer invites individual candidates to apply. **The Committee requests the Government to amend section 69 of the draft Labour Code to allow even non-representative organizations to submit lists of candidates for elections of staff delegates.**

***The Committee hopes that the revised version of the Labour Code, when adopted by the Parliament, will ensure full conformity of all the provisions described above with the requirements under the Convention, and requests the Government to provide a copy of the revised Labour Code as soon as it is adopted.***

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

## **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1964)

### [Previous comment](#)

The Committee notes the draft text of the revised Labour Code provided by the Government and notes that the Government benefited from technical assistance from the Office in this regard.

*Article 1 of the Convention. Adequate protection against any acts of anti-union discrimination.* The Committee notes the Government's indication that protection measures for staff representatives, which cover both trade union delegates and elected representatives, are reinforced by sections 99 to 103 of the draft Labour Code. The Committee notes that these sections provide for: (i) the prior authorization of the labour inspector in the event of dismissal; (ii) the invalidity of the dismissal of a staff representative in the absence of authorization from the labour inspector; and (iii) the application of these measures to candidates and alternate candidates to the functions of staff representative, and to former staff representatives. However, the Committee notes that dismissals of workers who are not staff representatives on the grounds of their trade union activities shall be considered unjustified and give rise to the right, in the same way as any other type of unjustified dismissal, to damages and interest, of which the maximum amount, which varies on the basis of the seniority of the worker, is set out in section 182 of the draft Labour Code. While reaffirming that the reinstatement of a worker dismissed by reason of trade union membership or legitimate trade union activities constitutes the most effective remedy for acts of anti-union discrimination, the Committee wishes to recall that when a country opts for a system of compensation and fines, it considers that the compensation envisaged for anti-union dismissal should fulfil certain conditions: (i) be higher than that prescribed for other kinds of dismissal, with a view to the effective dissuasion of this type of dismissal; (ii) be adapted in accordance with the size of the enterprise concerned; and (iii) the amount be reviewed periodically ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 182 and 185). The Committee also notes that, with regard to the penalties applicable for acts of anti-union discrimination other than dismissal, section 39 of the draft text only provides for damages and interest in the event of the violation of section 38, which prohibits any form of anti-union discrimination by the employer. ***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 ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 190 and 193), the Committee requests the Government to ensure that the revised Labour Code provides for such penalties for acts of anti-union discrimination.***

*Article 2. Adequate protection against acts of interference.* The Committee previously requested the Government to provide detailed information on the progress achieved at the legislative level in expanding protection against acts of interference. ***Noting that the draft text of the Labour Code does not contain provisions in this regard, the Committee requests the Government to ensure that the Labour Code currently being revised provides that trade unions and employers' organizations shall enjoy adequate protection against any acts of interference by each other.***

*Article 4. Promotion of collective bargaining. Section 40 of the Labour Code.* The Committee previously requested the Government to specify whether, beyond the function of assisting trade union delegates mentioned by the Government, the new provisions of the draft text of the Labour Code explicitly recognize the right of federations and confederations to conclude collective agreements themselves. The Committee notes the Government's indication that the draft text of the Labour Code, in Title V,

empowers the representatives of federations to assist trade union delegates in the discussions on collective agreements. The Committee observes that section 48 of the draft text of the Labour Code reflects the spirit of the provision of the Labour Code that is currently in force and does not explicitly refer to the right of federations and confederations to conclude collective agreements themselves. **The Committee requests the Government to amend section 48 of the draft text of the Labour Code to explicitly recognize the right of federations and confederations to conclude collective agreements themselves. The Committee once again requests the Government to provide copies of any collective agreements negotiated and concluded by federations or confederations.**

*Collective bargaining with non-unionized actors.* In its previous comments, the Committee raised the need to revise the Labour Code in order to ensure that bargaining with non-unionized actors can only take place in the absence of a union in the bargaining unit. The Committee notes that the draft text of the Labour Code provides: (i) in section 4 that collective labour accords are establishment collective agreements concluded by one or more representative trade union organizations, while collective agreements, which may have a broader scope of application, are concluded by trade union representatives or “occupational groupings of workers”; and (ii) section 252 of the draft text of the Labour Code provides that staff delegates may conclude establishment agreements, either to supplement collective agreements or to set minimum conditions of work and employment in the absence of collective agreements, and that staff delegates may be assisted by representatives of their union. **In view of the above, the Committee requests the Government to: (i) ensure that staff delegates can only negotiate establishment agreements in the absence of a union in the unit concerned; and (ii) specify the meaning of the concept of occupational grouping of workers and ensure that the recognition of the right to collective bargaining for these groupings does not prejudice trade unions.**

*Sections 367 to 370 of the Labour Code. Conciliation and arbitration.* The Committee previously requested the Government to provide information on the amendment of sections 367 to 370 of the Labour Code that is currently in force which appear to establish a procedure whereby all collective disputes are subject to conciliation and, failing resolution, to arbitration. The Committee notes that sections 458 to 461 of the draft text of the Labour Code reproduce the provisions of sections 367 to 370 of the Labour Code that is currently in force without substantive modification. In this regard, the Committee recalls 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 certain specific circumstances, namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, health or personal safety of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis ([General Survey of 2012 on the fundamental Conventions](#), paragraph 247). **The Committee therefore requests the Government to amend sections 458 et seq. of the draft text of the Labour Code as indicated above.**

*Articles 4 and 6. Right to collective bargaining of 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 that is currently in force provides for the possibility for the personnel of public services, enterprises and establishments that are not governed by specific conditions of service to conclude collective agreements. The Committee requested the Government to: (i) provide a list of public services and establishments that are not governed by specific legislative or regulatory conditions of service; (ii) specify whether the public servants in public establishments governed by such conditions of service can participate in genuine mechanisms for the collective bargaining of their terms and conditions of work and employment; and (iii) indicate whether the provisions of section 211 are affected by the text of the draft Labour Code. **Noting that section 255 of the draft text of the Labour Code takes**

**up the provisions of section 211 in identical terms, and in the absence of information provided by the Government on this point, the Committee requests the Government to indicate, on the one hand, the list of public services and establishments that are not governed by specific legislative or regulatory conditions of service and, on the other, whether, in law or practice, public servants who are governed by such conditions of service can participate in genuine mechanisms for the collective bargaining of their terms and conditions of work and employment.**

**The Committee requests the Government to ensure that the provisions referred to above are amended as indicated so that the Labour Code that is adopted is in full conformity with the Convention.**

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

## Chile

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

#### Previous comment

In its previous comment, the Committee noted serious allegations made by the International Trade Union Confederation (ITUC) and by the Single Central Organization of Workers of Chile (CUT) in 2020, which included the violent repression of the protest against an anti-union reform, as well as the detention of trade union leaders and the death of a trade union leader of artisanal fishers (challenging the official version of suicide as the cause of death). The Committee **regrets** to note that the Government has sent no comments in this regard, and has likewise provided no comments in relation to the many observations made by the social partners in 2016 and 2019. **The Committee again requests the Government to provide its comments without delay.**

*Articles 2 and 3 of the Convention. Legislative matters.* In its previous comment the Committee reiterated its hope that the Government would take the necessary measures as soon as possible to bring the following provisions into conformity with the Convention:

- 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;
- section 48 of Act No. 19296, which establishes rules on associations of State administration officials and grants broad powers to the Directorate for Labour for the supervision of the accounts and financial assets and property of associations. The Committee notes the Government's indication that although the section has not been amended, the Directorate for Labour issued several opinions between 2015 and 2022, in which it emphasized that it is not for it to supervise the financial administration of associations, but for the associations themselves to perform that task. The Government stresses that the doctrine of the Directorate of Labour is consistent with the principles of freedom of association and leaves it to organizations to control their own accounts, financial assets and property;
- 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. The Committee notes that the Government indicates that these provisions have not been applied. The Committee also recalls that on previous occasions, the Government indicated that no penal sanction should be imposed on a worker for participating peacefully in a strike, which is merely the exercise of an essential right.

**The Committee takes due note of the Government's indications that some provisions have not been applied in practice as written, but emphasizing the importance of legal certainty on these**

**subjects, the Committee hopes that the Government will not delay in taking the necessary measures to bring the provisions mentioned into conformity with the Convention and requests it to report thereon.**

*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 supply of goods to the population or to national security. The Committee observed that this definition of enterprises in which the right to strike cannot be exercised, renewed every two years and approved jointly by various ministries and subject to appeal before 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). The Committee noted that the concepts of public utility and of damage to the economy are broader than that of essential services, observing that “services of public utility” are already 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. While reiterating 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 requests the Government to provide information on the application in practice of this section. The Committee notes that the Government provides a copy of the list, published in 2021, of public enterprises the workers of which are not able to exercise the right to strike, under section 362 of the Labour Code. The Government also cites a ruling of the Santiago Court of Appeal from 2017 which upheld a claim lodged by a trade union and ordered the removal of an enterprise from the list, thereby allowing the workers of that enterprise to exercise the right to strike. The Government also indicates that the Office of the Comptroller General of the Republic has reached similar conclusions in its opinions. The Committee takes due note of this information and also observes that it has received no new observations that refer to complaints submitted in relation to the list of enterprises in which workers are excluded from the right to strike. ***In light of the above, and reiterating once more the need to amend section 362 of the Labour Code to ensure that the prohibition of the right to strike can only cover essential services in the strict sense of the term, the Committee requests the Government to continue to provide information on the application in practice of this section, specifying the categories of services provided by the enterprises excluded from the exercise of the right to strike, and the treatment of the complaints submitted in this regard.*** The Committee also recalls once more 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.* The Committee noted that although the Labour Code contains a provision prohibiting the replacement of striking workers, as well as sanctions in the event of such a replacement (sections 345, 403 and 407), other provisions could undermine or introduce uncertainty into such prohibition to replace striking workers. The General Confederation of Public and Private Sector Workers (CGTP) previously referred to the possibility envisaged in 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. The Committee requested the Government to provide further information on the above-mentioned sections. The Committee notes that, according to the Government, between January 2019 and June 2023, a total of 272 complaints of strike replacement were lodged with the Directorate for Labour and that these resulted in 268 inspections of enterprises. The Committee also observes, according to the information provided by the Government in relation to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98),



the Directorate for Labour maintains a register of convictions for anti-union or unfair practices and publishes a list of offending enterprises and trade union organizations every six months. The Committee notes that, according to this register, between the second half of 2020 and the first quarter of 2023, the fines applied in cases of replacement of striking workers varied from 20 to 120 Monthly Tax Units (approximately equivalent to US\$1,400 to US\$8,800). **The Committee requests the Government to continue to provide information on violations of the law prohibiting replacement of striking workers, the penalties applied in these cases, and on the impact of the hiring of workers under section 306 on striking workers or services interrupted due to a strike.**

*Exercise of the right to strike beyond the framework of regulated collective bargaining.* The Committee noted that, in general terms, the exercise of the right to strike is regulated within the framework of regulated collective bargaining. It also recalled that the Committee on Freedom of Association: (i) given that existing legislation does not permit strike action outside the context of the collective bargaining process, 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 (367th Report, March 2013, Case No. 2814), 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, requested the Government to take all the necessary measures, including legislative measures if necessary, to uphold this principle (371st Report, March 2014, Case No. 2963). The Committee requested the Government to provide information on the measures taken in this regard. The Committee notes that the Government indicates, with court rulings in support, that it cannot be maintained that the right to strike outside the framework of collective bargaining is prohibited, to the extent that it is an essential right, and as such requires a specific rule for its general limitation, which the national legislation does not provide. **While taking note of these indications, the Committee reminds the Government of the need to adopt measures in relation to the Committee on Freedom of Association's recommendations cited above. The Committee once again requests the Government to report on all measures taken 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)

### Previous comment

The Committee notes with **regret** that the Government has not responded to multiple observations from the social partners regarding the application of the Convention in law and practice sent in 2016, 2019 and 2020. **The Committee again requests the Government to transmit its comments without delay.**

*Article 1 of the Convention. Anti-union discrimination.* In its previous comments, the Committee noted assertions from trade union organizations that the system of protection against anti-union discrimination is still ineffective and not dissuasive (indicating, for example, that the maximum penalty of 300 monthly tax units is not dissuasive for a multinational enterprise). In light of the above, the Committee invited the Government to engage in dialogue with the most representative organizations on the evaluation of the system of protection against anti-union discrimination. The Committee notes the Government's indication that between July 2019 and June 2023, 3463 complaints of unfair and anti-union practices were lodged with the Directorate for Labour, of which 520 were for obstructing the formation or functioning of trade unions, applying pressure through threatening the loss of employment or benefits; 378 complaints for failing to give agreed employment to a trade union leader; 344 for unlawful dismissal of workers covered by trade union immunity; and 335 for acts of interference. The Committee notes that the Directorate for Labour maintains a register of convictions for unfair or

anti-union practices and publishes the list of enterprises and trade union organizations convicted of infringements twice yearly. It observes that, according to the register, between the second half of 2020 and the first quarter of 2023, fines were imposed on nearly 100 enterprises. The fines varied from between 5 and 920 Monthly Tax Units (approximately equal to US\$367 and US\$67,000), and the highest penalty was imposed on one single occasion on an enterprise for unfair practices in collective bargaining. With respect to the request to the Government to engage in dialogue with the most representative organizations on the evaluation of the system of protection against anti-union discrimination, the Government indicates that Department for Social Dialogue of the Undersecretariat of Labour administers the Trade Union and Cooperative Labour Relations Fund, established by Act 20940, the aim of which is to finance projects, programmes and activities in respect of trade union training, promotion of social dialogue and the development of cooperative labour relations between employers and workers, including a programme designed for trade union leaders conducted in 2023. The Government also indicates that since 2006, the Department of Social Dialogue has been implementing the “*Mesas de Diálogo Social*” (Social Dialogue Roundtables) programme, in which the representatives of workers and employers take up issues related to employment and labour relations. ***The Committee requests the Government to continue providing statistical information related to acts of trade union discrimination denounced to the authorities. While encouraging any initiative aimed at strengthening social dialogue, the Committee requests that the Government, within the framework of the existing spaces for social dialogue, take up in a direct and effective manner, the concerns expressed previously by the trade union organizations as well as any other concern related to existing protection systems against trade union discrimination.***

*Article 4. Promotion of collective bargaining. Workers’ organizations and negotiating groups.* The Committee noted that: (i) in a ruling of 2016, 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; (ii) the Directorate for Labour issued Opinion No. 3938/33 of 2018, indicating that agreements concluded by negotiating groups (groups of non-unionized workers coming together for the purpose of bargaining) constitute collective agreements recognized by the Labour Code; and (iii) while an appeal for protection against the opinion was upheld by the Santiago Court of Appeal, the ruling was subsequently overturned by the Supreme Court. The Committee observed that negotiating groups are not defined in the Labour Code and recalled that it has 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 where no such workers’ organizations exist. The Committee requested 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 from undermining the function of workers’ organizations or weakening the exercise of freedom of association.

The Committee notes that the Government indicates that on 19 May 2022, the Directorate for Labour issued a statement modifying its interpretation of agreements concluded between employers and groups of workers coming together for the purpose of bargaining (negotiating groups), reconsidering its position as expressed in Opinion No. 2928/33 of 2018. The Government reports that under Opinion No. 810/15, the Directorate for Labour determined that: (i) negotiating groups, being entities that are not prohibited by law, may only undertake negotiation procedures of an atypical nature, since there are no legal rules in place to govern such negotiation; (ii) in so far as no regulatory procedure exists in the law, the Directorate for Labour cannot determine a procedure, nor give the agreements signed by these groups the value of collective instruments; (iii) these agreements are not collective

instruments regulated by the Labour Code, and thus cannot have the legal effects the Labour Code ascribes to collective instruments concluded within the framework of regulated or non-regulated trade union collective bargaining; and (iv) neither can the agreements concluded with a negotiating group be the subject of an extension of benefits agreement, either through a unilateral extension by the employer, nor by agreement between the parties, since they do not meet the requirements of section 322 of the Labour Code. The Committee notes this opinion with *interest* and observes that, in the Opinion, the Directorate for Labour indicates that it considered it appropriate to issue a statement, both to resolve the issues that had been raised, and to bring its interpretation of the matter more closely into compliance with the provisions of the Convention, as with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which are binding for the Chilean State. Furthermore, the Committee notes that the Government highlights how the different trade union training programmes that are ongoing in the country contribute to the promotion of collective bargaining and that Act No. 20.940 enables the workers and employers of micro, small and medium-sized enterprises to request that the Directorate for Labour convene a technical assistance meeting on conducting collective bargaining. ***The Committee encourages the Government to continue to take measures that contribute to promoting collective bargaining within the meaning of the Convention. It requests the Government to report on the impact of the Opinion on collective bargaining and hopes that the Opinion will contribute to the recognition of the fundamental role of trade union organizations in collective bargaining. The Committee also requests the Government, by making use of statistical information on the registration of collective agreements with the labour inspection, to adopt measures to ensure that the involvement of negotiating groups in collective bargaining does not undermine the function of workers' organizations or weaken the exercise of freedom of association. Finally, the Committee requests the Government to indicate the number of collective agreements concluded in the country, as well as the sectors affected, and the number of workers covered by these agreements. Further noting from the statistical data provided by the Government, that almost 90 per cent of the collective instruments signed between July 2019 and June 2023 were concluded by a category of negotiating entity denominated as "other type of negotiating entity", the Committee requests the Government to provide details on the types of entities included in this category.***

*Enterprises financed by the State.* The Committee observed that section 304 of the Labour Code 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 takes note of the Government's indication that on 14 July 2023, the Directorate for Labour issued Opinion No. 995/30, reconsidering the doctrine laid down in 2019 regarding section 304 of the Labour Code, extending the capacity to bargain collectively to the workers to whom that section refers. The Committee observes that the Opinion refers expressly to the comments that the Committee has been formulating and, among other matters, indicates that: (i) the previous doctrine had not established any limit to the prohibition imposed in that section, enabling its application on the sole basis of the financing in question, disregarding any question of its origin, thereby depriving a large number of workers of their fundamental right to bargain collectively and to take strike action, which are essential parts of freedom of association; (ii) the prohibition to bargain collectively provided under section 304 of the Labour Code is exclusively applicable to public or private enterprises in which the State has financed 50 per cent or more of the budget in either of the two last calendar years, that is, a disbursement expressly established in the National Budget Act and not subject to any modality; (iii) the prohibition is not applicable to enterprises or institutions providing goods to the State through the award of State contracts (public tenders or framework and direct negotiation agreements), and (iv) resources transferred to a higher education institution to finance free education (student benefits) are not included under section 304 of the Labour Code, likewise, subsidized education

establishments are exempted from the prohibition to negotiate, as are the benefactors of such institutions. The Committee also observes that the Opinion in question indicates that the reasoning applied has been taken into case law jurisprudence, and cites the example of a 2022 ruling by the Appeal Court of Santiago which emphasized that indirect financing is outside the scope of the exclusion provided under section 304 of the Labour Code, when it results from the award of projects and the conclusion of agreements in which the receipt of financing is conditional on effective execution of the contractual considerations. The Committee notes this Opinion with *interest*, since it seeks, through a restrictive interpretation of section 304, to limit the categories of workers excluded from the right of collective bargaining as a result of that provision. **The Committee requests the Government to report on the impact of the interpretation in question on the exercise of the right to bargain collectively. However, recalling that under Articles 5 and 6 of the Convention, only the armed forces and the police and public servants engaged in the administration of the State may be excluded from collective bargaining, the Committee reiterates that it is necessary for the Government to take measures to revise section 304 of the Labour Code to ensure that all categories of workers covered by the Convention are able to take part in collective bargaining. The Committee requests the Government to report on the measures taken in this respect.**

*Article 6. Scope of application of the Convention. Public employees not engaged in the administration of the State.* In its previous comments, 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 enjoy the guarantees of the Convention. The Committee observes that, in its report regarding the Labour Relations (Public Service) Convention, 1978 (No. 151), the Government indicates that although collective bargaining is expressly prohibited for the public sector, in practice associations of public sector officials have periodically entered into negotiations with the Executive and an agreement on adjustments to the wages of workers in that sector was concluded in December 2022. **The Committee refers to its comments regarding Convention No. 151 and invites the Government to consider adopting the necessary legislative reform to ensure a stable legislative framework for collective bargaining. The Committee also requests the Government to provide details regarding the application of the guarantees provided by the Convention to public servants who are not engaged in the administration of the State.**

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)

##### [Previous comment](#)

The Committee takes note of the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022 and the reply of the Government of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China thereon, as well as the observations of Education International (EI), received on 31 August 2023, and the joint observations of the ITUC and the International Transport Workers' Federation (ITF) received on 27 September 2023, which refer to issues examined by the Committee in the present comment. It also notes the Government's reply to the observations made by the ITUC in 2021.

*Trade union rights and civil liberties.* The Committee notes that in their 2022 and 2023 observations, the ITUC, the ITF and the EI continue to denounce an acute decline in the respect for civil liberties and freedom of association, with independent trade unionists being targets of arbitrary arrests, surveillance

and judicial prosecution. In particular, they allege: (i) the conviction of Mr Lee Cheuk Yan in 2022, for ten offences in relation to public protests in his capacity as General Secretary of the now disbanded Hong Kong Confederation of Trade Unions (HKCTU) and his ongoing prosecution for acts done in his capacity as the Chair of the Hong Kong Alliance in Support of the Patriotic Democratic Movement in Beijing (HK Alliance); (ii) the conviction, in September 2022, to 19 months of imprisonment of five executives of the General Union of Hong Kong Speech Therapists (GUHKST) in relation to a union publication of children's books with stories based on the pro-democratic protests of the healthcare workers in 2019 and 2020; (iii) continued detention since February 2021 and denial of bail of Ms Carol Ng, former Chairperson of the HKCTU, and re-arrest of Ms Winnie Yu, former Chairperson of the Hospital Authority Employees Alliance (HAEA) allegedly for violations of her bail conditions; (iv) pending trial of the 47 pro-democracy activists, including Ms Ng and Ms Yu, arrested in connection with political party primary polls held in 2020, which is scheduled for November 2023; (v) the arrest of Ms Elizabeth Tang, the General Secretary of the International Domestic Workers' Federation and former Chief Executive of the HKCTU (she was released on bail in March 2023); (vi) the questioning by national security police of 13 trade union activists in March 2023; and (vii) arrest warrants issued against eight activists abroad, including the former Chief Executive of the HKCTU, Mr Mung Siu Tat Christopher (who is wanted by the Government on an award of HKD 1 million (equal to US\$128,260)), for alleged crimes under the National Security Law (NSL). The ITUC and ITF further allege that the arrests of union leaders are often followed by arrests of other activists of their organizations, and that their release on bail is subject to stringent conditions, including obligations to regularly report to the police, the search of their homes and offices and the seizure of personal property, including travel documents, considerably limiting their union role. The Committee recalls in this respect that the arrest of Mr Lee Chuck Yan, Ms Carol Ng and Ms Winnie Yu, as well as of the five GUHKST leaders, are also being examined by the Committee on Freedom of Association (CFA) (Case No. 3406), which urged the Government to take all appropriate measures to ensure that Mr Lee Cheuk Yan is not imprisoned for having exercised legitimate trade union activities and to ensure, in law and in practice, the full enjoyment of trade union rights (see 401st Report, March 2023, paragraph 322).

The Committee notes that, in its report and reply to the 2022 ITUC observations, the Government reiterates that the arrests of the above-mentioned union officials were unrelated to their position of union officials and that the appeals filed by some of the sentenced GUHKST officials were subsequently dropped. It reiterates that offences endangering national security are handled in accordance with the established procedures and in full compliance with due process, and that all law enforcement actions are based on evidence, strictly according to the law, without considering whether those concerned are trade unionists. The Government further reiterates previously provided information on legislative provisions that recognize the right to freedom of association and the right of trade unions to organize their activities and formulate their programmes, including the right to strike, but also points out the importance of respecting the law of the land in exercising the rights enshrined in the Convention. In particular, any act of protest or demonstration for which the police have not issued a notice of no objection, or in which violence or the threat of violence is used to express opinions, crosses the boundary of peaceful exercise of rights and enters the territory of unlawful activities, against which the police are obligated to take action. While taking due note of the Government's information on the legislative and procedural guarantees relating to the right to organize and the relevant civil liberties, the Committee observes with **deep concern** the reported continued decline of civil liberties and freedom of association, as a result of which, according to the ITUC and the ITF, independent trade union movement in Hong Kong is non-existent. The Committee recalls that the International Labour Conference 1970 resolution concerning trade union rights and their relation to civil liberties, emphasizes that the rights conferred upon workers' and employers' organizations must be based on respect for civil liberties, as their absence removes all meaning from the concept of trade union rights. **Further 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 trade union leaders and members, the Committee firmly expects the Government to ensure full respect of the above and urges it to provide its comments on the 2023 ITUC, ITF and EI observations, as well as full and detailed information on the outcome of all the proceedings along with copies of the relevant court judgments.***

*Articles 2, 3, 5 and 8 of the Convention. Application of the National Security Law.* In its previous comment, the Committee requested the Government to provide specific information on the application in practice of the NSL and on the public consultations that the Government indicated would provide clarity on the applicable legislative principles. The Committee notes that the Government reiterates information provided previously on the benefits of the NSL in achieving safety, security and stability and on the fact that the law emphasizes the protection and respect of human rights and adherence to rule of law values. The Government also maintains that all persons are obliged to observe the requirements under the law and shall not endanger national security or public safety, public order or the rights and freedoms of others. While further noting the awareness-raising activities organized by the Government to enhance the understanding of trade union officials, teachers and civil servants on the implementation of the NSL, the Committee **regrets** to note that, in spite of its request as well as the request made by the Conference Committee on the Application of Standards and the CFA, no concrete consultations appear to have taken place with the social partners on the negative effects that the application of the NSL is alleged to have on the rights enshrined in the Convention.

The Committee further notes with **concern** the 2022 and 2023 observations of the ITUC, ITF and EI that the application of the NSL continues to result in the deregistration or disbanding of trade unions and the suppression of fundamental freedoms, and has been used to intimidate, harass, arrest, prosecute and convict trade unionists for alleged offences endangering national security. The allegations specifically refer to: (i) increased surveillance and harassment of independent trade unions, including sending inquiry letters, warning letters and summons to provide information (the Hong Kong White Collar (Administration and Clerical) Connect Union and the Hong Kong Financial Industry Employees General Union in December 2021; the Hong Kong Journalists Association (HKJA) in January 2022; the HKCTU in February and March 2022; its executives were arrested by the national security police following their failure to provide detailed information under the Societies Ordinance, and their personal property and trade union premises were searched and seized; the Environmental Education and Ecological Conservation Workers' Union and the Hong Kong Music Industry Union in March 2022; and the Accounting Bros' Sis Labour Union, the Construction Site Workers General Union, the Bar Bending Industry Workers Solidarity Union, the Catering and Hotels Industries Employees General Union, the New World First Bus Company Staff Union and the Citybus Limited Employees Union, all between January and August 2022); (ii) interference in trade union registration by requesting a pledge "not to endanger national security" or engage in activities "contrary to the interests of national security", as well as by inserting clauses on endangering national security in the Social Workers Registration Ordinance (SWRO) and similar initiatives for the Trade Union Ordinance (TUO); (iii) deregistration and forced dissolution of trade unions following State media anti-union campaigns, resulting in concerns about the safety of union members (the Hong Kong Professional Teacher Union in August 2020; the HKCTU in October 2021; the HKCTU Education Foundation in May 2022; the Hong Kong Journalists Association (HKJA), as well as some media under its control; and the Community Care and Nursing Home Workers General Union and the Confederation of Tertiary Institutes Staff Unions); (iv) invocation of section 10 of the TUO by the Registrar of Trade Unions, which can lead to cancellation of trade union registration (the Hong Kong White Collar (Administration and Clerical) Connect Union and the Hong Kong Financial Industry Employees General Union in December 2021 and the HKJA in January 2022); (v) particularly harsh surveillance and repression of the education community, including obligation to swear loyalty to the Government, investigations of professional misconduct and disciplinary sanctions, leading to an environment in which teachers can no longer engage in union activities without violence or intimidation; and (vi) other restrictions and violations of civil liberties (arrest of 260 persons and

prosecution of 161 of them, including three unionists for offences endangering national security; pressure to cancel demonstrations (the Hong Kong Women Workers' Association); interrogation of HKCTU executives; freezing of bank accounts and assets; initiatives to impose stringent regulations on crowd-funding activities and to adopt further legislation regarding national security).

The Committee notes that, in its reply to the 2022 ITUC observations, the Government provides its comments on some of the above allegations. It asserts that the allegations are factually incorrect and that the isolated incidents referred to by the ITUC are associated with suspected unlawful activities not related to the exercise of trade union rights or relate to voluntary decisions of the trade unions concerned to initiate dissolution. The Committee notes in this regard that, based on the statistics supplied by the Government, as of 31 May 2023, there were 1,460 registered trade unions and federations in the country, which reflects a decline from the 1,541 registered unions in October 2021, according to Government information. Regarding the allegations of arrests and seizure of properties of union members, the Government indicates that legal sanctions are imposed only when a recipient fails to comply with a notice to provide information to the court with no valid explanation. Concerning the inclusion of a provision on national security in the TUO and the SWRO, the Government indicates that this reflects the seriousness of the offence and ensures that a person convicted of such offence temporarily loses their rights under the TUO or their registration as a social worker. It states that such offences shall include but are not limited to, "secession", "subversion", "terrorist activities" and "collusion with a foreign country or with external elements to endanger national security" stipulated in the NSL, and the offences of "treason" and "sedition" in the Crimes Ordinance. The Committee observes in this regard that the non-exhaustive formulation and broad scope of the provision could lead to arbitrary interpretation. Finally, the Government indicates that it has been carrying out relevant work in respect of its constitutional responsibility to enact legislation on section 23 of the Basic Law, including conducting legal research in relation to national security, and that it will take concrete measures to clearly explain the legislative principles to avoid misunderstandings.

The Committee understands from the above that, despite the Government's assurances that the NLS retains the protection of basic civil liberties and trade union rights, numerous instances of serious violations were reported by the ITUC and the ITF in relation to the application of this law, allegedly leading to a decline in civil liberties and trade union rights, in violation of the Convention. The Committee once again recalls that the principal objective of the Convention is to protect the autonomy and independence of workers' and employers' organizations in relation to the public authorities, both in their establishment and in their functioning and dissolution, and that the authorities should refrain from any interference which would restrict freedom of association and assembly or impede the lawful exercise thereof, provided that the exercise of these rights does not cause a serious and imminent threat to public order. ***In line with the above, the Committee requests the Government to continue to provide information on the application of the NSL in practice and to monitor, together with the social partners, any negative effects it may have on the exercise of the rights enshrined in the Convention. The Committee expects these to be assessed and adequately addressed, including in the framework of public consultations and publications referred to by the Government, and requests the Government to provide details in this regard. The Committee also requests the Government to provide specific information on the proposed amendments to include provisions relating to national security in the TUO and the SWRO and their application in practice. The Committee further requests the Government to provide information on the number of trade unions dissolved or de-registered, voluntarily or otherwise, in the past seven years along with a detailed list of trade unionists who were prosecuted, arrested, or convicted by the authorities during the same time-period, along with the charges against them. The Committee urges the Government to take all necessary measures to ensure, in law and in practice, the full enjoyment of the rights enshrined in the Convention.***

***Noting the ITUC and ITF's indication that the local legislation on national security under section 23 of the Basic Law will expire at the end of 2024 and that other legislation will be enacted to ensure***

***the protection of national security, the Committee requests the Government to provide information in this regard.***

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

### Previous comment

In its previous observation, the Committee requested the Government of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China to provide its comments on the 2020 observations of the Hong Kong Confederation of Trade Unions (HKCTU) (now disbanded) and the 2016 observations from the International Trade Union Confederation (ITUC) and the HKCTU, denouncing violations of the Convention in practice. The Committee notes the Government's reply to the 2020 HKCTU observations but observes that it concerns matters examined within the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and does not address the allegations of violations of this Convention in practice. The Committee also notes with **regret** that the Government has still not provided any comments on the 2016 ITUC and HKCTU allegations. The Committee recalls that the pending observations on which it awaits the Government's reply concern: (i) the interdiction (suspension from duty) by the Civil Service Bureau of 42 regular and probationary civil servants, including trade union members for their suspected participation in unauthorized public protests in April 2020; (ii) transfer of Dr Lam Kuen, chairperson of the Hospital Authority Workers General Union in 2019; (iii) demotion of Michael Ngan, chairperson of the Union for New Civil Servants, from his position at the Department of Labour in June 2020; (iv) lack of prosecution of anti-union allegations in two enterprises in April and November 2015; and (v) non-recognition of trade unions, as well as refusal to bargain collectively in eight companies in 2016. ***The Committee therefore urges the Government to provide its comments on the 2020 HKCTU's allegations of violations of the present Convention in practice, as well as on the 2016 observations from the ITUC and the HKCTU.***

***Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.*** In its previous comment, the Committee requested the Government to provide information on the application in practice of the amended Employment Ordinance (EO), which now allows the Labour Tribunal and the courts, 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 requested the Government to take the necessary measures to investigate any allegations of anti-union discrimination and to impose sufficiently dissuasive sanctions. The Committee notes the Government's indication that the Department of Labour conducts vigorous and prompt investigations into every complaint of suspected anti-union discrimination and, since its previous report, conducted criminal investigation into ten such cases, which did not lead to prosecution due to insufficient evidence to establish the relevant offences. The Government adds that, since the implementation of the amended EO, no order for reinstatement or re-engagement has been made by the courts or the Labour Tribunal. While taking note of the above, the Committee observes that despite regular allegations of anti-union practices reported by the unions, very few investigations seem to have taken place and none of those led to a decision favourable to the workers. ***Further observing the high standard of proof required in criminal proceedings, which may prevent any findings on anti-union discrimination, the Committee requests the Government to clarify whether complaints of anti-union discrimination can also be dealt with outside of the criminal legal system. It 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, including any reinstatement ordered by the courts under the amended EO for anti-union practices.***

***Article 4. Promotion of collective bargaining.*** The Committee recalls that it has been pointing to the need to strengthen the collective bargaining framework in the country in light of the low levels of



coverage of collective agreements and the absence of an institutional framework for trade union recognition and collective bargaining. The Committee notes that the Government reiterates information provided previously that: (i) collective bargaining must be voluntary and the community is sharply divided on whether to introduce compulsory collective bargaining by legislation (previously vetoed five times by the Legislative Council); (ii) voluntary collective bargaining underpinned by conciliation services of the Labour Department contributes to harmonious industrial relations; (iii) measures are taken at the enterprise and industry levels to promote communication and voluntary bargaining, including the industry-based tripartite committees; (iv) collective agreements were concluded in several sectors (previously enumerated); and (v) the Government does not keep statistics on the number of collective agreements concluded and the number of workers covered. The Committee observes that no concrete measures were taken to address its previous concerns as to the lack of an institutional framework for trade union recognition and collective bargaining (scope, protection and enforcement) and recalls once again, that establishing such a framework and administrative structure to which the parties may have recourse, on a voluntary basis and by mutual agreement, does not lead to compulsory bargaining but can facilitate the conclusion of collective agreements under the best possible conditions. ***In light of the above, the Committee requests the Government, in consultation with the social partners, to seriously consider taking 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.* For a number of years, the Committee has been requesting 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 notes with **regret** the Government's reiteration that all civil servants are excluded from the application of the Convention and observes that no measures have been taken to address the Committee's prior comments in this respect. The Committee must recall once again that a distinction should be made between, on the one hand, those civil servants who, by their functions, are directly employed in the administration of the State and may be excluded from the scope of the Convention (for instance public servants in government ministries and other comparable bodies, and ancillary staff) and, on the other hand, all other persons employed by the Government and other public entities (for instance employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers, as well as air transport personnel) who should benefit from the guarantees provided for in the Convention. ***The Committee therefore urges the Government once again 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 expects the Government to genuinely endeavour to address this longstanding issue so as to ensure compliance with the Convention.***

## Macau Special Administrative Region

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

#### Previous comment

*Articles 2 and 3 of the Convention. Right to organize of all categories of workers. Right of organizations to organize their activities.* In its previous comment, the Committee noted with regret that the draft Trade Union Law, which was meant to give effect to the right to organize and collective bargaining, has been pending adoption since 2005 and urged the Government to intensify its efforts to achieve consensus on

the draft Law and to bring about its adoption in the near future. The Committee notes the Government's indication that it undertook a public consultation between 31 October and 14 December 2021 in order to collect information and inputs on the legislation from all sectors of the society; a preliminary draft of the Law was then prepared and submitted to the Standing Committee for Social Coordination for consultations by the social partners, and later submitted to the Legislative Council for deliberation. The law was passed on 16 January 2023 and is currently under detailed review. **The Committee notes the Government's indications that further information will be provided in its next report and firmly expects that the Law will give full effect to the Convention and that a copy of the adopted legislation will be submitted with the Government's next report.**

The Committee previously requested 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 notes with **regret** that the Government provides no updated information with regard to the draft Part-Time Labour Relations Law or the Seafarers' Labour Relations Law and maintains that both legislations require comprehensive discussion in order to be adopted into law. The Committee once again notes the Government's reiteration 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 that workers in all industries, including seafarers and part-time workers, are entitled to freedom of association, organization, and the right to participate in trade union activities. **In these circumstances, the Committee reiterates its previous request and expects that any legislative frameworks regulating the rights of specific categories of workers will be in full conformity with the Convention.**

The Committee takes note of Law No. 13/21 of 15 September 2021, setting out the General Rules on Security Forces and Security Services Personnel, section 98 of which, according to the Government, imposes certain restrictions on the exercise of the rights to freedom of association of the officers included within the scope of the legislation during their term of employment. The Committee observes that section 2 of the Law extends its application to certain categories of workers, including agents from the ranks of the Fire Brigade and the Customs Services. **Recalling that the only authorized exceptions from the scope of application of the Convention are members of the police and the armed forces, the Committee requests the Government to take the necessary measures to ensure that the above-mentioned categories of employees upon whom restrictions are imposed have the right to establish and join organizations of their own choosing and without previous authorization. The Committee requests the Government to provide information on all measures taken to this end.**

*Application of the Convention in practice.* The Committee welcomes the updated statistics provided by the Government on the number of trade unions and observes that by May 2023, there were 463 registered workers' organizations, which shows that, in comparison to the numbers of 2020, the number of registered worker-related associations continued to rise.

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

### [Previous comments](#)

The Committee notes the observations of the representative organizations of workers communicated with the Government's report while observing that the Government does not provide the names of these organizations. The Committee notes the Government's replies to previous observations from the International Trade Union Confederation (ITUC).

*Legislative developments.* The Committee previously 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 Trade Union Law, which would give effect to these rights, had been pending adoption for fifteen years since 2005.

The Committee notes the Government's indication that, subsequent to a public consultation undertaken in 2021, a draft law was passed in January 2023 by the Legislative Council after social partner consultations at the Standing Committee for Social Coordination. The Government indicates that the draft Trade Union Law is currently undergoing detailed review. The Committee notes with **regret** the Government's indications that owing to a lack of societal consensus during the public consultation, the draft law, as it is currently, does not accommodate the right to collective bargaining. **Recalling that the legislation of the Trade Union Law has been a protracted process which has been ongoing for 18 years since 2005, the Committee urges the Government to take the necessary measures, whether through the Trade Union Law currently under review or otherwise, to ensure that collective bargaining rights as enshrined in the Convention are made explicitly available to all workers and employers without further delay. The Committee expects that the Government will provide, in its next report, specific information on the measures taken to ensure the adoption of a legislation that guarantees the right of collective bargaining to all workers under the Convention. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this respect.**

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.* On several previous occasions, the Committee had 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 patacas (MOP) which is equivalent to US\$2,500–6,200). 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 takes note of the Government's indication that the draft Trade Union law would ensure the right of trade unions to organize and carry out trade union activities. The Committee notes with **regret** that the Government reiterates its previous position on the issue that section 10(1) of the Labour Relations Law is applied for all illegal acts violating workers' rights, including any act by an employer to treat adversely or deter an employee in the exercise of their rights. The Committee observes that the penalty amounts in the provision remain constant and therefore, still appear to be insufficiently dissuasive, particularly for large enterprises. **In light of the above, the Committee firmly requests the Government to take the necessary measures, in consultation with the social partners, to strengthen the 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, to ensure that this provision is not used for anti-union purposes. The Committee is bound to note that the Government has not elaborated on any measures taken to address the concerns raised by the ITUC in 2014. The Committee observes, based on the Government's indications in its current report and its supplementary report, that the Labour Affairs Bureau has received no complaints of anti-union dismissals between June 2019 and May 2023. **Recalling once again that anti-union acts may not, in**

**practice, always result in the filing of complaints to the competent authorities, the Committee firmly requests the Government to take the necessary measures, including of a legislative nature, to ensure that section 70 of the Labour Relations Law on the termination of employment contracts is not used for anti-union purposes.**

*Article 2. Adequate protection against acts of interference.* In its previous comments, the Committee had 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. The Committee notes the Government's indications that the Basic Law of the Macau SAR and the Regulation on the Right to Association provide adequate protection against acts of interference. The Government indicates that the draft Trade Union Law, which is currently under review, prohibits persons from obstructing or restricting the trade union rights of others. **The Committee expects that the Trade Union Law will include provisions that align with Article 2 of the Convention and specifically and adequately protect workers' and employers' organizations against all acts of interference, including by providing sufficiently dissuasive sanctions accompanied by rapid and effective procedures. The Committee requests the Government to provide information in this respect.**

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 2019 and May 2023, the Labour Affairs Bureau did not receive any complaints concerning any violation of trade union rights of employees. The Government adds that there were no Court judgements dealing with cases of anti-union discrimination and interference during this period. **The Committee requests the Government to continue to provide statistical information on the functioning, in practice, of the Labour Affairs Bureau, the Labour Tribunal and any Courts 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 did not contain any provisions against anti-union discrimination and interference and that the Government did not indicate any other specific provisions to this effect. The Committee notes the Government's reiteration that the protection of civil servants against discrimination or interference in the exercise of their trade union rights is guaranteed. While noting the information provided by the Government on the protections afforded to ensure the participation of public servants in staff associations and other trade-union-like organizations, the Committee observes once again that it does not point to 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 once again firmly requests the Government to take the necessary measures, including of a legislative nature, to explicitly prohibit acts of anti-union discrimination and interference and grant all 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 in the 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. The Committee notes with **regret** the Government's indications that the draft Trade Union Law, as it has been drafted currently, does not ensure the right to collective bargaining. The Committee further notes, with respect to collective bargaining rights in the private

sector, that the Government reiterates 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 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 further indicates that section 27 of the Basic Law and the Regulation on the Right to Association is currently implemented to ensure that all employees enjoy their right to freedom of association, assembly, organization, and demonstration. While taking due note of the information provided by the Government, the Committee observes that there have been no measures taken to incorporate into law the right to collective bargaining for employees in the private sector and public servants not engaged in the administration of the state. **Recalling once again that the Convention promotes 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 once again firmly requests the Government 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 Trade Union Law or any other legislation, and to provide information on any developments in this regard.**

*Collective bargaining in practice.* The Committee once again notes that the Government has not conducted any relevant statistical analysis on collective agreements concluded. **The Committee once again requests the Government to provide statistics as to the number of collective agreements concluded, specifying the sectors concerned, their level and scope, as well as the number of enterprises and workers covered.**

**The Committee recalls that the Government may avail itself of the technical assistance of the Office in order to address the different points raised in this observation.**

## Colombia

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

#### Previous comment

The Committee notes the joint observations of the Single Confederation of Workers of Colombia (CUT), the Confederation of Workers of Colombia (CTC) and the General Confederation of Labour (CGT), received on 1 September 2023, and the observations of the International Trade Union Confederation (ITUC), received on 27 September 2023, as well as the corresponding comments by the Government. The Committee notes that these various observations refer to matters addressed by the Committee in the present comment, as well as allegations of violations of the Convention in practice.

The Committee also notes the observations of the International Organisation of Employers (IOE), received on 31 August 2021, on the discussions held in the Conference Committee on the Application of Standards (hereinafter Conference Committee) in relation to the application of the Convention in June 2021, and the observations of the National Employers Association of Colombia (ANDI), received on 1 September 2023, relating to matters addressed in the present comment.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, May-June 2021)

The Committee notes the discussion held in the Conference Committee in June 2021, in which it welcomed the efforts made by the Government for the application in law and practice of the Convention and the positive steps taken by the Government to address the situation of violence in the country, and encouraged the Government to continue to engage in measures to ensure a climate free from violence.

The Conference Committee requested the Government to ensure that the Standing Dialogue Forum for Collective Compensation for the Trade Union Movement was convened and worked to fully carry out its mandate.

*Legislative reform.* The Committee notes the Government's indication that a process of legislative reform is being carried out, one of the objectives of which is to give full effect to the ILO Conventions that have been ratified. The Committee notes that the Government communicated the content of the draft legislation submitted to the Congress of the Republic on 24 August 2023. The Committee observes that the draft text that was submitted follows on from a first draft text referred to the Congress of the Republic in March 2023 and set aside in July 2023, on which the Office had made technical comments. The Committee refers first to the provisions of the draft text that are related to the points raised in its previous comments on the application of the Convention, before turning to the examination of other relevant aspects of the draft text.

*Trade union rights and civil liberties.* The Committee recalls that for many years, in the same way as the Committee on Freedom of Association, it has been examining allegations of violence against trade unionists and the situation of impunity in this regard. The Committee notes, first, the information provided by the Government concerning 34 murders committed in 2018 and denounced by the ITUC in 2019, in relation to which it indicates that: there have been convictions in eight cases, and one acquittal; seven cases are before the courts; one is under investigation with the issue of an arrest warrant; eleven cases are under investigation; four cases have been shelved; one case has been referred to the indigenous justice system, and one case has been terminated due to a death. The Government adds that, between 2020 and 2023, the Office of the Public Prosecutor has reported 45 cases of murders of members of the trade union movement, in relation to which it indicates that: the sentences were handed down and are being implemented in four cases; six cases are before the courts; in seven cases, charges have been brought; six cases are under investigation with arrest warrants issued by the courts, while one case has been terminated due to the death of the suspect, which amounts to the facts being discovered in 53.33 per cent of the murders. The Committee also takes due note of the information provided by the Government on the strategies implemented by the Office of the Public Prosecutor for the effective investigation of murders, threats and other acts of anti-union violence. The Committee notes the emphasis placed by the Government on the complexity of managing investigations of criminal threats and the information provided on the action taken, including: the establishment in 2021 of a Threats Group in the Human Rights Department, which has ten prosecutors; the existence of a comprehensive strategy for threats against union leaders, with the active participation of a specialized prosecutor and coordination with the National Protection Unit; and the specific attention accorded by the Threats Group to cases involving the Colombian Federation of Education Workers (FECODE), with a prosecutor being detached and the development of a specific strategy.

The Committee also notes the information provided by the Government on the action taken by the National Protection Unit to guarantee the life and safety of trade union leaders and activists who are at risk through the Prevention and Protection Programme which, between 1 September 2020 and 14 May 2023 responded to the following number of requests: 1,100 in 2020, 726 in 2021, 1,196 in 2022 and 493 in 2023, making a total of 3,515. The National Protection Unit undertook 1,823 individual risk assessments of situations which were then classified as extraordinary, extreme and ordinary and took protection measures for around 300 beneficiaries a month, provided means of communication, protective vests, call buttons, protection personnel, conventional and armoured vehicles.

The Committee notes that the CUT, CTC and CGT denounce the persistence of stigmatization and violence against trade unionists. They allege that in 2022 there were 287 cases of anti-union violence, including 238 cases of threats, 33 cases of relocation, 29 murders, 16 cases of attacks with or without injuries, seven cases of harassment, five kidnappings and one disappearance. The unions report an increase of 46.68 per cent in reports of acts of anti-union violence in relation to 2021.

The Committee further notes the indications by the ITUC that in 2021 and 2022 there were 13 murders of trade unionists; six attempted murders; 99 death threats; and eight arbitrary detentions of trade unionists. The Committee notes the information provided by the ANDI indicating that the figures provided by the Government reflect the efforts carried out by the various institutions to make progress in the protection of union leaders and to combat impunity.

The Committee expresses **deep concern** at the persistence of so many murders and other acts of anti-union violence against members of the trade union movement in the country. The Committee notes the allegations by the trade union confederations of the frequency of acts of anti-union violence, particularly in the education sector.

While aware of the complexity of the challenges faced by the institutions responsible for criminal investigations and the considerable efforts made to maximize the effectiveness of the investigations, the Committee is nevertheless once again bound to note the absence of data on the number of convictions of the instigators of anti-union violence and it once again emphasizes in this regard the essential importance of the identification and conviction of the instigators of these crimes in order to break the cycle of anti-union violence.

**While recognizing the significant action that the public authorities are continuing to take, the Committee urges the Government to continue strengthening its efforts and the resources allocated for the provision of adequate protection for all trade union leaders and members who are at risk, and for their organizations, with full attention and the necessary resources being directed at the sectors most affected by anti-union violence. While taking due note of the sentences handed down, the Committee also urges the Government to continue taking all the necessary measures to ensure that all acts of anti-union violence, including murders and other acts, that occur in the country are investigated and that the instigators and perpetrators are convicted. The Committee particularly hopes that all the necessary further measures will be taken and 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.* The Committee notes the information provided by the Government and the trade union confederations on the establishment of the Standing Dialogue Forum for Collective Compensation for the trade union movement. The Government indicates that the trade union movement is officially recognized as eligible for to receiving compensation and that this is a priority for the Government. The Committee also notes the observations of the trade union confederations, which consider that, despite the establishment of the Forum, there is insufficient pressure to ensure the real and comprehensive compensation of the trade union movement. **The Committee notes the information provided by the Government and the trade union confederations and hopes that, in light of the acts of violence suffered by the trade union movement, measures of collective compensation will be adopted in practice. The Committee requests the Government to continue providing information on this subject.**

*Section 200 of the Penal Code.* In previous comments, after noting the failure to impose penal sanctions for violations of this provision of the Penal Code, despite the very high number of complaints of criminal offences made since 2011, the Committee previously requested 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 (which establishes penal sanctions for a series of acts that are contrary to freedom of association and collective bargaining) and its enforcement and to report the outcome and any action taken as a result.

The Committee notes the Government's indication that, within the context of the Inter-institutional Human Rights Commission, on which workers' and employers' organizations and the Government are represented, information has been provided on the progress made in the

investigations related to section 200 of the Penal Code. The Government indicates that between 2017 and March 2023, the Office of the Public Prosecutor received 1,279 referrals, of which 1,053 cases had the following outcomes: (i) four cases resulted in acquittals, each of which were appealed; (ii) 91 cases resulted in conciliation (conciliation takes place before a prosecutor or conciliator and if there is an agreement between the parties it has the effect of *res judicata*); (iii) 124 cases were not pursued (the Government indicates that in these cases there is usually a negotiated outcome between the worker and the enterprise); (iv) 624 cases were shelved (either due to the absence of a criminal act or because the complainant had no legal standing); (v) 210 cases were terminated for other reasons; and (vi) 226 cases are still active, of which 160 are at the pre-trial stage, 62 are under investigation and four are currently before the courts.

The Government also indicates the following action undertaken during 2022 in relation to section 200 of the Penal Code: (i) capacity-building through specific training courses for prosecutors and investigators; (ii) the development of a “Schedule for the investigation and criminalization of the crime of violating the rights of assembly and association”; (iii) action to promote cases and support days for departmental units throughout the country; and (iv) support for the Office of the Public Prosecutor in 91 cases in which reconciliation was achieved between 2017 and 2023. The Government indicates that there are plans to continue strengthening investigations and disseminating the above Schedule.

The Committee also notes the observations of the trade union confederations, which indicate that: (i) the percentage of cases in which there is conciliation is very low in relation to the number of complaints lodged; (ii) over half of the cases have been shelved; (iii) in 26 per cent of the cases, prosecution was ended (which may also be due to the lack of investigations by the State); and (iv) all the active cases from 2021, 2022 and 2023 are at the investigation stage, without any significant progress or clear information from the Office of the Public Prosecutor, for which reason, despite the efforts reported by the Government to improve the action taken in relation to this type of crime, it is still ineffective.

In light of the foregoing, the Committee observes that, although progress has been made in dealing with a significant number of criminal actions for violations of section 200 of the Penal Code, it has still not been informed of any convictions, despite the very high number of criminal charges brought since 2011 under this section. ***In light of the foregoing, the Committee requests the Government, together with the Office of the Public Prosecutor and the social partners, to engage in an exhaustive assessment of the criminal offence set out in section 200 of the Penal Code and its enforcement with a view to examining the possible need for legislative or institutional adjustments. The Committee requests the Government to provide information on the findings of this assessment.***

*Articles 2 and 10 of the Convention. Trade union contracts.* The Committee recalls that, in light of the allegations made by the trade unions, it has been examining the compatibility with the Convention of the legislation on trade union contracts, a concept under which one or more unions undertake to provide services or perform work through their members for one or more enterprises or employers’ organizations. After observing 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 therefore endanger its capacity to fulfil the specific functions of trade unions to support and defend independently the claims of their members in relation to terms and conditions of employment and work, the Committee requested the Government to: (i) plan and conduct in the near future a detailed assessment of the use of trade union contracts, particularly in the health sector; and (ii) take the necessary measures, including legislative measures where necessary, to ensure that the concept 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 notes the Government’s indication that, in accordance with the commitments made to the Organisation for Economic Co-operation and Development and other institutions, the draft



labour reform referred to the Congress of the Republic provides for the amendment of section 482 of the Substantive Labour Code to prohibit the conclusion of trade union contracts for the purpose of attributing to workers' organizations the implementation of works or services for third parties in exchange for payment.

The Committee also notes the Government's indication that: (i) 1,652 trade union contracts were concluded in 2020, 2,898 in 2021, 2,611 in 2022 and 1,385 between 1 January 2023 and 30 June 2023, making a total of 8,456 (of which 7,607 are in the health sector); (ii) through Decision No. 0345 of 20 February 2020, the Ministry of Labour adopted a policy to reinforce the capacity to identify unlawful labour mediation and other forms of contracts that are prejudicial to the rights of workers; and (iii) between 2020 and 2023, there were 24 administrative investigations into the undue use of trade union contracts.

The Committee notes that the trade union confederations, the CUT, CTC and CGT: (i) once again denounce the continued use of trade union contracts concluded by false unions as tools for the unlawful intermediation of work; (ii) indicate that, although the draft legislative reform prohibits the use of such contracts, the provision still has not been adopted; (iii) note that barely 1 per cent of the enterprises that have concluded trade union contracts have been subject to inspections by the Ministry of Labour, with only 24 investigations being opened; and (iv) emphasize the need to abolish trade union contracts, especially in sectors such as health and agriculture, where they allege the existence of serious forms of unlawful subcontracting.

The Committee also notes the observations of the ANDI, which indicates that trade union contracts are not in contravention of the provisions of the Convention and that they enable trade unions to maintain a constant dialogue with employers, have more members and generate more benefits for workers.

The Committee takes due note of the various elements set out above. The Committee notes in particular the persistent concern expressed by the three principal trade union confederations in the country concerning the effects of trade union contracts and *regrets* to note the low level of activities undertaken by the labour inspection services in this regard. In light of its previous comments on the risk of the use of trade union contracts undermining trade union activities and the protection of the trade union rights of workers, the Committee notes with *interest* that the draft labour reform currently before the Congress envisages the elimination of trade union contracts through an amendment to section 482 of the Substantive Labour Code. ***The Committee firmly expects that the current labour reform process will contribute to the elimination of the risks to trade union action arising out of the concept of trade union contracts. Observing that section 482 of the Substantive Labour Code currently continues to be in force, the Committee also urges the Government to ensure a significant increase in inspections focusing on the use of trade union contracts. The Committee requests the Government to provide information on any progress in this regard.***

*Article 4. Judicial cancellation of trade union registration.* In its previous comment, the Committee requested the Government to indicate the reasons that could justify the application of the short procedural time limits set out in section 380(2) of the Substantive Labour Code in relation to the cancellation of trade union registration and also the extent to which a work stoppage that is considered to be unlawful may constitute a reason for the dissolution of a trade union.

The Committee notes the Government's indication that: (i) the dissolution, liquidation or cancellation of the registration of a trade union is not an automatic outcome of a judicial ruling that a strike is unlawful; (ii) it is necessary to exhaust a judicial process in which the defendant enjoys the guarantees of the right to defence and due process; and (iii) the time limits set out in the law do not prejudice other procedures and are not in violation of the right of defence of the union, as the only difference in the summary procedure set out in section 380(2) of the Substantive Labour Code lies in the time limit to lodge an appeal and submit evidence, which is five days; and (iv) the draft labour reform

proposes the amendment of section 450 of the Substantive Labour Code to prevent the participation of workers in a strike that has been declared unlawful from being grounds for the suspension or cancellation of the legal status of the union.

The Committee notes that the trade union confederations: (i) emphasize that actions leading to dissolution normally form part of strategies to undermine the right to organize; (ii) continue to consider that the time limits for the procedure are too short to be able to exercise the right of defence of trade unions; and (iii) after describing two specific situations of dissolution processes, insist on the need to review the judicial procedure for the cancellation of trade union registration.

The Committee takes due note of the various elements indicated. Recalling once again that the cancellation of trade union registration constitutes an extreme form of interference that must be confined to serious violations of the law after exhausting other less drastic means of action for the organization as a whole 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 notes with **interest** that the proposed legislative reform envisages the amendment of section 450 of the Substantive Labour Code to eliminate participation in a strike which has been declared unlawful being a reason for the suspension or cancellation of the legal status of a union. **The Committee invites the Government to consider, during the discussion of the reform of the labour legislation, the inclusion of the possibility of extending the time limits to lodge an appeal and provide evidence under section 380(2) of the Substantive Labour Code. The Committee requests the Government to provide information on any developments in this regard.**

*Articles 3 and 6. Right of workers' organizations to organize their activities and to formulate their programmes. Legislative issues.* The Committee recalls that in its previous comments it requested the Government to: (i) revise the legislative provisions on the right to strike in essential services; and (ii) take the necessary measures to amend section 417 of the Substantive Labour Code, which prohibits the right to strike of federations and confederations.

The Committee notes the Government's indication that the draft labour reform submitted to the Congress of the Republic envisages: (i) the amendment of section 430 of the Substantive Labour Code, under the terms of which services would be considered essential which, in the discharge of their functions, are so considered by the supervisory bodies of the ILO, as being services the interruption of which, in the strict sense, would endanger the life, safety or health of the whole or part of the population; and (ii) the amendment of section 417 of the Substantive Labour Code to eliminate the prohibition of the exercise of the right to strike by federations and confederations.

The Committee also notes the observations on this subject of the trade union confederations indicating that the restrictions continue to be applied to the right to strike by employers and judicial personnel who are unaware of legal precedents that give broader recognition to the right to strike. The Committee also notes that the ANDI, after reiterating its view that the right to strike is not covered by the Convention, once again expresses the view that Colombia has defined the subject of essential services in its legislation, which the high courts of the country have reviewed and consider to be in conformity with the provisions of the Constitution and ILO Conventions on this subject.

The Committee takes due note of these various views. The Committee also recalls that in previous comments it noted that 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, have called for a revision of the legislation to better limit the restrictions imposed on the exercise of the right to strike. The Committee notes with **interest** that the proposed legislative reform submitted to the Congress envisages the amendment of sections 417 and 430 of the Substantive Labour Code with a view to ensuring conformity of the legislation with the Convention. **The Committee expects that the reform, once adopted, will take fully into account the longstanding comments that it has been making on this**

**subject. The Committee requests the Government to provide information on any developments in this regard.**

*Legislative reform. Additional aspects of the draft legislation.* In addition to welcoming, as emphasized in the previous paragraphs, the various provisions of the draft legislation which address a series of specific comments made for many years by the Committee, it also notes with **interest** other provisions intended to broaden the scope and reinforce the application of the rights set out in this Convention. The Committee notes in particular in this regard: (i) the proposal to amend section 352(a) of the Substantive Labour Code so that the second part of the Code applies to all men and women workers, irrespective of their contractual status; (ii) the proposal to amend section 354 of the Substantive Labour Code to recognize a series of facilities for the exercise of trade union representational activities; (iii) the proposal to amend section 356 of the Substantive Labour Code to envisage an open list of categories of trade unions in accordance with the principle of trade union autonomy; (iv) the proposal to amend section 391(a) of the Substantive Labour Code, which envisages greater independence for trade unions to establish sections and chapters; and (v) the proposal to amend section 430 of the Substantive Labour Code which envisages the determination by the parties of agreed minimum services in the event of a strike in essential services, as well as their determination by an independent committee in the event of disagreement among the parties.

However, the Committee considers that, with a view to ensuring its full conformity with the Convention, the proposed amendment to section 448(3) of the Substantive Labour Code should be reviewed so that, even in the case of a strike movement supported by a majority of workers of the enterprise, the freedom to work of non-strikers is protected.

With regard to the provisions of the Bill on protection against anti-union discrimination and the promotion of collective bargaining, the Committee refers to its comments on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

*Draft legislation and tripartite consultation.* While noting the information provided by the Government on the dialogue pursued with the social partners on the current draft legislative reform, the Committee notes that the ANDI, in its observations, alleges the absence of genuine consultations on the contents of the two Bills submitted to the Congress by the Government in March (a Bill which was eventually set aside in July 2023) and August 2023. The Committee recalls the need for all draft legislation which affects the interests of employers' and workers' organizations and their members to be subject to full consultation with them and emphasizes the special importance of such consultations for draft legislation respecting collective labour relations. **The Committee therefore hopes that the Government will take all the necessary measures to ensure the full consultation of representative social partners on the draft legislative reform so that their legitimate interests and concerns are duly taken into consideration. The Committee requests the Government to provide information on this subject.**

**The Committee trusts that, taking duly into account the indications provided in the previous paragraph on tripartite consultation, the legislative reform process will make it possible to address the comments that it has been making for a long time in relation to the application of the Convention. The Committee recalls the availability of the Office to provide any assistance that may be considered relevant in this respect.**

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

**[The Government is asked to reply in full to the present comments in 2025.]**

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

(ratification: 1976)

### Previous comment

The Committee notes: (i) the observations of the National Union of Workers in Enterprises, Operators, Subcontractors of Services and other Activities in the Oil, Petrochemical and Allied Industries (SINDISPETROL), received on 9 June 2023; (ii) the joint observations of the Single Confederation of Workers of Colombia (CUT), the Confederation of Workers of Colombia (CTC) and the General Confederation of Labour (CGT), received on 1 September 2023; and (iii) the observations of the National Employers Association of Colombia (ANDI), received on 1 September 2023. All of these observations refer to matters addressed by the Committee in the present comment.

*Legislative reform.* The Committee notes the Government's indication that a process of legislative reform is currently being undertaken, one of the objectives of which is to ensure the full application of ratified ILO Conventions. The Committee notes the communication by the Government of the contents of the draft reform that was submitted to the Congress of the Republic on 24 August 2023. The Committee notes that the draft reform follows up on a first draft submitted to the Congress of the Republic in March 2023 and shelved in July 2023, on which the Office had made technical comments. The Committee refers first to the provisions of the draft reform that are related to the points raised in its previous comments on the application of the Convention, before examining other relevant aspects of the draft reform.

*Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference.* In its previous comment, the Committee urged the Government, after consulting the social partners, to take the necessary measures, including through laws and regulations, to revise the procedures for the examination of administrative labour disputes in relation to freedom of association, on the one hand, and the judicial procedures concerning acts of anti-union discrimination and interference, on the other.

The Committee notes the information provided by the Government on the number of administrative disputes dealt with by the Ministry of Labour between 2018 and 2023, indicating that 518 disputes were filed, of which 195 are still active and 323 have been finalized. The Committee notes that the Government has also provided information on the number of administrative labour disputes dealt with by the various special offices and regional departments of the Ministry of Labour.

The Committee further notes the information provided by the Government concerning the investigations carried out under section 200 of the Penal Code, which the Committee is examining in the context of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee also notes that the trade union confederations: (i) denounce the fact that the measures adopted by the Government to accelerate judicial and administrative procedures relating to protection against anti-union discrimination are inadequate and that there is a high incidence of impunity; (ii) reiterate that the procedure under section 354 of the Substantive Labour Code respecting administrative labour disputes is excessively slow in practice; and (iii) allege that only 2 per cent of the administrative disputes lodged between 2018 and 2020 in relation to freedom of association resulted in the application of sanctions.

The Committee notes the various elements provided by the Government and the trade union confederations. The Committee observes, on the one hand, that the trade union confederations maintain their allegations concerning the excessive duration of procedures to deal with administrative labour disputes by the labour administration and, on the other, that the Government has not provided specific data on the cases of anti-union discrimination dealt with by the labour justice system.

However, the Committee observes that the draft legislative reform submitted to the Congress of the Republic on 24 August 2023 contains various provisions to broaden and strengthen protection against anti-union discrimination. In this regard, the Committee notes in particular that: (i) the proposals for the revision of sections 66 and 354 of the Substantive Labour Code establish specific protection for all workers, whether or not they are protected by trade union rights, against acts of anti-union discrimination, and provide for the reversal of the burden of proof in the event of allegations of discrimination and prohibit dismissal on discriminatory grounds; and (ii) section 66 of the draft reform provides for the establishment of a summary procedure for the protection of trade union rights in labour courts, including a shorter time frame and the possibility of ordering precautionary measures. The Committee notes these provisions with *interest* as they seek to address its previous comments on the need to revise judicial procedures in relation to acts of anti-union discrimination and interference to make them more effective.

***The Committee hopes that, once it has been adopted, the current draft legislative reform will take into account its comments on the need to offer an effective and rapid judicial response to all acts of anti-union discrimination and interference. The Committee also requests the Government to take the necessary measures to make the procedures more effective for dealing with administrative labour disputes relating to anti-union practices. The Committee requests the Government to provide information on the progress achieved in this respect and recalls that it may avail itself of ILO technical assistance.***

*Articles 2 and 4. Collective accords with non-unionized workers.* In its previous comments, the Committee urged the Government to take the necessary measures to ensure that the conclusion of collective accords (*pactos colectivos*) with non-unionized workers is only possible in the absence of trade union organizations. The Committee notes the Government's indication that the draft labour reform that is currently before the legislative body seeks to amend section 481 of the Substantive Labour Code and prohibit the conclusion of collective accords when unions are present at any level. The Government indicates that it has taken into account the views received from the Supreme Court of Justice, the ILO supervisory bodies, the Organisation for Economic Co-operation and Development Employment, Labour and Social Affairs Committee, the Inter-American Commission on Human Rights Special Rapporteur on economic, social, cultural and environmental rights, the trade union confederations and employers' organizations, as well as the experiences of comparative labour reform in Spain, Mexico and Chile in the context of the Tripartite Reform Subcommission.

The Committee also notes the Government's indication that: between 1 July 2014 and 30 April 2023, a total of 1,626 collective agreements were concluded (signed with trade unions) and 4,149 collective accords (signed with non-unionized workers); including 73 collective agreements and 469 collective accords concluded in 2021, 470 collective accords and 232 collective agreements in 2022, and 106 collective accords and 56 collective agreements adopted between January and April 2023. In this regard, the Committee notes the contrasting figures provided by the ANDI, according to which, between 2015 and 2022, an annual average of 415 collective agreements and 99 collective accords were concluded, with 2022 seeing the highest number of agreements concluded (476).

The Committee further notes that: (i) the trade union confederations emphasize the need to eliminate the option of negotiating collective accords with non-unionized workers, as in practice the co-existence of collective accords and collective agreements gives rise to negative effects on collective bargaining, as emphasized by the Supreme Court of Justice in ruling SL-1309 of 2022; and (ii) the ANDI affirms that accords between non-unionized workers and the employer cannot be used to prevent union membership, or to create conditions that discriminate against workers who are members of trade unions, and that collective accords are one expression of freedom of association.

The Committee observes with *interest* that the draft amendment to section 481 of the Substantive Labour Code takes into account its request that the conclusion of collective accords with non-unionized

workers should only be possible in the absence of trade unions. **Recalling that the Convention recognizes in Article 4 as the parties to collective bargaining, on the one hand, employers or their organizations and, on the other, workers' organizations, the Committee hopes that the reform, once adopted, will take fully into account its longstanding observations concerning collective accords.**

*Article 4. Personal scope of collective bargaining. Apprentices.* In its previous comment, the Committee urged 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 the draft labour reform seeks to amend section 81 of the Substantive Labour Code so that an apprenticeship contract is a labour contract, under which all labour rights are guaranteed, including remuneration. The Committee notes that the trade union confederations: (i) recognize the Government's intention to convert apprenticeship contracts into labour contracts in the draft labour reform; and (ii) indicate that section 30 of Act No. 789 of 2002 establishes the prohibition on maintenance support (the term for the remuneration received by apprentices) being regulated through collective agreements or contracts or arbitration awards issued in the context of collective bargaining. The Committee notes with **interest** the proposed changes to the apprenticeship contract indicated in the draft labour reform, which assume that apprentices are governed by the various provisions of the Substantive Labour Code, including those respecting collective bargaining. The Committee also observes that, since it made its previous comment, the Quality Apprenticeships Recommendation, 2023 (No. 208), has been adopted, Paragraph 16(g) of which indicates that States should take measures to ensure that apprentices are afforded freedom of association and the effective recognition of the right to collective bargaining. **The Committee hopes that the reform, once it has been adopted, will take fully into account its longstanding observations concerning the right of apprentices to collective bargaining, including on their remuneration. The Committee requests the Government to provide information in this regard.**

*Subjects covered by collective bargaining. Pensions.* The Committee notes the observations of SINDISPETROL concerning the amendment of Article 48 of the Constitution of Colombia by Legislative Act No. 1 of 2005, the purpose of which was to extend and consolidate the General Pension System and to phase out special company pension schemes created by collective agreement. The Committee recalls that, in the same way as the Committee on Freedom of Association in Case No. 2434, it has on various occasions expressed its views concerning the impact of that reform on the application of the present Convention and on the Collective Bargaining Convention, 1981 (No. 154).

In this respect, the Committee recalls that in its comments on these two Conventions, it: (i) noted the respect for the acquired rights of workers who fully met the conditions for conventional retirement pensions on 31 July 2010, and asked the Government to clarify whether the trade unions which signed collective agreements prior to 31 July 2010 could conclude agreements containing provisions to take account of the situation of workers who only partially met the conditions for access to pension under the collective agreement, in particular if the contributions paid were higher than those under the current scheme; and (ii) requested information on the application in practice of the possibility to conclude collective agreements and, within the context of the General Pensions System, supplementary pension benefits. The Committee notes the Government's indication that: (i) under the case law of the Constitutional Court relating to Legislative Act No. 1 of 2005, it is not possible to conclude agreements to take account of the situation of workers who only partially met the conditions for access to pension under the collective agreement; (ii) it has no information on collective agreements containing clauses relating to supplementary pension benefits; and (iii) the applicable law does, however, provide that collective agreements may envisage supplementary pension benefits, in view of the legal authorization contained in Act No. 100 of 1993. The Committee also notes the view of the trade union confederations that the constitutional prohibition set out in Legislative Act No. 1 of 2005 does not prevent the improvement of statutory benefits through supplementary benefits. Further, the Committee notes the comments provided by ANDI reaffirming that Legislative Act No. 1 of 2005 is in line with the Convention,

in both its wording and its spirit. The Committee notes the different views expressed in this regard. **Concerning the situation of workers who only partially met the conditions for access to pension under their company collective agreement on 31 July 2010, stressing the importance of respecting as far as possible the commitments made through collective agreements, the Committee requests the Government to indicate precisely the situation and destination of employer and employee pension contributions paid under collective agreements but which have not subsequently given rise to the allocation of company retirement pensions, particularly in cases where the contributions paid were higher than those under the current General Pension System. The Committee also once again requests the Government to: (i) provide detailed information on collective agreements which in practice provide for supplementary pension benefits within the parameters of the General Pensions System and in accordance with its provisions; and (ii) inform the social partners of this possibility when promoting collective bargaining.**

*Promotion of collective bargaining in the public sector.* The Committee notes with **satisfaction** the conclusion on 23 June 2023 of a new State Agreement with 35 trade unions benefiting around 1,300,000 public sector workers. The Committee notes the observations of the trade union confederations in this respect, which it is examining in the context of its comments on Convention No. 154.

*Promotion of collective bargaining in the private sector.* In its previous comments, noting the very low level of coverage of collective bargaining in the private sector, the Committee requested the Government to: (i) take measures, including legislative measures, for the effective promotion of collective bargaining in the private sector, especially at levels higher than the enterprise level; and (ii) provide detailed information on the coverage rate of collective bargaining in the private sector.

The Committee notes the Government's indication that the draft labour reform seeks to add a new section to the Substantive Labour Code (section 467) to regulate collective agreements at the level of the branch or sector of activity, enterprise groups, the enterprise or any other level that the parties consider appropriate. The Committee also notes that the trade union confederations welcome this proposal. The Committee further notes the indication by ANDI that, according to studies by the Centre for Social and Labour Studies: (i) between 2006 and 2021, there was an annual increase in collective bargaining prior to the pandemic in 2020; (ii) in 2022, a total of 476 agreements were signed by enterprises and unions, which represents an increase on previous years, and more specifically in relation to 2014, when 328 agreements were concluded; and (iii) between 2015 and 2021, some 81 per cent of collective agreements were concluded in private sector enterprises.

The Committee notes these various elements, while observing that it has not been provided with information on developments in the coverage rate of collective bargaining in the private sector. The Committee recalls that in its previous comment it emphasized the importance of action to facilitate collective bargaining at levels higher than the enterprise level in a context in which: (i) collective bargaining at the sectoral level, in contrast with enterprise bargaining, is not covered by a specific legislative framework and is almost non-existent in practice (with the exception of the banana sector in Urabá); and (ii) workers in small enterprises may have difficulty in gaining access to enterprise-level collective bargaining as they do not have enterprise unions, for the establishment of which a minimum of 25 members is required. In this context, the Committee notes with **interest** the inclusion of provisions in the draft labour reform intended to promote collective bargaining at all levels and to establish a legal framework for sectoral collective bargaining. **The Committee hopes that the reform, once it has been adopted, will take fully into account its longstanding comments on the need for effective measures to promote collective bargaining, especially at levels higher than the enterprise level. The Committee also requests the Government to provide information on developments in the coverage rate of collective bargaining in the private sector.**

*Settlement of disputes.* The Committee notes the Government's indication that 25 cases were referred in 2022 to the Committee for the Handling of Conflicts referred to the ILO (CETCOIT), of which:

(i) 22 cases are still pending; (ii) one case was closed with an agreement being reached; and (iii) two cases have been closed without an agreement being reached. The Government indicates that in 2023, the CETCOIT has received eight new cases approved by the Subcommittee for the Analysis of Cases and five further cases were carried forward as a follow-up to previous cases. The Government, as well as the trade union confederations and the ANDI, refer to the resignation of the CETCOIT facilitator at the end of 2022. The Government indicates that there is already a promising application that meets the required profile, the appointment of whom is pending. **The Committee hopes that the appointment of the CETCOIT facilitator will take effect as soon as possible and that the pending cases will be examined without delay. The Committee requests the Government to continue providing information on this subject.**

*Legislative reform. Additional aspects of the draft legislation.* In addition to welcoming, as indicated in the paragraphs above, the various provisions of the draft legislation that address a series of specific comments that the Committee has been making for many years, the Committee also notes with **interest** other provisions aimed at putting an end to imbalances in collective labour relations emphasized repeatedly by the social partners, the resolution of which would facilitate the effective application of the Convention. The Committee notes in particular that: (i) the provisions of the draft legislation which envisage the broadening and strengthening of protection against anti-union discrimination, especially in the case of workers not covered by trade union protection, are accompanied by others prohibiting trade union practices intended to abusively extend the personal or temporal scope of trade union protection (new subsections (d) and (e) of section 379 of the Substantive Labour Code); and (ii) it is planned to extend to the private sector the system of bargaining unity (the participation of several unions in a single negotiation in proportion to their level of representativity), which already exists in the public sector to channel and organize collective bargaining in a context of trade union pluralism (section 76 of the draft legislation).

The Committee refers to its comments on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in relation to the provisions of the draft legislation that are directly related to the content of that Convention.

*Draft legislation and tripartite consultation.* While noting the information provided by the Government on the dialogue pursued with the social partners on the current draft legislative reform, and the observations of the trade union confederations welcoming the content of the current draft legislative reform, the Committee notes that the ANDI alleges an absence of genuine consultations on the contents of the two Bills submitted to the Congress by the Government in March (a Bill which was eventually shelved in July 2023) and August 2023. The Committee recalls the need for all draft legislation which affects the interests of employers' and workers' organizations and their members to be subject to full consultation with them and emphasizes the special importance of such consultations for draft legislation respecting collective labour relations. **The Committee therefore hopes that the Government will take all the necessary measures to ensure the full consultation of representative social partners on the draft legislative reform to ensure that their legitimate interests and concerns are duly taken into consideration. The Committee requests the Government to provide information on this subject.**

**The Committee trusts that, taking duly into account the indications provided in the previous paragraph on tripartite consultation, the legislative reform process will make it possible to address the comments that it has been making for a long time in relation to the application of the Convention. The Committee recalls the availability of the Office to provide any assistance that may be considered relevant in this respect.**

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



## Comoros

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

(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 2024, 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 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 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)

[Previous comment](#)

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC), the Confederation of Workers Rerum Novarum (CTRN) and the National Association of Nursing Professionals (ANPE) of 2020. The Committee also notes the joint detailed observations of the CTRN, the Costa Rican Confederation of Democratic Workers (CCTD), the Costa Rican Workers' Movement Central (CMTC), the General Confederation of Workers (CGT) and the Workers' Unitary Confederation (CUT), received on 1 September 2023 which, like those of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) transmitted by the Government with its report, concern issues that the Committee is examining in this observation, as well

as in the direct request that accompanies this observation. The Committee further notes the detailed observations of the Unity in Trade Union Action (UAS), received on 31 October 2023, which also cover issues examined below. **The Committee requests the Government to provide its comments in this respect.**

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

- 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. The Committee notes that although the Government reiterates that this situation has been remedied in practice for more than a decade, it highlights its agreement to seek possible reforms and assistance in this matter. The Committee also notes that the trade union confederations highlight that there remains an urgent need to amend section 344 of the Labour Code since, in practice, the deadlines set forth in this provision extend by months, and this situation generates confusion among affiliates and compromises the worker-employer relationship, leading to employers taking advantage so as not to recognize the organization.
- The need to amend section 346(a) of the Labour Code, which requires the executive board of trade unions to be appointed every year. While the Committee notes that the Government has not provided information in this respect, it recalls that previously the Government indicated that the Register of Civil Organizations does not apply this provision and the Ministry of Labour and Social Security (MTSS), in practice, guarantees organizations full autonomy in determining the term of their executive boards. The Committee notes that the trade union confederations highlight that while it is true provisions of more subordinate law have resulted in the Department of Social Organizations of the MTSS accepting the registration of executive boards for a duration of more than one year, this does not entail legal certainty.
- 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 notes the Government's indication that, while it understands and supports the Committee's request, the process of constitutional reform entails particular difficulties which have prevented progress in this respect to ensure the participation of foreigners in trade union office. The Committee notes that the trade union confederations highlight that it is unacceptable that the Government, due to a lack of political will, has not acted as necessary to present a reform or derogation of section 60(2) of the Constitution and of section 345(e) of the Labour Code. The trade union confederations also highlight that the migrant population constitutes 95 per cent of the working population in agro-industrial activities and the construction industry, and that they are all prevented from holding positions of management or authority in trade unions.

While **regretting** to note once again that no progress has been made in relation to the matters raised, the Committee takes due note that the Government highlights its agreement to seek possible reforms and assistance in some of these matters. **Reiterating the need for the Government to take all necessary measures to amend the above-mentioned provisions of the Labour Code and the Constitution, as well as the practice of their application by the relevant authorities into conformity with the Convention, the Committee hopes that the Government will receive the assistance referred to and will take the measures requested as soon as possible. The Committee requests it to provide information on any progress 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)

### Previous comment

The Committee notes the Government's reply to the observations of the Workers' Union of Banco Popular (SIBANPO), the Confederation of Workers Rerum Novarum (CTRN), as well as the joint observations of the Juanito Mora Porras Trade Union Federation (CSJMP) and the National Association of Nursing Professionals (ANEP), sent in 2020. The Committee notes the joint observations of the CTRN and the Trade Union of JAPDEVA and related port workers (SINTRAJAP) received on 1 December 2022. The Committee also notes the joint and detailed observations of the CTRN, the Costa Rican Confederation of Democratic Workers (CCTD), the Costa Rican Workers' Movement Central (CMTC), the General Confederation of Workers (CGT), and the Workers' Unitary Confederation (CUT) received on 1 September 2023, concerning issues examined by the Committee in this comment. The Committee also notes the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) sent by the Government together with its report, as well as the detailed observations of the Unity in Trade Union Action (UAS) received on 31 October 2023, which address issues examined below.

*Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* The 2017 Act on reforming labour procedures introduced amendments with the objective of making judicial procedures relating to acts of anti-union discrimination more expeditious and effective, and the Committee noted that between 2017 and 2019, the procedures for these cases were before the administrative authorities for four months. The Committee requested the Government to continue sending statistics. The Committee notes the Government's indication that, between 2019 and 2022, the inspection directorate examined a total of 14 cases of anti-union harassment or unfair labour practices. The Government further highlights that recently, with the support of the ILO, inspection guides were developed for dealing with complaints of unfair labour practices of an anti-union nature. With regard to legal proceedings, the Government indicates that in 2021, one case of appeal for dismissal of a trade union leader was examined and that in that same year the labour courts ruled on three cases of dismissal of trade union leaders in the private sector, procedures which lasted approximately 65 months, and two cases of trade union dismissal in the public sector, procedures which lasted approximately 77 months. While noting this information, the Committee observes that: (i) the Government has not provided any legal data on proceedings for 2022 and 2023, or on the content of the decisions adopted by the various competent authorities; and (ii) the average period before the rulings in the above-mentioned legal cases is especially long. The Committee further notes that the trade union confederations allege that anti-union acts in the pineapple and banana plantation sectors, domestic work and paid transportation of passengers are recurrent. **Recalling the fundamental importance of ensuring flexible and effective protection against anti-union discrimination, the Committee requests the Government to: (i) provide full information on the decisions adopted by the inspection directorate and the courts with regard to anti-union discrimination; (ii) indicate, in the context of the application of the Act on reforming labour procedures, the reasons why the legal proceedings are still so slow; and (iii) include detailed information on the sectors mentioned by the trade union confederations.**

*Article 4. Collective bargaining in the public sector. Public servants not engaged in the administration of the State.* For several years, the Committee has been requesting the Government to 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 notes the Government's indication that, in addition to the collective agreements currently being negotiated: (i) 18 collective agreements are in force in the municipal sector and 15 are in the process of being approved; (ii) in the education sector, the collective agreement of the Ministry of Public Education is in force until 2024, and collective agreements of two universities are being approved; and (iii) four state enterprise collective agreements are in force in the

banking, postal, electricity and fuel sectors, and another three are being approved in the banking, insurance and electricity sectors. The Government also indicates that, following a broad consultation process, which began in 2019, Framework Act No. 10159 on public employment was adopted and has been in force since 9 March 2023. The Government indicates that that Act seeks to regulate the statutory public employment and mixed employment relations between the Public Administration and public servants, in order to ensure efficiency and effectiveness in the provision of public goods and services, by establishing identical conditions of efficiency, position, working hours, conditions, and equal pay for equal work for public servants. The Government also indicates that even though, after two constitutionality consultations regarding the dossier based on which the Framework Act on public employment was enacted, the Constitutional Chamber ruled that there were no unconstitutional irregularities in the Bill, once the Act entered into force, several trade unions brought various claims of unconstitutionality which are pending resolution.

The Committee notes that the trade union confederations indicate that section 49 of Act No. 10159 sets forth that in the public sector collective bargaining may not be engaged in to make amendments or changes to the general wage scale, or to create new incentives, benefits or further expenditure. The confederations express their concern in this regard and underscore that this empties collective bargaining of its content. They also indicate that, as a corollary of this Act and the freezing of wage increases under Act No. 9635 on strengthening public finances of 2019, the Committee on Public Sector Wages, the only forum for collective wage bargaining, was disbanded. The confederations highlight that, when it examined the application of the Employment Policy Convention, 1964 (No. 122), in June 2023, the Conference Committee on the Application of Standards urged the Government to take measures to ensure that Act No. 9635 is fully aligned with the Convention and does not violate fundamental labour rights and principles.

The Committee notes that Framework Act No. 10159 on public employment only excludes from its scope of application non-state public bodies. The Committee expresses its **concern** at the impact of Act No. 9635 on strengthening public finances and Framework Act No. 10159 on public employment on collective bargaining of an economic nature in the public sector. The Committee notes that, while the Government indicates that Act No. 10159 reiterates the role that the right to freedom of association and collective bargaining play in the national legal system and that collective bargaining is not at risk in the country, the Act prohibits collective bargaining of an economic nature in the branches of the Republic (Executive, Legislative and Judicial), their offices and attached bodies and the Supreme Electoral Court; the decentralized institutional public sector comprising autonomous institutions and their attached bodies, including state universities, and the Costa Rican Social Security Fund; semi-autonomous institutions and their attached bodies and state public enterprises; the decentralized territorial public sector comprising municipalities, municipal district councils and their enterprises; as well as the competent public enterprises and institutions. The Committee once again recalls that all workers in the public sector who are not engaged in the administration of the State 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 and the principle of equality in public employment can be reconciled with the recognition of the right to collective bargaining. **Based on the foregoing, the Committee requests the Government to, in consultation with the social partners, take the necessary measures to revise Act No. 9635 on strengthening public finances and Framework Act No. 10159 on public employment to ensure that public servants not engaged in the administration of the State can exercise their right to collective bargaining on economic and wage matters in accordance with the Convention. While requesting the Government to report on the outcome of the above-mentioned claims of unconstitutionality, the Committee once again recalls the importance of taking measures to strengthen the right to collective bargaining in the public sector, such as those provided for in the Labour Relations (Public Service)**

**Convention, 1978 (No. 151) and the Collective Bargaining Convention, 1981 (No. 154), whose ratification the Committee has encouraged on previous occasions.**

*Direct agreements with non-unionized workers.* Having noted that up to 2019 the number of direct agreements increased considerably in comparison to the number of collective agreements in the private sector, the Committee requested 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 notes the Government's indication that the inspection directorate issued circular No. 01304-20 which states that: (i) in cases where the Department of Trade Union Organizations establishes that a trade union or union section is registered in the enterprise, the signatories to the agreement and the representative of the union or union section must report, within five days, the total number of workers providing their services in the enterprise and the number of affiliated workers; and (ii) if the affiliation of workers to the trade union or union section is at least half plus one of the workers in the enterprise, the General Labour Inspectorate, through a reasoned decision, shall return the direct agreement to the signatories without approving it, otherwise it shall proceed with the examination of the direct agreement. The Government also indicates that the inspection directorate is clear that direct agreements and collective agreements are legal instruments of collective labour law, which fall under the general concept of collective bargaining and are regulated by the Labour Code. The Committee notes the statistical data provided by the Government and observes that from 2019 to 2022, a total of 131 collective agreements were concluded in the private sector (approximately 30 per year) which covered a total of 52,015 workers and 333 collective agreements in the public sector (approximately 80 per year) which covered 603,161 workers. The Committee **regrets** to note that the Government has not provided statistical information on the number of direct agreements concluded with non-unionized workers. The Committee notes the trade union confederations' indication that the trend and increases in direct agreements, and the decrease in collective agreements, continue. Regarding circular No. 01304-20 which provides that the labour administration will not process direct agreements where there is only one trade union that affiliates more than half of the enterprise's workers, the Committee reiterates 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 therefore requests the Government to: (i) in consultation with the social partners, take all the necessary measures, including of a legislative nature, to ensure that the conclusion of direct agreements with non-unionized workers is only possible in the absence of trade union organizations and to provide information in this respect; and (ii) provide detailed statistical information on the number of collective agreements signed in the public and private sectors, and the number of direct agreements with non-unionized workers.**

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

[Previous comment](#)

The Committee notes the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP), communicated with the Government's report, in which reference is made to the matters addressed below. It also notes the joint observations of the Confederation of Workers Rerum Novarum (CTRN) and the Workers' Union of the Atlantic Coast Port Administration and Economic Development Board (SINTRAJAP), received on 1 December 2022, alleging violations of the Convention in practice, including the suspension of trade union leave. The Committee also notes the joint observations of the CTRN, the Costa Rican Workers' Movement Central (CMTC), the General Confederation of Workers (CGT), the Costa Rican Confederation of Democratic Workers (CCTD) and the Workers' Unitary Confederation (CUT), received on 1 September 2023, alleging violations of the Convention in law and in practice. **The Committee requests the Government to provide its comments in this respect.**

In its previous comments, the Committee considered that it would be desirable to extend the protection provided under section 365 of the Labour Code to a greater number of trade union representatives. It noted that the issue of protection against acts of anti-union discrimination was the subject of a bill known as the Labour Procedures Reform Bill. The Committee notes the Government's indication that the Labour Procedures Reform Act was adopted on 25 January 2016 and introduces a host of innovations in the area of the defence of workers' rights. It also notes the information provided by the UCCAEP, in its observations, concerning the main changes introduced by the Act. In this respect, the Committee notes that, in 2013, in the context of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), it noted with satisfaction the amendments introduced by the Act with the objective of making judicial procedures relating to acts of anti-union discrimination more expeditious and effective. Nevertheless, the Committee notes that the protection provided to trade union representatives under the Labour Code (section 367(b)) continues to cover one trade union leader for the first 20 unionized workers and one for every additional 25 workers, up to a maximum of four. ***The Committee requests the Government to take the necessary measures to amend section 367(b) of the Labour Code with a view to increasing the number of trade union representatives protected, especially in the case of organizations with a large membership, and to provide information on any progress achieved in this respect. The Committee also requests the Government to provide more detailed information on the impact of the Labour Procedures Reform Act with respect to the protection of workers' representatives.***

Furthermore, the Committee noted another bill (Bill No. 13475) also relating to the improvement of existing protection against anti-union discrimination. The Committee notes the Government's indication that Bill No. 13475 was shelved on 16 November 2016 following the issuance of a unanimously negative opinion. The Committee also notes the indication of the UCCAEP that this decision was taken because Bill No. 13475 was outdated by the regulations provided for under the Labour Procedures Reform Act, which surpasses the aspirations set out in the aforementioned Bill, in particular with respect to protection for workers' organizations.

## Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1991)

### [Previous comment](#)

The Committee notes the observations of the Costa Rican Union of Chambers and Associations of the Private Business Sector (UCCAEP), communicated with the Government's report, which are general in nature.

In its previous comments, the Committee encouraged the Government to continue taking steps to promote the participation of rural workers' organizations. The Committee notes the detailed information provided by the Government on the programmes developed by the Ministry of Agriculture and Livestock Farming, as well as the Institute of Rural Development (INDER) in this respect. In particular, it notes the Government's indication that both the National Development and Public Investment Plan for 2019–22 and for 2023–26 undertook to promote and encourage the participation of rural workers' organizations, and that the Plan for 2023–26 includes a capacity-building programme, which aims to encourage compliance with labour/management rights through training on labour rights and collective bargaining techniques. The Committee also notes the Government's indication that INDER, in its operational plans, supported the participation of young people and rural women in various associations. ***Taking due note of the above, the Committee requests the Government to provide more detailed information on existing rural workers' organizations, including information on solidarity associations (number of associations and members, as well as the type of activities that they carry out).***

***[The Government is asked to reply in full to the present comments in 2026.]***

## Croatia

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

(ratification: 1991)

#### Previous comment

The Committee notes the observations of the Independent Trade Unions of Croatia (NHS) submitted by the Government, concerning matters addressed by the Committee in its present comments.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Rapid appeal procedures.* In its previous comments, having observed with concern that the judicial resolution of anti-union discrimination cases was characterized by excessive delays and having noted that amendments to the Civil Procedure Act adopted in 2019 aimed at contributing to dispute resolution, the Committee requested the Government to continue providing information on the average duration of the resolution of anti-union discrimination cases. The Committee observes that the Civil Procedure Act was further amended in 2022 but notes that the Government does not provide any updated information on this issue. **The Committee therefore reiterates its previous request in this regard.**

*Article 4. Promotion of collective bargaining.* The Committee previously noted that while the legislation recognized the primacy of collective agreements concluded with trade unions, where they exist, both agreements concluded with works councils and working regulations, subject to consultation with works councils, have a material scope which may coincide with that of collective agreements (sections 26 and 160 of the Labour Act). It therefore requested the Government to provide detailed information on the respective number of company collective agreements concluded with trade unions and agreements concluded with works councils. The Committee notes that the Government reiterates that agreements concluded with works councils may not regulate issues regulated by collective agreements, unless the parties to the collective agreement authorize so, and indicates that it does not have information on the number of concluded agreements. **In view of the Government's assertion, the Committee trusts that negotiation between the employer and its workers through work regulations and agreements concluded with works councils will not be used in practice to bypass sufficiently representative organizations, where they exist, so as to promote collective bargaining, as enshrined in the Convention. The Committee requests the Government to endeavour to collect information on the number and scope of collective agreements concluded with trade unions and works councils.**

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

## Cuba

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

#### Previous comments

The Committee notes the observations of the Independent Trade Union Association of Cuba (ASIC) received on 4 March 2021, the Government's reply received on 7 May 2021, as well as ASIC's observations received on 22 September 2023 and the Government's reply received on 29 November 2023. The Committee notes that ASIC alleges the imposition of restrictions on the freedom to work and the freedom to join trade unions through a new National Economic Activity Classifier, published on 10 February 2021 by the Ministry of Labour. This classifier, which covers 124 economic activities, limits own-account work and includes prohibitions on activities of business associations, trade unions and other associations. According to ASIC, these restrictions violate the fundamental rights established in the present Convention and in the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), as well as statements of the United Nations and the Organization of American States (OAS) on human

rights and are unacceptable to the independent trade union movement. The Committee notes that the Government firmly rejects ASIC's allegations as false, because the new National Economic Activity Classifier does not impose restrictions on the free development of the non-state sector nor intends changing the list of permitted activities to prohibited activities. The Committee also notes the allegations made by ASIC in its observations received in September 2023, stating that the Government has applied collective agreements in a totally biased manner, favouring the organizations aligned with it - which are able to exercise their right to freedom of association - but excluding independent trade unions by treating democratic principles and labour rights with contempt. The Committee also notes that, according to ASIC, the Government severely restricts freedom of association by prohibiting the organization of independent trade unions, as well as restricting the exercise of the right to strike, while constraining workers to join the official trade union - the Worker's Central Union of Cuba (CTC) - which results in systematic repression of members of the independent trade unions and a widespread failure to defend labour rights. The Committee also notes ASIC's allegation that section 143 of the new Criminal Code, adopted on 1 September 2022, sets out custodial penalties for those who, while representing international non-governmental organizations, associations or any persons or legal entities, provide financial support to activities against the State and its constitutional order. According to ASIC, this adversely affects various civil society groups, including trade union members, self-employed workers, lawyers, independent journalists and so forth, especially those who receive foreign assistance. While noting that the Government essentially rejects the allegations made by ASIC and reiterates, as it has done on other occasions (see Case No. 3271 examined by the Committee on Freedom of Association), that their members are not genuine workers' representatives, the Committee notes that the Government has not commented on the allegations concerning the new Penal Code in relation to custodial penalties **The Committee requests the Government to provide its comments in this regard.**

*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 noted the Government's repeated indication that the trade unionists were convicted in accordance with the law, denying claims of violations of the Convention, and that, in its latest report, the Government claimed that the ILO supervisory bodies were being manipulated, while arguing that the Committee should not request information relating to Case No. 2258, which had been examined by the Committee on Freedom of Association. **The Committee once again requests the Government to send copies of the above-mentioned rulings.**

## Democratic Republic of the Congo

### 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.

*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 [General Survey of 2012 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.**

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

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

The Committee notes the observations of Education International, received on 31 August 2023, alleging anti-union discrimination cases (suspension without pay for taking part in union action or

denouncing irregularities). **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 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 [General Survey of 2012 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.**

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

## Denmark

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

#### [Previous comments](#)

The Committee takes note of the observations of the Danish Trade Union Confederation (FH), the United Federation of Danish Workers (3F) and the Danish Maritime Officers (Lederne Søfart) attached to

the Government's report, as well as the Government's comments thereon. The Committee notes that these observations are relevant to the issues addressed in the present comment.

*Article 4 of the Convention. Right to free and voluntary collective bargaining of seafarers.* In its previous comments, the Committee first welcomed the amendment of the Act on the Danish International Register of Shipping (DIS Act), which now allows Danish trade unions to conclude collective agreements on behalf of all seafarers primarily engaged in the relevant activities on ships operating in Danish territorial waters or in the area of the Danish continental shelf for more than 14 days per month. The Committee, however, then requested the Government to continue its dialogue with the social partners to ensure that Danish trade unions may freely represent in the collective bargaining process all their members working on ships sailing under the Danish flag whether they are within or beyond Danish territorial waters or the Danish continental shelf, and regardless of their activities.

The Committee notes the Government's indications that: (i) neither the legislation nor the main sectoral framework agreement of 28 February 2013 prevents seafarers from joining the trade union of their choice, whether Danish or foreign; (ii) ships sailing under the Danish flag offer a high level of social and employment conditions in a context of very strong international competition; and (iii) under the Danish labour market model, it is up to the social partners to reach an agreement on the points raised in this comment through the joint working group established for this purpose. The Committee also notes: (i) the FH's observations regretting the lack of sufficient action by the Government to ensure the conformity of section 10 of the DIS Act with the Convention, a point raised before the Committee for over 30 years now; (ii) 3F's observations that it was not consulted on the amendment of the DIS Act, as it was not part of the joint working group established for this purpose; and (iii) Lederne Søfart's observations that a significant number of seafarers are currently unable to be represented by the trade union of their choice because shipping enterprises governed by the DIS Act negotiate collective agreements only with the Danish Metal Workers' Union. The Committee notes in this regard the Government's response that it will continue to refrain from interfering in the negotiations between the social partners, including on the matter of who should be party to collective agreements.

The Committee notes from the above that, since its previous examination of Denmark's application of the Convention, section 10 of the DIS Act has not been further amended and that, as a result, Danish trade unions are still not authorized to negotiate collective agreements for foreign seafarers employed on ships sailing under the Danish flag and operating mainly beyond Danish territorial waters or the Danish continental shelf. ***In order to ensure the compatibility of section 10 of the DIS Act with the Convention, the Committee urges the Government to continue, in consultation with all the social partners concerned, to make every effort to ensure 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 working on ships sailing under the Danish flag whether they are within or beyond Danish territorial waters or the Danish continental shelf, and regardless of their activities. The Committee requests the Government to provide information in this regard.***

## Djibouti

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (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 Government's communication, dated 17 November 2019, in response to the allegations made in 2019 by the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD), and by Education International (EI), concerning ongoing violations of freedom of association in Djibouti. The Committee notes, however, that the Government has not provided the information requested on the reasons why Mr Mohamed Abdou was prohibited from leaving the country and prevented from

participating in the 103rd Session of the International Labour Conference (May-June 2014). Noting that the recent observations of the UDT and the UGTD no longer refer to this matter, the Committee trusts that Mr Abdou is no longer subject to such prohibitions.

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

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

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

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

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

**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: 1978)

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

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

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

## Dominica

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

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes with **deep concern** that the Government's report, due since 2013, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of whatever information is at its disposal. The Committee recalls that it has been raising issues concerning the observance of the Convention in relation to certain sections of the Industrial Relations Act (Act No. 18 of 1986) concerning compulsory arbitration and which unduly restrict the right of workers' organizations to organize their activities in full freedom and to formulate their programmes. The Government has been requested to make the following amendments to the Act: (i) exclude the banana, citrus and coconut industries as well as the port authority, from the schedule of essential services annexed to the Act, which makes it possible to stop a strike in these sectors by compulsory arbitration, and (ii) amend sections 59(1)(b) and 61(1)(c) of the Act, which empower the Minister to refer disputes to compulsory arbitration if they concerned serious issues in his or her opinion. **Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation adopted in 2011 and urges the Government to provide a full reply thereto. To this end, the Committee recalls that the Government may avail itself of the ILO's technical assistance**

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

## Dominican Republic

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

#### [Previous comment](#)

**The Committee once again requests the Government to send its comments in relation to the joint observations sent by the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD) in 2020, which allege that practical difficulties persist in obtaining the registration of trade union organizations, particularly in the tourist transport sector.**

In its previous comment, the Committee noted the observations of the CNUS, CASC and CNTD regarding the alleged lack of effectiveness of the Round Table established in 2016 to ensure compliance with international labour standards. The Committee notes with **interest** that the Round Table was

reactivated by an agreement signed on 25 October 2023. **The Committee trusts that the matters covered in this observation will be taken into account in the discussions within the Round Table.**

*Legislative matters.* 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.

The Committee notes the Government's indication that it is in the process of revising and amending the Labour Code and that it has prioritized the inclusion of content aimed at facilitating the application of the Convention. The Government emphasizes that the Committee's comments have been taken into account and discussed in the preparatory work for the Labour Code reform and indicates that the Committee for reviewing the Labour Code will continue to meet regularly until the revision is completed. **The Committee urges the Government, through effective social dialogue, to adopt the new Labour Code in the very near future, and firmly expects that, taking into account the Committee's comments, these legislative amendments will be in full conformity with the Convention. The Committee requests the Government to provide information on all developments in this respect and to provide it with a copy of the new Code once it has been adopted. The Committee also requests the Government to indicate what measures have been taken to bring legislation governing public sector workers into conformity with the Convention.**

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

## Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1953)

[Previous comment](#)

The Committee notes the observations of the Ibero-American Confederation of Labour Inspectors (CIIT) received on 5 June 2023, in which it denounces relocations of trade unionists from the Labour Inspectors' Association of the Dominican Republic and indicates that the anti-union acts examined by the Committee on Freedom of Association in Case No. 3071 concerning members of the Association continue to take place despite the Committee's recommendations ([Report No. 375, June 2015](#)). **The Committee requests the Government to send its comments in this respect, and on the joint observations sent by the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD) in 2018, 2019 and 2020, which denounce repeated acts of anti-union discrimination.**

In its previous comment, the Committee noted the observations of the CNUS, CASC and CNTD regarding the lack of effectiveness of the Round Table established in 2016 to ensure compliance with international labour standards. The Committee notes with *interest* that the Round Table was reactivated by an agreement signed on 25 October 2023. **The Committee expects that the matters addressed in this observation will be taken into account in the discussions within the Round Table.**

### Application of the Convention in the private sector

*Articles 1, 2 and 4 of the Convention. Effective protection against acts of anti-union discrimination. Promotion of collective bargaining.* In its previous comments, the Committee requested the Government to adopt procedural and substantive reforms to enable the effective and rapid application of penalties as a deterrent against anti-union acts and to provide detailed statistics concerning judicial proceedings in this regard. The Committee also drew the Government's attention to the need to amend sections 109 and 110 of the Labour Code to allow collective bargaining without requiring the representation of an absolute majority of workers in order to engage in collective bargaining. The Committee notes the Government's indication that it is in the process of revising the Labour Code and that it has prioritized the inclusion of content aimed at facilitating the application of the Convention. The Government emphasizes that the Committee's comments have been taken into account and discussed in the preparatory work for the Labour Code reform and that the Committee for reviewing and updating the Labour Code will continue to meet regularly until the revision is completed. ***The Committee firmly hopes that, through effective social dialogue, the new Labour Code will be adopted in the very near future, and that, taking into account the Committee's comments, these legislative amendments will be in full conformity with the Convention. The Committee requests the Government to report on any developments in this regard and once again requests the Government to send the detailed statistics on anti-union discrimination mentioned in its previous comment.***

### Application of the Convention in the public service.

*Articles 1, 2, 4 and 6. Protection of public servants not engaged in the administration of the State against acts of anti-union discrimination and interference. Right to collective bargaining.* Noting that Act No. 41-08 on the public service only covered a union's founders and a number of its leaders, the Committee requested the Government to take the necessary steps to ensure that public servants not engaged in the administration of the State fully enjoyed specific protection against acts of interference from their employer, providing for sufficient dissuasive penalties against acts of discrimination and interference. The Committee also noted that there was no reference to the right to collective bargaining in Act No. 41-08 or its implementing regulations. The Committee notes with ***regret*** the absence of information in this respect. ***The Committee reiterates its previous requests and strongly hopes that the Government will take the requested measures. The Committee requests the Government to report on any developments in this regard.***

The Committee recalls that the Government may avail itself of ILO technical assistance 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)

#### Previous comment

The Committee notes the Government's partial reply to the 2022 observations of the International Trade Union Confederation (ITUC). ***The Committee requests the Government to provide its comments with respect to the alleged detention of demonstrators who took part in a national strike in 2021.*** The Committee notes that the Government replies in its report to the joint observations of the Federation of Petroleum Workers of Ecuador (FETRAPEC), the National Federation of Education Workers (UNE) and Public Services International (PSI) in Ecuador, sent in 2022. The Committee also notes the joint observations of FETRAPEC, PSI in Ecuador and the United Workers' Front (FUT), received on 31 August 2023, which cover in detail questions examined by the Committee in the present comment, indicate that the delay in the process of registering new union executive committees has become an ongoing

problem that obstructs the proper functioning of trade unions, and highlight the refusal to register trade unions for reasons not covered by the Constitution or the legislation. The Committee notes that, according to FETRAPEC, PSI in Ecuador and the FUT, the Basic Employment Bill, which they had indicated did not take into account the Committee's comments, was discarded. The unions also indicate that on 3 May 2023 Executive Decree No. 730 was issued, ordering the armed forces to take action to suppress organized crime, and they point out that this could be applied with regard to any attempt at social mobilization or protests. **The Committee requests the Government to provide its comments with respect to the above-mentioned matters.**

*Technical assistance. Direct contacts mission.* The Committee recalls that the Conference Committee on the Application of Standards (the Conference Committee), when examining the application of the Convention by Ecuador in June 2022, invited the Government to avail itself of technical assistance from the Office and requested the Government to accept a direct contacts mission. The Committee notes the Government's indication that, in view of the current political situation in the country and the change of Government, the Ministry of Labour will resume talks and liaise with the Office in 2024 with a view to a possible direct contacts mission. **The Committee expresses the firm hope that the direct contacts mission requested by the Conference Committee will take place as soon as possible and also hopes that the Government will avail itself of technical assistance from the Office, trusting that such assistance will contribute to progress in the adoption of specific, effective and time-bound measures, in consultation with the social partners, in order to bring the legislation into conformity with the Convention with regard to the points set out below.**

*Trade union rights and civil liberties. Murder of a trade unionist.* In its last comment, the Committee deplored the murder on 24 January 2022 of Mr Sandro Arteaga Quiroz, secretary of the Union of Workers of the Manabí Provincial Government, and strongly urged the Government to take without delay all necessary measures to determine responsibility and punish those guilty of this crime. The Committee notes the Government's indication that it consulted the Public Prosecutor's Office, which sent it information on the offences in which Mr Arteaga Quiroz featured as a complainant. The Committee notes that FETRAPEC, PSI in Ecuador and the FUT indicate that the file has been under investigation at the Public Prosecutor's Office since 25 February 2022 but that the corresponding judicial proceedings have still not been initiated, which, according to the unions, demonstrates lack of due diligence on the part of the State. The Committee notes with **regret** that there has been no progress in the investigation and once again underlines the need for independent judicial investigations without delay in order to fully elucidate the facts and determine responsibility, punish the perpetrators and instigators and prevent any recurrence of such acts. **The Committee once again strongly urges the Government to take the necessary steps without delay to determine responsibility and punish those guilty of this crime and keep it informed in this respect.**

#### Application of the Convention in the private sector

*Article 2 of the Convention. Excessive number of workers (30) required for the establishment of workers' associations and enterprise committees. Possibility of creating trade union organizations by branch of activity.* For several years, the Committee has been drawing the Government's attention to the need to amend sections 443, 449, 452 and 459 of the Labour Code in such a way as to reduce the minimum number of members required to establish workers' associations and enterprise committees and enable the establishment of primary-level unions comprising workers from several enterprises. The Committee notes that the Government does not refer in its report to the revision of the sections of the law relating to the number of workers required for the establishment of workers' associations and enterprise committees, although the Committee has previously noted the position of several trade unions that the number of no less than 30 is disproportionate and unreasonable in view of the Ecuadorian business structure. The Committee notes that FETRAPEC, PSI in Ecuador and the FUT indicate that, according to data provided by the Ministry of Labour, in 2022 the biggest enterprises in the country represented



barely 0.5 per cent and it would be impossible to form trade unions in over 90 per cent of production units in the country. FETRAPEC, PSI in Ecuador and the FUT also emphasize that it is imperative that the possibility of organization is guaranteed for autonomous workers and informal workers. As regards the establishment of organizations comprising workers from a number of enterprises, the Committee noted with interest in its last comment that, in compliance with a ruling handed down in 2021, the Ministry of Labour was ordered to register the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC) as a branch union, despite being formed of workers from various enterprises, and the Ministry was also ordered to adopt regulations for the registration of unions by branch of activity. In early 2022, the Ministry registered ASTAC as a branch union. The Committee noted that the Ministry and the Office of the Procurator-General had applied for an extraordinary protection order against the ruling for lack of adequate grounds and legal certainty and failure to comply with due process. The Committee notes the indication of the Government, FETRAPEC, PSI in Ecuador and the FUT that a decision on the application for the extraordinary protection order is still pending in the Constitutional Court. The Committee notes the indication of FETRAPEC, PSI in Ecuador and the FUT that the Government has not fully complied with the ruling since it has refused to adopt regulations for the establishment of branch unions, asserting that the ruling on the registration of ASTAC is only applicable between the parties and its legal effects do not extend beyond them. The Committee notes that these issues were examined by the Committee on Freedom of Association (CFA) in Cases Nos 3148 (Reports Nos 381 and 391, March 2017 and October 2019) and 3437 (Report No. 404, October 2023) and that on these occasions the CFA noted with regret that, despite its recommendations and follow-up by the Committee, both the national legislation and the practice of the Ministry of Labour still did not allow the establishment of primary-level unions comprising workers from various enterprises. **Recalling once again that, under the terms of Articles 2 and 3 of the Convention, workers must be able, if they so wish, to establish primary-level organizations at a level higher than the enterprise, the Committee reiterates its strong expectation that the above-mentioned ruling will contribute to allowing the establishment of trade union organizations by branch of activity, and also hopes that the Committee's assessment of this important development in the application of the Convention will be brought to the attention of the Constitutional Court of Justice. The Committee once again urges the Government to take the necessary steps, in consultation with the social partners, to revise the sections of the laws referred to above in the manner indicated and to keep it informed of all developments in this respect. The Committee also requests the Government to report on the proceedings before the Constitutional Court relating to the extraordinary protection order and to indicate whether self-employed and informal workers enjoy the rights established in the Convention, specifying the corresponding legislative provisions.**

*Article 3. Compulsory time limits for convening trade union elections.* The Committee has been asking the Government to amend section 10(c) of the Regulations on Labour Organizations No. 0130 of 2013, which provides that trade union executive committees shall lose their powers and competencies if they do not convene elections within 90 days of the expiry of their term of office, as set out in their respective union constitutions, to ensure that the consequences of any delay in holding elections shall be determined by the union constitutions themselves, subject to the observance of democratic rules. The Committee notes the Government's indication that the Ministry of Labour is currently reviewing a draft reform of the Regulations on Labour Organizations particularly with regard to section 10(c) and that it will keep the Committee informed of progress made. The Committee notes that, according to FETRAPEC, PSI in Ecuador and the FUT, the Government has repeatedly maintained that trade union organizations can regulate in their own constitutions how to proceed in cases where they are without leadership, respecting the unions' right to draft their constitutions and regulate their own administration; but when it comes to revising the constitutions, the Government demands that the possibility for executive committees to extend their functions should only be allowed "in duly verified cases of force majeure". The above-mentioned unions also indicate that where unions are without leadership as a result of not convening elections within the deadline specified in the Regulations, this has an impact on federations

and confederations because the Ministry of Labour does not recognize decisions taken by these organizations when they have not “registered their executive committees”, thereby limiting second- and third-level organizations’ capacity for action. **Recalling that, under Article 3 of the Convention, trade union elections are an internal matter for organizations and must be determined by the union constitutions themselves, and observing that the consequences under the Regulations if the deadlines are not respected – the loss of powers and competencies for trade union committees – run a serious risk of paralyzing the trade union’s capacity for action and limiting the capacity for action of second- and third-level organizations, the Committee once again reiterates its strong expectation that the draft reform will take its comments into consideration, and that section 10(c) will be amended along the lines indicated. The Committee requests the Government to report on all developments in this regard.**

*Requirement of Ecuadorian nationality to be eligible for trade union office.* The Committee recalls that, while in 2015 it had noted that section 49 of the Labour Justice Act had amended section 459(4) of the Labour Code and removed the requirement of Ecuadorian nationality to be eligible to be an officer of an enterprise committee, in its 2021 comment it observed that section 49 was declared unconstitutional by a ruling of 2018 because it violated the principle of trade union independence by providing that the legislation determined how the executive bodies of enterprise committees were constituted and who had the right to vote in their elections. The Committee noted with regret that, as a result of the declaration of unconstitutionality, section 459(4) had reverted to its original wording, imposing the requirement of Ecuadorian nationality to be eligible to be an officer of an enterprise committee. The Committee notes the Government’s indication that Constitutional Court rulings are final and are not subject to appeal; that the Constitution guarantees the enjoyment of individual rights under equal conditions for nationals and naturalized foreigners and that the guaranteed rights include the right to elect and be elected. The Committee recalls the Government’s previous indication that Ecuadorian nationality is required to be an officer of an enterprise committee, but not to be a leader or member of other forms of association. In this regard, the Committee noted that, under the terms of the Labour Code, enterprise committees are one of the forms that trade unions can take within an enterprise. The Committee emphasizes once again that, under *Article 3* of the Convention, all workers’ and employers’ organizations shall have the right to elect their representatives in full freedom and that national legislation should allow foreign workers to take up trade union office, if permitted under the organization’s constitution and rules, at least after a reasonable period of residence in the host country. **The Committee therefore once again urges the Government to amend section 459(4) of the Labour Code and to keep it informed of all developments in this regard. It also invites the Government to bring the Committee’s comments in this regard to the Constitutional Court’s attention.**

*Elections as officers of enterprise committees of workers who are not trade union members.* The Committee had previously indicated to the Government the need to amend section 459(3) of the Labour Code, which provided that the role of officer of an enterprise committee may be filled by any worker, whether or not a union member, who stands for office. The Committee noted that the Constitutional Court ruling of 2018 referred to above also had an impact on the wording of section 459(3), which reverted to its original wording, according to which there is no provision for non-unionized workers to be able to participate in enterprise committee elections. The Committee notes the Government’s indication that Constitutional Court rulings are final and not subject to appeal and that the Government considers it necessary to maintain tripartite dialogue in order to determine the viability of a possible reform of the text in force. **Taking due note of these indications, the Committee once again requests the Government to hold consultations with the social partners in relation to the need to amend section 459(3) of the Labour Code to bring it into full compliance with the principle of trade union autonomy and to keep it informed of all developments in this respect.**

## Application of the Convention in the public sector

*Article 2. Right of workers, without distinction whatsoever, to establish and to join organizations of their own choosing.* The Committee previously noted that although section 11 of the Basic Act reforming the legislation governing the public sector (Basic Reform Act), adopted in 2017, establishes the right to organize for public servants, certain categories of public employees were excluded from that right, especially those under contract for occasional services, those subject to free appointment and removal from office, and those on statutory, fixed-term contracts. Recalling that, under *Articles 2 and 9* of the Convention, with the sole possible exception of members of the police and of the armed forces, all workers have the right to establish and to join organizations of their own choosing, the Committee asked the Government to take the measures required to bring the legislation into line with the Convention. **Noting with regret that the Government has not provided any information in this respect, the Committee once again urges the Government to take the necessary steps to bring the legislation into line with the Convention in such a way that all workers, with the sole possible exception of members of the police and of the armed forces, have the right to establish and to join organizations of their own choosing. The Committee requests the Government to keep it informed of all measures taken in this regard.**

*Right of workers to establish organizations of their own choosing without previous authorization. Organizations of public servants other than the committees of public servants.* The Committee previously observed that, according to the provisions of the Basic Reform Act, the committees of public servants, which must comprise “50 per cent plus one” of the staff of a public institution, are responsible for defending the rights of public servants and are the only bodies that can call a strike. Although the Government indicated that public servants, when establishing their organizations, have the right to draft their constitutions, in which they may adopt any means to defend their interests, the Basic Reform Act indicates that the committees of public servants are responsible for defending the rights of public servants and are the only bodies that can call a strike. Underlining the fact that all organizations of public servants must be able to enjoy the various guarantees established in the Convention, the Committee asked the Government to provide information on organizations of public servants other than the committees of public servants and to indicate what means they have for defending the occupational interests of their members. **The Committee once more notes with regret that it has not received this information and reiterates its request to the Government to provide information in this respect. Recalling that, under Article 2 of the Convention, trade union pluralism must be possible in all cases, and that no organization of public servants should be deprived of the essential means for defending the occupational interests of its members, organizing its administration and activities, and formulating its programmes, the Committee once again requests the Government to take the necessary steps to ensure that the legislation does not restrict recognition of the right to organize to the committees of public servants as the sole form of organization.**

*Article 3. Right of workers’ organizations and associations of public servants to organize their activities and to formulate their programmes.* The Committee previously drew the Government’s attention to the need to amend section 346 of the Basic Comprehensive Penal Code, which provides for a term of imprisonment of one to three years for stopping or obstructing the normal provision of a public service, so as to prevent the imposition of criminal penalties on workers engaged in a peaceful strike. The Committee notes the Government’s indication that the appropriate procedure for public servants to assert the right to strike is regulated in chapter III (on strikes) of the Basic Public Service Act and refers to the provisions of the Act relating to declaring strikes illegal, indicating that the State has recourse to criminal proceedings as a last resort. The Committee notes with **regret** that the information provided by the Government suggests that no progress has been made on taking account of its comments. The Committee recalls that several trade unions previously indicated that section 346 of the Basic Comprehensive Penal Code was being used to criminalize social protest. **The Committee once again strongly urges the Government to take the necessary measures to ensure that section 346 of the Basic**

***Comprehensive Penal Code is amended in the manner indicated and, until such measures are taken, to ensure that this provision is not used to criminalize social protest.***

*Article 4. Dissolution of associations of public servants by the administrative authorities.* Recalling that Article 4 of the Convention prohibits the suspension or administrative dissolution of associations of public servants, the Committee previously urged the Government to ensure that the provisions of Decree No. 193, which maintains 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. The Committee notes the Government's indication that the Basic Reform Act establishes that associations of public servants can only be dissolved by judicial ruling. The Committee also recalls that FETRAPEC, PSI in Ecuador and other organizations pointed out that although the provision of Decree No. 193 that maintained engagement in party-political activities as grounds for dissolution was declared unconstitutional in 2022, and that while Decree No. 193 regulates only social organizations and not trade unions, the Government nevertheless applies the grounds for forced dissolution of social organizations to trade unions because it considers that they are "civil society" organizations and not of a trade union nature. ***In view of the above, and recalling that Article 4 of the Convention prohibits the suspension or administrative dissolution of associations of public servants, the Committee urges the Government to ensure that the provisions of Decree No. 193 are not applied to associations of public servants whose purpose is to defend the economic and social interests of their members.***

*Administrative dissolution of the National Federation of Education Workers (UNE).* After noting the registration of social organizations related to the UNE (which was dissolved by an administrative act issued by the Under-Secretariat of Education in 2016), the Committee asked the Government: (i) to indicate whether the registration of the UNE-E with the Under-Secretariat of Education in Quito meant that the UNE had been able to resume its activities of defending the occupational interests of its members; (ii) to take all necessary measures to ensure the registration of the UNE as a trade union organization with the Ministry of Labour, if the UNE so wished; and (iii) to ensure the full return of the property seized as well as the removal of any other consequences resulting from the administrative dissolution of the UNE. The Committee noted that the UNE had filed several legal actions against the dissolution decision and that the Constitutional Court ruling on an extraordinary protection order was still pending. The Committee notes the indication of FETRAPEC, PSI in Ecuador and the FUT that the Constitutional Court, by Ruling No. 579-18-EP/23 of 12 July 2023, partially admitted the extraordinary protection order, declared that the right to due process had been violated as regards ensuring adequate grounds for public authority decisions, invalidated the ruling of 18 January 2018 (which had dismissed the appeal filed by the UNE chairperson) and ordered that a new associate judge of the Special Chamber for Administrative Disputes at the National Court of Justice, assigned by drawing lots, should decide whether or not to admit the appeal filed by the complainant. FETRAPEC, PSI in Ecuador and the FUT also consider that, irrespective of the judicial decision on this case, the Government could revise its own acts and overturn the administrative act which dissolved the UNE without a judicial order to that effect being essential. ***The Committee requests the Government to provide information on any ruling handed down by the Special Chamber for Administrative Disputes at the National Court of Justice as well as on whether the Government is able to revise its own acts as suggested by the trade unions, and once again requests the Government to provide the other information requested by the Committee in its previous comment.***

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

***[The Government is asked to reply in full to the present comments in 2024.]***

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

(ratification: 1959)

### Previous comment

The Committee notes the detailed joint observations of the Federation of Petroleum Workers of Ecuador (FETRAPEC), Public Services International (PSI) in Ecuador, and the United Workers' Front (FUT), received on 31 August 2023, which address thoroughly the matters examined by the Committee in the present comment and allege acts of anti-union persecution. **The Committee requests the Government to provide its comments in this respect, and also with respect to the observations sent in 2022 by the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC), the Ecuadorian Confederation of Free Trade Unions (CEOSL), FETRAPEC, the National Federation of Education Workers (UNE), and PSI in Ecuador.**

*Technical assistance. Direct contacts mission requested by the Committee on the Application of Standards (Conference Committee) in the context of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).* In its last comment, the Committee noted that the Conference Committee, when examining the application of Convention No. 87 by Ecuador in June 2022, addressed matters that had a direct impact on workers' capacity to negotiate collectively their terms and conditions of work, and therefore on the application of the present Convention. The Conference Committee invited the Government to avail itself of technical assistance from the Office and asked it to accept a direct contacts mission. The Committee notes the Government's indication, in its report on Convention No. 87, that in view of the current political situation in the country and the change of Government, the Ministry of Labour will resume talks and liaison with the Office in 2024 with a view to a possible direct contacts mission. **The Committee firmly hopes that the direct contacts mission requested by the Conference Committee with regard to Convention No. 87 will take place as soon as possible and also hopes that the Government will avail itself of technical assistance from the Office, trusting that such assistance will contribute to progress in the adoption of specific, effective and time-bound measures, in consultation with the social partners, in order to bring the legislation into conformity with the Convention with regard to the points set out below.**

### Application of the Convention in the private sector

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* For more than a decade, the Committee has been referring to the need to include provisions in the legislation that guarantee protection against acts of anti-union discrimination at the time of access to employment. The Committee notes the Government's indication that the new executive and legislative authorities will analyse the necessary reforms once they take up office. The Committee recalls that *Article 1* of the Convention prohibits anti-union discrimination at the time of the recruitment of individual workers, so that access to employment is not made subject to the condition that workers shall not join a union or shall relinquish union membership. **In light of the above, the Committee once again emphasizes the need for provisions expressly prohibiting acts of anti-union discrimination at the time of access to employment to be included in the legislation and requests the Government to provide information on any measures adopted in this respect.**

*Article 4. Promotion of collective bargaining.* The Committee recalls that, under section 221 of the Labour Code, collective labour agreements must be concluded with the enterprise committee (one of the forms that, under the Labour Code, trade unions can take within an enterprise) or, if one does not exist, with the organization with the largest number of worker members, on condition that it represents over 50 per cent of the workers in the enterprise. The Committee previously urged the Government to take the necessary steps to amend section 221 so that, if there is no organization that represents over 50 per cent of the workers, minority trade unions can, either separately or jointly, negotiate at least on behalf of their own members. The Committee notes with **regret** that the Government merely reiterates once again that this requirement for the negotiation of a collective agreement is closely related to

principles such as democracy, participation and transparency, since the benefits obtained in the collective agreement apply to all workers in the enterprise or institution. The Committee is bound to emphasize once again that, even though the requirement of representativeness for signing collective agreements is fully compatible with the Convention, the level of representativeness set should not be such as to hinder the promotion and implementation of free and voluntary collective bargaining, as referred to in *Article 4* of the Convention. In this regard, the Committee recalls that in previous comments it noted the low rate of coverage of collective bargaining in the private sector. The Committee notes the Government's indication that between May 2021 and May 2023, a total of 57 collective agreements were concluded in the private sector. The Committee notes that FETRAPEC, PSI in Ecuador and the FUT, apart from highlighting the low number of collective agreements in the private sector, indicate that the Government does not specify whether the figures it provides refer to new collective agreements or revised versions thereof and that it also does not provide exact data on the number of persons covered by any collective agreements concluded or in which sectors they are concentrated. **Once again emphasizing the link between the low coverage of collective agreements in the country and the restrictive requirements set out in law for participation in collective bargaining, the Committee once again urges the Government, after consulting the social partners, to take the necessary steps to amend section 221 of the Labour Code as indicated above. The Committee also requests the Government to continue providing information on the number of collective agreements concluded and in force in the country, with an indication of the sectors covered (including the agricultural and banana sector), the number of workers covered and whether they are new or revised collective agreements.**

*Collective bargaining in sectors composed mainly of small enterprises.* The Committee recalls that, in its comments on the application of Convention No. 87, it has been calling for many years for the amendment of the following aspects of the legislation, which significantly restrict the capacity of workers to organize in unions: (i) the requirement of a minimum of 30 workers to establish unions and enterprise committees; and (ii) the impossibility of establishing primary-level unions composed of workers from different enterprises. Having noted with **concern** that these restrictions on the right to organize, combined with the absence of a legal framework for collective bargaining at the sectoral level, as denounced by the trade unions, appear to exclude any possibility for workers in small enterprises to exercise their right to collective bargaining, the Committee asked the Government to provide information on the measures taken to promote collective bargaining in sectors of production composed mainly of small enterprises. The Committee notes the Government's indication that a decision on an extraordinary protection order applied for in the Constitutional Court is still pending, in relation to a ruling ordering the Ministry of Labour to register ASTAC as a branch union, despite it being composed of workers from various enterprises, and to adopt regulations on the registration of branch unions. The Government also indicates that, as indicated by the Basic Act to promote the Violet Economy, published on 20 January 2023, its priority focuses on promoting, through collective bargaining, the establishment of positive action measures for the effective application of the principle of equality of treatment and non-discrimination in conditions of work for women and men. While noting this information, the Committee notes with **regret** that the Government does not provide information on the measures requested by the Committee. **In light of the above, the Committee once again requests the Government to provide information on the measures taken to promote collective bargaining in sectors of production composed mainly of small enterprises.**

#### Application of the Convention in the public sector

*Articles 1, 2 and 6 of the Convention. Protection of workers in the public sector who are not engaged in the administration of the State against acts of anti-union discrimination and interference.* In its previous comments, the Committee requested the Government to take the necessary steps to ensure that the legislation applicable to the public sector contains provisions that explicitly protect the leaders of all organizations of public servants against acts of anti-union discrimination and interference. The Committee notes the Government's assertion that the legislation grants protection to public servants

against acts of discrimination through the fact of their belonging to the committees of public servants and reiterates once again that protection against acts of discrimination and the right to establish unions is provided for in both the Political Constitution and the Basic Public Service Act (LOSEP), which prohibits any act of discrimination against public servants. The Committee notes with **regret** that the Government merely reiterates what it already indicated on previous occasions, and in the same way as the Committee on Freedom of Association, when it examined Case No. 3347, the Committee once again emphasizes the importance of the legislation providing the same type of protection against possible acts of anti-union discrimination and interference for all leaders of all public servants' organizations alike. ***In light of the above, the Committee is bound to urge the Government once again to take the necessary measures to ensure that the legislation applicable to the public sector includes provisions that explicitly protect the leaders of all organizations of public servants, and not only the leaders of the committees of public servants, against acts of anti-union discrimination and interference, as well as provisions establishing penalties that act as a deterrent in the event of such acts. The Committee requests the Government to provide information on any measures taken or envisaged in this respect.*** The Committee also previously noted a ruling issued in 2020 declaring unconstitutional the compulsory redundancy purchase mechanism under which the public administration, in exchange for the payment of compensation, could unilaterally terminate the employment of public servants without the need to indicate the grounds for such termination. The Committee observed that although the ruling removed the prohibition for persons who have been dismissed to return to work in the public sector, PSI in Ecuador alleged that the Government had not complied with this aspect of the ruling. The Committee notes that FETRAPEC, PSI in Ecuador and the FUT indicate that: (i) although by an agreement of March 2023 that the Government had undertaken to examine a possible return to office in the April-May period of 15 dismissed former public officials and a road map for the recall of another 192 persons by August 2023, so far five individuals have been recalled but under temporary arrangements instead of within the career public servant system; and (ii) through a series of judicial actions, a number of persons have been reinstated in the public posts from which they were dismissed and in some cases have even been the beneficiaries of rulings with financial compensation for the injury suffered. ***The Committee duly notes this information provided by the trade unions and once again requests the Government to send information on any action taken to comply with this ruling.***

*Articles 4 and 6. Collective bargaining for public sector workers who are not engaged in the administration of the State.* The Committee previously observed that the Basic Reform Act and Ministerial Order No. MDT-2018-0010 did not recognize the right to collective bargaining of public servants and that only public sector workers governed by the Labour Code could engage in collective bargaining. The Committee also noted that the 2015 amendments to the Constitution excluding the entire public sector from the scope of collective bargaining had been annulled by the Constitutional Court in 2018 and that Ministerial Order No. 373 had been issued in 2019 to give effect to the ruling. The Committee notes the Government's indication that further to the amendments adopted by the National Assembly in 2015 being declared unconstitutional, the text that existed prior to their promulgation remained valid, and so the Constitution does not enshrine public servants' right to organize for the defence of their interests and improvements in the provision of services. The Committee notes the Government's indication that from May 2021 to May 2023, a total of 139 collective agreements were concluded in the public sector. The Committee notes that FETRAPEC, PSI in Ecuador and the FUT indicate that the small number of collective agreements in the public sector is due, inter alia, to the fact that only the special committees composed of workers governed by the Labour Code can conclude collective agreements, and budgetary approval is required. Furthermore, the Committee notes that, according to FETRAPEC, PSI in Ecuador and the FUT, the Basic Employment Bill, which, they indicated, would contain a provision on the elimination of collective bargaining in the public sector, was discarded. The Committee is bound to note with **concern** that the legislation still does not recognize the right to collective bargaining of public servants, despite the fact that many of them (public sector teachers, employees in the public health

system, employees in public enterprises, municipal services and decentralized bodies, etc.) are not engaged in the administration of the State and should therefore benefit from the guarantees provided by the Convention. The Committee notes with **regret** that, despite its requests, the Government has not provided information on specific initiatives for the re-establishment of the rights referred to above. **Recalling once again that there are mechanisms that permit the harmonious coexistence of the public sector's mission to serve the public interest and the responsible exercise of collective bargaining, the Committee once again urges the Government, in consultation with the representative organizations of workers, to take the necessary steps to establish adequate collective bargaining machinery for all the categories of public sector employees covered by the Convention. The Committee requests the Government to report any developments in this respect and to also provide information on the motions submitted to have the Humanitarian Act of June 2020, declared unconstitutional, which, according to PSI in Ecuador, imposed restrictions on collective bargaining by public sector workers governed by the Labour Code.**

*[The Government is asked to reply in full to the present comments in 2024.]*

## Egypt

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

#### [Previous comment](#)

The Committee takes note of the observations made by the International Trade Union Confederation (ITUC) received on 20 September 2023, in relation to the application of the Convention in law and in practice. It further takes due note of the parallel report transmitted by the Central Trade Union of Workers' Services on behalf of a number of Egyptian trade unions on 31 August 2023. The Committee further duly notes the detailed comments provided by the Government in 2021 on the observations of the ITUC and Public Services International (PSI).

*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 creation of a legal and technical committee reporting directly to the Minister of Manpower, mandated with examining all problems facing union organizations that had failed to regularize and then offering the required technical support. Noting numerous challenges to registration that had been raised, the Committee trusted that the remaining organizations awaiting registration would receive their certificates of legal personality without delay so that they would be able to exercise their activities fully. The Committee notes the Government's indication that the Ministry of Labour follows up with all affiliated directorates on the implementation of the provisions of the law in a sound manner, and on the promotion of the freedom of association principle at all levels. It refers in particular to Ministerial Order No. 162 of 2020 which set up the standing committee to examine complaints submitted by trade union organizations. The Government also refers to the work carried out within the framework of the ILO Project "Strengthening Labour Relations and its institutions in Egypt". In particular, the Government states that 60 cases were examined by the standing committee, where 54 committees requesting registration by the Appeals Committee were invited during 15 plenary meetings and 10 subsidiary meetings, 6 cases were missing, 12 committees were absent while 42 committees attended in order to discuss outstanding problems, resulting in the establishment of 30 committees at present. Work is still under way to resolve the problems of other committees and address the causes of disruption. The Government adds that a Consolidated Standard Procedures Manual on the Standardization of Procedures for the establishment of trade union organizations was published by virtue of Ministerial Resolution No. 227 of 2022 and disseminated to all specialized workers at the labour directorates in the governorates, as well as to those who wish to establish trade union committees, so that everyone is informed of the necessary procedures. Finally, a training programme was developed to build capacities



to enhance the performance of officials in the management of effective and fair registration so as to ensure a common understanding by all specialized staff. As regards the allegations of the need to obtain the employer's stamp and approval for registration, the Government indicates that it has issued Circular No.17 of 2022 to all labour directorates specifying that this is not necessary.

As regards allegations of obstacles to trade union registration, the Government indicates that the Trade Union Committees of Workers in Real Estate Tax in Kafr Al Sheikh (incorporated on 12 November 2020), Giza (regularized upon promulgation of the law) and Beni Sewaif; Trade Union Committee of Workers in the Water and Sanitation Company in Qena (incorporated on 17 November 2020); Trade Union Committee of Sanitation Workers in Gharbeya (incorporated on 24 November 2020); Trade Union Committee of Quality Assurance in Giza (incorporated on 29 November 2020); 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; and Trade Union Committee for Workers in Telecommunications in Qena completed the incorporation procedures in 2020 and 2021. The Committee also notes the detailed information provided by the Government in 2021 and in its latest response to the ITUC received on 26 November 2023 as to the status of certain trade unions not yet registered and their cooperation or the lack thereof in the committee established to address pending concerns.

The Committee observes that ITUC's allegations referred to the following organizations awaiting registration: Real Estate Tax Authority General Union, Union of Workers in Alexandria Company for Ready-made Garment, General Union of Workers in Tourism and Touristic Transportation, Trade Union Committee for Workers in Educational East Mansoura Administration, Occupational Union for Workers in Cement Services in Helwan, Trade Union Committee of Workers in Real Estate Tax in Asuot, Trade Union Committee of Workers in Real Estate Tax in Beheira, Trade Union Committee of Workers in Real Estate Tax in Daqahlia, Trade Union Committee of Workers in Real Estate Tax in Gharbya, Trade Union Committee of Workers in Real Estate Tax in Giza, Trade Union Committee of Workers in Real Estate Tax in Port Said, and Trade Union Committee of Workers in Real Estate Tax in Qena; while the following trade unions are reported to have had their legal status recognized but are still awaiting the acknowledgement of receipt which allows them to operate and run their activities: Trade Union Committee for Transportation Services in Qaluobia, Trade Union Committee for Workers in Education in Qena, Trade Union Committee for Workers in Educational Kooss Administration, Trade Union Committee of Workers in Real Estate Tax in Fayoum, Trade Union Committee of Workers in Real Estate Tax in Ismailia and Trade Union Committee of Workers in Real Estate Tax in Qaluobia. The Committee further notes the ITUC's allegations that some directorates deliberately obstruct the activities of some independent trade unions in order to force them to join the Government-affiliated Egyptian Trade Union Federation (ETUF), while the Ministry of Labour declines any responsibility and refuses to instruct Labour Directorates in duly processing registration applications, for example, the Committee of Drivers in the province of Qalioubia. ***In these circumstances, the Committee urges the Government to accelerate its efforts so that these trade unions may be registered without further delay and may fully exercise their activities. The Committee also requests the Government once again to provide detailed information on the number of trade union registration applications received overall, the number of registrations granted, the reasons for any refusals to grant, as well as information on the average time taken from filing to registration.***

*Trade union monopoly by decree.* The Committee notes with **deep concern** the ITUC's allegations that the Trade Union Committee of Workers in Bibliotheca Alexandrina registered in September 2022 found its legal status immediately challenged by a "Fatwa" (advisory opinion) from the State Council claiming the illegality of their organization due to the existence of another ETUF-affiliated trade union in parallel. According to the ITUC, the employer, Bibliotheca Alexandrina, now refuses to recognize or deal with the independent trade union. ***The Committee urges the Government to reply to this serious***

**allegation and indicate all steps taken to resolve the matter so as to ensure that workers may form the organization of their own choosing, even if another trade union already exists at the undertaking.**

*Minimum membership requirements.* The Committee recalls its previous comments requesting the Government to review, with the social partners, the minimum membership requirement to form a trade union of 50 workers for the formation of a trade union committee at enterprise level, ten union committees and 15,000 members for a general union and seven general unions and 150,000 members for the establishment of a trade union federation (namely, a confederation). The Committee observes that the ITUC continues to consider these thresholds too high and that they could not even be met by all ETUF federations, while the Government states that they are not prohibitive. The Government nevertheless indicates that it will again refer the issue to the Supreme Council for Social Dialogue at its next meeting in October 2023 to reconsider the minimum membership requirements for registration. **The Committee expects that this will result in lowering the thresholds and requests the Government to inform it of the outcome of the review of these requirements with the social partners concerned.**

*Article 3. Right of workers' organizations to organize their administration without interference and to enjoy the benefits of international affiliation.* As regards its previous comment concerning penalties imposed under section 67 of Law No. 142, the Committee notes the Government's statement that the penalty imposed upon a trade unionist was not related to this section and that it has published several periodicals to guide workers in the competent administration, in the labour directorates in the governorates and has also provided judicial training, including in respect of the rights of workers wishing to establish trade union organizations even if the incorporation procedures have not been completed.

As regards the provisions in the Trade Union Law setting out conditions for trade union office (section 41.1 and 41.4) which the Committee considered interfered with the right of workers' organizations to elect their representatives in full freedom, in particular the requirement to read and write as well as matters related to military service, the Committee notes the Government's indication that it will refer the matter to the Supreme Council for Social Dialogue at the Council's next session in October 2023. **The Committee trusts that the necessary measures will be taken to bring these provisions into conformity with the Convention and requests the Government to inform it of the progress made in this regard.**

In the past, the Committee pointed out problems with the following provisions: Sections 30 and 35 of the Trade Union Law, which set out the competencies of executive committees and the election procedure for general assemblies; section 42, concerning detailed rules on the membership of executive committees and their functions; and section 58 which makes the accounts of organizations subject to the control of a central accounting body amounting to interference in their administration, read with section 7 which empowers the Minister in vague and broad terms with the authority to request the competent labour court to hand down a decision to dissolve the administrative board of a trade union organization if there is a violation of the law or a perpetration of gross financial or administrative violations. The Committee takes due note of the explanations given once again by the Government as to the aim of these provisions and its indication that it will take the Committee's comments into account when submitting them to the Supreme Council for Social Dialogue. **The Committee trusts that the necessary steps will be taken to amend these provisions as appropriate to ensure the right of workers' organizations to organize their administration and activities without interference.**

*Trade union elections.* The Committee notes the ITUC's allegations that in 2022, many trade unions could not proceed with their internal elections as their application for registration was still pending, despite having been deposited years ago. The ITUC additionally refers to Ministerial Decree No. 61 of 24 April 2022, which establishes the composition of the High Committee for the follow-up and monitoring of trade union elections at the national level composed of the Minister of Labour, with the participation of representatives of the Ministries of Justice, Finance, and Local Development as well as a

representative of the administrative prosecution, a representative of the General Federation of Workers Trade Unions, and the legal advisor of the Ministry of Labour. According to the ITUC, the High Committee is clearly under the control of the Government and has simply annulled the candidacy for trade union elections of no fewer than 1,500 trade unionists, often for the benefit of ETUF candidates. The ITUC refers to information received from the CTUWS of the annulment of candidacies, or even the elections as a whole, for trade union elections in the Real Estate Authority in Qalyobia; the Real Estate Authority in Central Office; the independent Union Committee in Nile Lenin Group for Textiles; the trade union committees of Real Estate Taxes in Ismailia and Kafr El Sheikh; the trade union committees of workers in the clubs of Suez Canal Company, and in Fayoum organism of ambulances; the Union Committee of Workers in Real Estate In Qena; the trade unions of workers in Qena entity for potable water and sewages, and in Qalioubia and Qena Real Estate Taxes. **The Committee notes these allegations with concern and requests the Government to provide full particulars in this regard.**

*Labour Code.* The Committee has been noting for a number of years that a draft Labour Code was transmitted to the Manpower Committee of the Parliament for debate. In reply to the Committee's considerations in relation to the right to strike, the Committee notes the Government's indication that its comments will be presented to the Supreme Council for Social Dialogue to discuss in a tripartite manner and that these comments will be taken into account in the draft law when discussed by the House of Representatives. The Committee further notes the Government's indication that the Senate has just finalized the formulation of the new draft Labour Code in preparation for its final discussion by the House of Representatives and that the Supreme Council for Social Dialogue after its recomposition (in accordance with the recommendations of the Project on promoting labour relations and its institutions in Egypt) shall discuss the draft law and examine the comments before it in order to resolve them, and subsequently refer them to the House of Representatives. **Noting that the draft Labour Code has been pending adoption by the Parliament for many years now, the Committee urges the Government to provide detailed information on the progress made for its final adoption and trusts that, in its final form, the Code will ensure full conformity with the Convention.**

As regards the work on a law regulating domestic work, the Committee notes the Government's indication that it is currently revising the draft law on domestic workers with the social partners and will provide a copy as soon as it is adopted. Although the Trade Union Law has explicitly specified the right of domestic workers to form trade union organizations, the Government indicates that no trade union committee from this category has submitted its papers but that it will continue to disseminate information in this regard. **Recalling that the draft Labour Code excludes domestic workers from its coverage, including the chapters relating to collective labour relations, the Committee requests the Government to provide a copy of the draft law regulating domestic work as soon as it is adopted.**

**[The Government is asked to reply in full to the present comments in 2024.]**

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

(ratification: 1954)

[Previous comment](#)

The Committee takes due note of the Government's detailed reply received on 24 November 2021 to the 2021 observations of the International Trade Union Confederation (ITUC) and Public Services International (PSI), most of which are addressed in its comment under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

*Articles 1, 2 and 3 of the Convention. Adequate protection against anti-union discrimination and interference.* The Committee takes due note of the Government's detailed reply denying the allegations of anti-union discrimination in relation to a number of trade unionists in the process of forming new and independent trade unions and to the various acts of interference. **Noting the Government's previous reply as to the various legislative provisions protecting workers from anti-union**

**discrimination and interference, the Committee requests the Government to provide with its next report statistics on the number of complaints brought under these provisions, the sanctions imposed and remedies provided.**

*Articles 4 and 6. Collective bargaining for public servants not engaged in the administration of the State.* The Committee recalls that its previous comments concerned the exclusion from the scope of application of the draft Labour Code of the right to collective bargaining of civil servants of state agencies, including civil servants of units under local governments. The Committee notes that the Government refers once again to the Trade Union Organizations Law under which all civil workers have the right to form and join unions and to enjoy all the rights and privileges afforded to such organizations, including collective bargaining and consultation to defend their rights. The Government further provides examples of the employees in the Public Transport Corporation, employees at the Ministry of Tourism, as well as employees at the Ministry of Transport that have all benefited from the advantages of collective bargaining. Recalling that the Trade Union Organizations Law does not establish mechanisms and procedures for the engagement in collective bargaining, the Committee notes the Government's reference to Order No. 50 of 2022 which determines the implementing rules governing the exercise of collective bargaining within the administrative body of the State and the preparation of collective labour agreements. The Government further indicates that in order to ensure that State employees who are not engaged in administration, enjoy the right to collective bargaining and collective agreements, the Minister of Labour and the President of the Central Agency for Regulation and Administration (the body which is specialized in matters related to State employees) amended a few provisions in the new draft Labour Code so as to ensure that civil employees in the State are prescribed by clear provisions related to collective bargaining, collective disputes and collective labour agreements. **The Committee trusts that the amendments proposed will ensure that public servants not engaged in the administration of the State have the benefit of appropriate machinery ensuring their engagement in voluntary negotiation with a view to the regulation of their terms and conditions of employment and requests the Government to provide detailed information in this regard.**

*Order No. 50 of 2022.* The Committee takes due note of the efforts of the Ministry of Manpower to establish a framework for the exercise of collective bargaining through the adoption of Order No. 50 of 2022. **In this respect, the Committee requests the Government: (i) to indicate the criteria for determining the trade union organisation entitled to negotiate in the event of the presence of several trade unions within the enterprise; and (ii) observing that the last paragraph of section 5 of the Order provides that if one of the parties at the enterprise level refuses to engage in bargaining, the labour administration may, at the request of the other party, notify the employers' organisation or the general trade union concerned to begin negotiations on behalf of the recalcitrant party, to specify whether, on this basis, an agreement can be concluded despite the opposition of one of the interested parties.**

Finally, the Committee recalls that it has been raising comments relating to restrictions on collective bargaining rights in the Labour Code No. 12 of 2003 for several years, many of which would appear to be addressed in the draft Labour Code. The Committee notes the Government's indication that the Senate has just finalized the formulation of the new draft Labour Code in preparation for its final discussion by the House of Representatives and that the Supreme Council for Social Dialogue after its re-composition (in accordance with the recommendations of the Project on promoting labour relations and its institutions in Egypt) shall discuss the draft law and examine the comments before it in order to resolve them, and subsequently refer them to the House of Representatives. **Noting that the draft Labour Code has been pending adoption by the Parliament for many years now, the Committee urges the Government to provide detailed information on the progress made for its final adoption and trusts that in its final form, the Code will ensure greater conformity with the Convention.**

*Collective bargaining in practice.* **The Committee requests the Government to provide information on the number of collective agreements signed, as well as the sectors involved and the number of workers covered.**

**[The Government is asked to reply in full to the present comments in 2025.]**

## El Salvador

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2006)

#### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE), received on 10 November 2022, which refer to matters examined in the present comment.

The Committee recalls that in its previous comment it expressed concern at the serious allegations made in 2020 by the National Business Association (ANEP), with the support of the IOE, in relation to acts of defamation and intimidation of the President of the ANEP, and of the organization itself. The Committee notes that, in this respect, in communications sent during the course of 2022, the Government indicates that in April 2022 the members of the ANEP freely and independently elected a new President for the period 2021-23. The Government claims that it has respected the independence of the ANEP as an association representing employers and indicates that there has not been any conduct involving harassment, interference or aggression towards the organization. The Committee notes that these matters were examined by the Committee on Freedom of Association in [Case No. 3380](#) and the [Committee on the Application of Standards](#) (hereinafter the Conference Committee) in 2022 and 2023 in relation to the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Committee notes the IOE's indication in its observations that, despite the fact that in 2022 the Conference Committee urged the Government to refrain from any aggression and from interfering in the establishment and the activities of employers' and workers' organizations, in particular the ANEP, the Government has continued to show aggression towards employers' organizations and to interfere in their activities. The Committee notes that in 2023 the Conference Committee urged the Government to immediately cease all acts of violence, threats, persecution, stigmatization, intimidation or any other form of aggression against individuals or organizations in connection with both the exercise of legitimate trade union activities and the activities of employers' organizations, and to adopt measures to ensure that such acts are not repeated, in particular for the ANEP and its members. ***The Committee refers to its comments in relation to Convention No. 144 and urges the Government, in consultation with the social partners, to adopt as soon as possible each and every measure that it has been urged to take by the Conference Committee. The Committee requests the Government to provide information in this regard, with an indication of the measures adopted to guarantee that no other acts of hostility and interference occur against the ANEP or its members and leaders in respect of the freedom of employers to establish organizations of their own choosing, organize their administration and activities and formulate their programmes without interference by the public authorities.***

*Trade union rights and civil liberties. Murder of a trade unionist.* The Committee notes the Government's indication that the Office of the Attorney-General of the Republic is continuing to investigate the case of the murder of Victoriano Abel Vega, which occurred in 2010. The Committee notes that, in its most recent examination of [Case No. 2923](#), the Committee on Freedom of Association deplored the absence of tangible progress towards the resolution of the case more than 13 years since the murder and firmly urged the Government and all the competent authorities to make, in a coordinated manner and as a matter of urgency and priority, all the necessary efforts to expedite and conclude the investigations under way in order to identify and punish as soon as possible both the instigators and the perpetrators of the murder of Victoriano Abel Vega. The Committee refers to the recommendations of the Committee on Freedom of Association in that case (403rd Report, June 2023).

The Committee also notes that, when examining Case No. 3395 in relation to the murder of the trade union leader Weder Arturo Meléndez Ramírez, the Committee on Freedom of Association noted

that a proposal for the reform of the Criminal Code, drafted by the Ministry of Labour and Social Welfare with the aim of improving the protection of freedom of association for trade union leaders and members was under examination by the Ministry for subsequent submission to the Legislative Assembly (404th Report, October 2023). **The Committee invites the Government to provide information on any progress in this regard.**

*Articles 2 and 3 of the Convention. Pending legislative reforms.* For many 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, 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 Public Prosecutors, 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 different trade unions;
- sections 211 and 212 of the Labour Code (and the corresponding provision of the Civil Service Act in respect of 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 Civil Service Act, 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 on the right of workers to freely 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.

Furthermore, recalling that prison staff must enjoy the right to organize, the Committee on Freedom of Association and the Committee of Experts requested the Government to take the necessary measures to ensure full respect of the right of prison staff to organize (Case No. 3321, Report No. 392, October 2020).

The Committee notes the Government's indication that the constitutional and legislative reforms referred to above, including the reform of the Labour Code, are under examination by the Legislative Assembly. The Government emphasizes that in August 2022 the Trade Union Office was established, within the National Department of Social Organizations, and indicates that as of March 2023 credentials were issued through that Office for a total of 122 trade union organizations. The Government indicates that an average of 18 organizations a month were accredited between August 2022 and March 2023, which shows that since the establishment of the Office credentials have been issued within an average of ten days, and that the process may take a maximum of 15 days. The Government emphasizes the firm commitment to undertake more labour reforms over the coming years and expresses its good will to continue convening the social partners to engage in working days jointly with the Higher Labour Council and the National Minimum Wage Council. The Government adds that workers in prisons have established unions within the institution for which they work, which is the Ministry of Justice, and that, although three unions have been registered, they have been without leadership for several years.

The Committee takes due note of this information and of the Government's commitment to undertake labour reforms and continue to convene the social partners to the Higher Labour Council and the National Minimum Wage Council. In this regard, the Committee recalls that, at its session in June 2023, the Conference Committee urged the Government to reactivate, without delay, the full operation of the Higher Labour Council and other tripartite bodies and to ensure the development and adoption, in consultation with the social partners, of clear, objective, predictable and legally binding rules to ensure their effective and independent functioning, without any external interference. Moreover, while welcoming the Government's indications concerning the establishment and operation of the Trade Union Office which, as it emphasizes, has facilitated the processes of issuing credentials for trade unions, the Committee observes that the Conference Committee urged the Government to put a stop to the delays in issuing the credentials of workers' and employers' organizations, including the ANEP, in line with their right to representation. The Committee also notes that the Committee on Freedom of Association made specific recommendations in relation to the excessive requirements for the registration and for issuance of credentials for the executive committees of unions (such as the submission of copies of individual identity documents and pay slips in order to verify whether members of executive committees are nationals of El Salvador by birth or to verify the worker's type of contract) and it requested the Government, in consultation with the most representative trade union organizations, to take the necessary measures to review the rules applicable to the registration of executive committees in order to guarantee the right of organizations to elect their representatives in full freedom and to ensure swift process (Case No. 3258, 393rd Report, March 2021). The Committee further notes the Government's indications in relation to unions in the prison sector and observes that one of the three unions referred to by the Government was the union that made the complaint to the Committee on Freedom of Association, in relation to which the latter requested the Government to take measures to ensure full respect for the right to organize of prison staff.

***The Committee firmly expects to be able to note progress in the near future on all the legislative matters referred to above that have been pending for many years. The Committee reminds the Government that ILO technical assistance is available to it and urges it, following tripartite consultation, to take the necessary measures to ensure the conformity of the provisions referred to above with the Convention. The Committee also urges the Government as soon as possible, in consultation with the social partners, to take the measures that it was urged to adopt by the Conference Committee and that have been requested by the Committee on Freedom of Association. The Committee hopes that the Trade Union Office will play an important role in ensuring the***

***expeditious nature of the processes of registration and issuing credentials for the executive committees of unions and requests the Government to provide statistical data on procedures for the registration of the executive committees of employers' and workers' organizations. Moreover, observing that the case examined by the Committee on Freedom of Association in the prison sector, as referred to above, was filed by a union in the sector, the Committee requests the Government to take the necessary measures to ensure the full recognition of the right to organize of workers in that sector.***

## Equatorial Guinea

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

#### Previous comment

The Committee has been commenting for a number of years on the need for the Government to bring labour legislation into conformity with the Convention and, in its 2020 observation, it urged the Government to provide a full reply in that respect. In particular, the Committee requested the Government to: (i) amend section 5 of Act No. 12/1992 on trade unions and collective labour relations so that enterprise trade unions may be established; (ii) amend section 10 of Act No. 12/1992 so as to reduce the minimum number of workers required for an occupational association to obtain legal personality; (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 the manner in which this right is exercised; (iv) provide information on the services deemed to be essential and the minimum services to be ensured, as provided for in section 37 of Act No. 12/1992; and (v) provide information on whether public servants who do not exercise authority in the name of the State enjoy the right to strike, in accordance with section 58 of the Fundamental Act. The Committee notes the Government's information that the Ministry of Labour, Employment Promotion and Social Protection has set up a Legislative Committee and a General Directorate for Regulations with a view to updating social labour legislation, and that work is currently being carried out to amend the Act on the general labour regulations, the Act on inspections and Act No. 12/1992 on trade unions and collective labour relations, based on the comments and observations of the ILO supervisory bodies; and that the Government hopes that shortly the texts will be discussed with the social partners and shared with the ILO. ***While welcoming the Government's information, the Committee urges the Government to, as soon as possible and in consultation with the social partners, and the technical assistance of the Office, bring the legislation into conformity with the Convention.***

Furthermore, the Committee noted the comments of the International Trade Union Confederation (ITUC) in 2011 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 notes the Government's indication that it regrets that those organizations have not been able to register due to administrative problems and hopes that, even though their applications may have expired under the current law, they can initiate new processes in conformity with the current legislation. ***Taking due note of this information and regretting to note that time has lapsed without the organizations being able to be registered, the Committee urges the Government to provide information relating to these organizations, indicating whether it has been possible to proceed with their registration.***



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

(ratification: 2001)

### Previous comment

The Committee recalls that, further to its urgent appeal in 2020, it was bound to examine the application of the Convention in 2021 in the absence of information from the Government. ***The Committee notes the first report provided by the Government since 2007 on the application of the Convention and encourages it to provide information regularly from now on concerning the application of this fundamental Convention.***

*Article 4 of the Convention. Collective bargaining.* The Committee previously noted the observations of the International Trade Union Confederation (ITUC) concerning the repeated refusal to recognize various unions, namely the Workers' Federation 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. In this regard, it emphasized once again that the existence of freely established trade unions is a prerequisite for the application of the Convention. The Committee notes the Government's indications relating to the establishment of a Legislative Commission and a General Directorate of Legislative Regulation, which are currently working on the amendment of the Act on General Labour Regulation, the Action on Inspections and the Act on Trade Unions and Collective Labour Relations, and its hopes that it will soon be possible to discuss these texts with the social partners and share them with the ILO. The Committee also notes the Government's statement that it regrets that it has not been possible to register the organizations referred to above due to administrative problems and hopes that, despite the fact that their applications have expired under the legislation that is in force, it will be possible to set in motion new procedures under the current legislation. ***The Committee once again urges the Government to take 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 terms and conditions of employment. The Committee also urges the Government once again to proceed without delay to the registration of the trade unions referred to above which, when they have fulfilled the legal requirements, once again apply for registration, and to provide information on this matter in its next report.***

*Article 6. Right of public servants not engaged in the administration of the State to engage in collective bargaining.* The Committee notes the Government's statement that, despite the fact that the Special Act on the Right to Organize of Employees in the Public Administration has not yet been approved, important administrative measures are being adopted with a view to the adoption of legislation on this matter in the near future, and that public employees who are not public servants are already covered by the Act on Trade Unions, the general labour regulations and other labour legislation for the defence of their rights. The Committee also notes the Government's statement that it will soon request ILO technical assistance for the various areas of the world of work. ***The Committee refers to its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and urges the Government to adopt the necessary legislative measures to guarantee the right to organize of workers in the public administration and to provide detailed information on the application of the Convention in respect of public servants who are not engaged in the administration of the State.***

*Application of the Convention in practice.* The Committee notes the Government's indication that it does not have available information on the existence of collective agreements in the country, where the only workers' trade union, the Trade Union of Small-scale Farmers (OSPA), is limited in its operation and only represents the farming sector, but that it hopes to be able to provide this information in the near future.

***Emphasizing with concern the existence of serious shortcomings in compliance with the Convention, the Committee urges the Government to adopt in the near future the measures necessary to enable workers, in law and practice, to bargain collectively their conditions of work through freely***

**established trade union organizations. Taking due note of the Government's intention to continue to avail itself of ILO technical assistance, the Committee trusts that the Government will be able to provide information in the near future on substantial progress in the application of the Convention.**

## Eritrea

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

#### Previous comment

*Civil liberties.* The Committee notes that in reply to its repeated past requests to provide information on how the right of trade unions to hold public meetings and demonstrations is secured in law and in practice, the Government indicates that fundamental human rights, including freedom of assembly and freedom of opinion and expression, are secured under the 1994 National Charter of Eritrea. It adds that trade unionists were able to hold meetings freely on their own premises for the discussion of trade union matters without prior authorization or interference by public authorities. To hold public meetings, organizations must observe the general rules applicable to such gatherings. The Government indicates that the National Confederation of Eritrean Workers (NCEW) has annually conducted May Day processions or demonstrations in support of social and economic demands. The NCEW also attended every meeting of regional African trade unions and international confederations to which they are affiliated. The Government further adds that where trade unionists are arrested or charged for breaching public order, they are entitled to refer the case to the judiciary, with all guarantees of due process of law. Penal procedure guarantees are set out in the Transitional Penal Code of Eritrea and applied in practice. **The Committee requests the Government to provide information concerning the rules that generally apply to public meetings and demonstrations and preservation of public order, and to provide copies of any laws or regulations governing this matter. The Committee further requests the Government to indicate whether organizations other than the NCEW have been able to hold public demonstrations and meetings, including examples as to the dates and approximate size of such demonstrations and meetings, and to provide information concerning the number of trade unionists arrested or charged for breaching the public order, and the sentences imposed in their cases.**

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Compulsory national service.* In its previous comments, the Committee noted that large numbers of Eritrean nationals were denied the right to organize for indefinite periods of their active lives while they were forced to perform work as part of their compulsory national service and recalled 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 and 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. The Committee urged the Government to take all necessary measures to ensure that Eritrean nationals are not denied the right to organize beyond the period of military service, during which they would perform work only of a purely military character. The Government indicates in this regard that the national service is limited to 18 months and large-scale demobilization has taken place by assigning national servicepersons under civil services or other public sector jobs to carry out civilian functions with adequate salary. According to the Government, after the 18 month-service, servicepersons are no longer conscripts but are civil servants and have the right to organize. The Committee notes however, that the report of the United Nations Special Rapporteur on the Situation of Human Rights in Eritrea of 9 May 2023 indicates that: (i) the policy of national service includes a civil service component and compulsory military service component; (ii) no progress has been made towards reforming national service, ensuring that the legal limits for its duration are respected

or protecting the rights of citizens serving in the programme; (iii) the Special Rapporteur identified an upsurge in forced recruitment between mid- and late 2022, when in several regions, reservists over 50 years of age, and according to reports up to 70 years old, were called upon to serve in Tigray and in the border areas with Ethiopia (A/HRC/53/20, paragraphs 27, 30, 34). The Committee notes with **deep concern** that the Government does not indicate any measures taken to review the Proclamation on National Service (No. 82 of 1995) which allows the use of servicepersons in development work; that the national service continues to have a “civil service” component and that the practice of forced conscription for indefinite periods continued and even intensified during the reporting period. ***In view of the foregoing, the Committee once again urges the Government to take all the necessary measures to guarantee that the imposition of national service does not deny Eritrean nationals their right to organize beyond the legal period of service during which they would perform only work of a military nature, through: (i) reviewing the National Service Proclamation with a view to ensuring that servicepersons are not forced to do development or other non-military work as part of their national service, while they are subject to martial law and denied the right to organize; (ii) ensuring that legal limits for the duration of national service are respected in practice and putting an end to forced conscription for indefinite periods. The Committee requests the Government to provide information on any measures taken in this respect.***

***Civil servants.*** In its previous comments the Committee noted that Eritrean law does not guarantee the right of civil servants to organize, as they were excluded from the scope of the Labour Proclamation while the declared process of adoption of a special law governing their status was not progressing. The Committee notes that the Government reiterates its previous indications in this regard, that the freedom of association of civil servants is fully guaranteed as they can form professional associations under sections 404 and 406 of the Civil Code and adds that the drafting process of the civil servants’ code is still in the final stage of approval. The Committee recalls that in its previous comment it noted that Civil Code “professional associations” did not enjoy the same capacity as labour law associations in terms of representation of the occupational interests of their members. Furthermore, these associations cannot form or join trade union federations and confederations, and are susceptible to dissolution by the administrative authority where their “object or activities are unlawful or contrary to morality” (section 415 of the 2015 Civil Code). The Committee also notes the Government’s indication that demobilized conscripts are assigned to civil service and other public service jobs where they enjoy the right to organize, specifying that workers of public or semi-public enterprises are covered under the Labour Proclamation, while civil servants can form associations under the Civil Code. In view of the foregoing, the Committee notes that demobilized conscripts assigned to civil service will not fully enjoy the rights guaranteed by the Convention. ***Noting with regret the lack of progress on this matter, the Committee urges the Government to take adequate normative and practical measures to ensure, that pending the process of adoption of the civil service code, public servants can fully and without further delay enjoy the rights guaranteed in the Convention and establish organizations with full capacity of representing and defending their occupational interests. The Committee requests the Government to provide information on any measures taken in this respect.***

***Domestic workers.*** In its previous comment, the Committee noted that section 40 of the Labour Proclamation, which provides that the Minister may determine by regulation the provisions of the proclamation that shall apply to all or a category of domestic employees, casts doubt on the application of freedom of association guarantees to this group of workers. The Committee therefore requested the Government to either abrogate section 40 or rapidly adopt the regulation referred to therein. The Government indicates that it has no intention of abrogating section 40 but has committed to adopting the regulation concerning domestic employees, and adds that domestic workers are covered by general standards of the Civil Code and are entitled to the rights and freedoms guaranteed in the Labour Proclamation. ***Recalling that domestic workers and their organizations should be guaranteed the full range of the rights enshrined in the Convention, the Committee requests the Government to provide***

**information concerning: (i) any organization representing domestic employees in Eritrea and, (ii) any progress in the adoption of the section 40 regulation concerning domestic workers.**

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

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

### Previous comment

*Articles 1, 2, 4 and 6 of the Convention. Legislative issues. The personal scope of the Convention.* In its previous comments the Committee had noted that Eritrean law does not explicitly provide domestic workers the rights guaranteed under the Convention and that all civil servants, including those not engaged in the administration of the State are excluded from the scope of the Labour Proclamation and no other special law provides them with the rights guaranteed by the Convention. The Committee notes that regarding domestic workers the Government indicates that it is because of the personal nature of the services rendered by these workers and the isolation in which they work that the law gives the Minister the power to issue a regulation specifically applicable to them and reiterates that the process of drafting the regulation that will afford domestic workers the rights enshrined in the Convention is still underway. The Government further indicates that the 2015 Civil Code also includes certain provisions on the rights of domestic employees. The Committee notes that the 2015 Civil Code contains provisions on the contract of domestic employment without however covering the rights to organize and collective bargaining. Concerning civil servants not engaged in the administration of the State, the Government reiterates that they will have access to the right to organize and collective bargaining upon the adoption of the Civil Service Code, and in the meantime, the provisions of the Civil Code shall apply to them. The Committee notes that section 2182 of the Civil Code refers to the determination of the procedure for collective bargaining, the form and content of a collective agreement, and its duration according to special legislation, namely sections 99-114 of the Labour Proclamation No. 118/2001 (LP). Whereas civil servants not engaged in the administration of the state and domestic workers are not covered by these provisions, the Committee notes with **concern** that Eritrean law still fails to guarantee these two groups of workers the rights enshrined in the Convention. **The Committee therefore urges the Government to accelerate the process of adoption of the Ministerial Regulation concerning domestic workers and the Civil Service Code and to ensure that the rights enshrined in the Convention are duly guaranteed in this framework. It requests the Government to provide information on any measures taken in this respect and to communicate the relevant legislative drafts.**

*Adequate protection against anti-union discrimination and acts of interference.* In its previous comments, the Committee had noted that the LP neither provides for remedies in case of anti-union discrimination at recruitment and during employment, nor for reinstatement of union members other than leaders dismissed for union membership or activities. It had further noted that legal compensation and sanctions against anti-union discrimination and acts of interference are inadequate. The Committee notes that the Government indicates in this regard that the Ministry of Labour and Social Welfare is engaged to finalize the amendments of the LP concerning protection against anti-union discrimination during employment and the compensation provided. Concerning sanctions against acts of interference and anti-union discrimination, the Government indicates that these acts are unfair labour practices entailing punishment and it is up to the complainant or the labour inspector to file a suit in the First Instance Labour Court of Eritrea in this regard. The Government also once again refers to the provisions of the Transitional Penal Code of Eritrea (TPC) concerning “petty offences” as legal basis for further applicable sanctions. The Committee notes however that section 692 of the TPC refers to penalties provided in special legislation, namely a fine not exceeding 1,200 Nakfa – US\$80 – pursuant to section 118(5) of the LP. The Committee is bound to note that this fine cannot be considered an effective or dissuasive sanction. **The Committee therefore once again urges the Government to review the Labour Proclamation with a view to: (i) providing adequate protection against anti-union discrimination to all**

**workers at every moment of the employment relationship, including recruitment, during employment and at its termination; (ii) ensuring that adequate compensation is provided to victims both in occupational and financial terms; and (iii) modify section 118(5) of the LP, with a view to providing effective and sufficiently dissuasive sanctions against anti-union discrimination and acts of interference. It requests the Government to provide information on any measures taken in this respect.**

*Articles 4, 5 and 6. Promotion of collective bargaining. Compulsory national service.* In its previous comments, the Committee had noted that during the compulsory national service, which is of indefinite duration and contains both a military and a civilian component, Eritrean nationals were deprived of their right to collective bargaining. The Committee notes the Government's indication that while conscripts are excluded from the right to collective bargaining during the service of purely military character, those who perform national service in state-owned enterprises have bargaining rights equal to that of other workers, and those who work in other public sector positions can exercise their rights under the Civil Code. The Committee considers that the servicepersons who perform non-military work in public service positions and are not engaged in the administration of the State should have the right to collective bargaining and notes that the Civil Code does not provide a framework for collective bargaining. As to the duration of the service, the Committee notes that pursuant to the report of the UN Special Rapporteur on the Situation of Human Rights in Eritrea it continues to be indefinite, both in its military and civilian components (A/HRC/53/20, paragraph 27). In view of the foregoing, the Committee notes that all persons performing compulsory national service, with the probable exception of those assigned to work in state-owned enterprises, continue to be deprived of their right to collective bargaining for periods that have no limitation in practice. **The Committee therefore urges the Government to ensure that Eritrean nationals are not denied their right to bargain collectively beyond the scope of the exceptions set out in Articles 5 and 6 of the Convention. The Committee requests the Government to provide information on any measures taken in this respect.**

*Promotion of collective bargaining in practice.* In its previous comment, the Committee had requested the Government to take action to promote free and voluntary collective bargaining and to provide updated information on collective agreements concluded and in force. The Committee notes that the Government merely repeats information provided in its previous report. **The Committee therefore once again requests the Government to: (i) take action to promote free and voluntary collective bargaining and to inform on the initiatives taken in this respect; and (ii) provide updated information on the number of collective agreements concluded and in force disaggregated by the sectors concerned, the names of employers' and workers' organizations party to those agreements and the number of workers covered.**

**The Committee reminds the Government of the possibility to avail itself of ILO technical assistance regarding the issues raised in this comment.**

**[The Government is asked to reply in full to the present comments in 2024.]**

## Estonia

### Workers' Representatives Convention, 1971 (No. 135) (ratification: 1996)

*Article 2 of the Convention. Facilities afforded to workers' representatives in the enterprise.* The Committee notes the adoption and entry into force on 22 November 2021 of the amendments to the Act on Trade Unions and the Act on Staff Representatives. The Committee notes with **interest** that the above-mentioned amendments provide for an increase in accredited hours to be attributed by the employer to the staff representatives to carry out their functions, in the event that there is more than one staff representative in any given enterprise.

## Eswatini

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

#### Previous comments

The Committee notes the observations received on 4 September 2023 from the Trade Union Congress of Swaziland (TUCOSWA), on 27 September 2023 from the International Trade Union Confederation (ITUC) and the International Transport Workers' Federation (ITF) and on 28 September 2023 from Education International (EI), all denouncing the deteriorating state of trade-union rights and the excessive violence of the police forces against gatherings and marches organized by trade unions, the harassment and death threats against union leaders, and the murder of Mr Thulani Maseko, a human rights and trade union rights defender. The Committee notes the Government's reply to these observations, as well as to observations received in 2019 from TUCOSWA providing information on the report of the Committee of investigation set up to hear the cases and make recommendations. The matters raised in the above communications are addressed in this comment.

*Civil liberties and trade union rights. Anti-union repression.* The Committee notes with **deep concern** the serious allegations from the ITUC and ITF regarding the persecution and murders of trade unionists and the excessive violence against strikers that increased in 2022 and 2023, with allegedly more than 80 people reported to have lost their lives because of police crackdown on protests that demanded democracy and wage increases. In its reply, the Government refers to the situation in the country since June 2021 with an outbreak of violence, looting, attacks on public and private property and ruthless killings of public officers and civilians in a gross breach of public peace and security. According to the Government, these unprecedented riots, looting and violence could be associated with political insurgencies and should not be associated with the exercise of rights under the Convention. Investigations into these acts are still ongoing to identify and punish the perpetrators. The ITUC and ITF further allege that Mr Thulani Maseko, a human and trade union rights lawyer was brutally shot on 23 January 2023 at his home in Manzini. To date, no arrest in connection to this murder has been made. In its reply, the Government indicates that the death of Mr Maseko was a loss for the country at large, however political opportunists have saturated social media with stories about the motive and alleged perpetrators of this assassination. As regards the allegations that the police and security forces intervened violently during protest actions organized by the Swaziland Transport, Communication and Allied Workers' Union (SWATCAWU) (October 2021 and November 2022) and during a march of public sector workers demanding a wage increase (October 2021) and causing serious casualties among workers, the Government states that the protest October 2021 was by no means peaceful. In the capital city of Mbabane, a large group of protesters was demanding regime change and causing structural damage, looting and burning tyres on the highway. The situation was out of control and the police had to mount several check points and roadblocks at strategic places. The police applied minimum force to disperse the protestors and restore order, warning shots were fired in the air and tear gas was discharged against the protestors who had turned violent towards the police. During the commotion, a person was shot and died on arrival at hospital. In November 2022, after a court ruling against five public transport workers charged with assault, a group of workers who had gone to protest around the court premises shifted to the surrounding areas burning tyres and looting shops. The police had to disperse the crowd in an effort to restore order. Finally, as regards allegations that the personal assets of leaders of the Amalgamated Trade Union of Swaziland (ATUSWA) were ravaged in April 2022, a week after a protest action in the textile and garment industry, the Government states that there were numerous burnings of homes and buildings belonging to political figures, influential people, police officers and targeted individuals. The police are still investigating the incidents. The Committee recalls that the rights of workers' and employers' organizations can only develop in a climate free of violence, threats and pressure, and that it is for the Government to guarantee that these rights can be exercised

normally. It further recalls that *Article 8* of the Convention provides that workers and their organizations, like other persons or organized collectivities, shall respect the law of the land and that the law of the land shall not be such as to impair, nor shall it be so applied so as to impair, the guarantees provided for in this Convention. The authorities should resort to the use of force only in situations where law and order is seriously threatened. The intervention of the forces of order should be in due proportion to the danger to law and order that the authorities are attempting to control, and governments should take measures to ensure that the competent authorities receive adequate instructions so as to eliminate the danger entailed by the use of excessive violence when controlling demonstrations which might result in a disturbance of the peace. Where investigations have concluded abuse, the absence of convictions against those guilty of crimes against trade union officers and members creates, in practice, a situation of impunity, which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights. ***The Committee requests the Government to provide copies of the court decisions against the five public transport workers charged with assault, as well as information on the outcome of the police investigations mentioned above.***

*Harassment in the education sector.* The Committee notes with **deep concern** the serious allegations from the ITUC, ITF, EI and TUCOSWA of violations of trade union rights in the education sector, in particular against the Swaziland National Association of Teachers (SNAT): (i) serious acts of anti-union discrimination against and harassment of Mr Mbongwa Dlamini, President of SNAT, since his election at the head of the teachers' union. Through the Teaching Service Commission (TSC), the authorities harassed Mr Dlamini with misconduct charges, leading to decisions of suspension of pay and transfer. Despite a decision of the Industrial Court dated May 2023 in favour of Mr Dlamini, who has not been paid since September 2022, the authorities have still failed to pay him and have appealed the court decision. Mr Dlamini has now been dismissed from his duties by the Teaching Service Commission as he was expected to go to work without being remunerated. EI denounces the dismissal of the President of SNAT for merely bearing his mandate as representing teachers; (ii) in February 2023, Mr Dlamini went into hiding after receiving multiple death threats while he was outside of Eswatini. This decision was made after the assassination of the human rights lawyer, Thulani Maseko. The SNAT executive determined that it was necessary for the union President to relocate to a safe place outside the country; (iii) the TSC is now allegedly threatening the Secretary General of SNAT, Mr Lot Mduduzi Vilakati, for defending the President and SNAT members; (iv) the authorities refused in 2023 to implement the 3 per cent increase in dues for SNAT members and also refused to include new members recruited by SNAT. According to EI, this is a move by the Government to reduce the membership of SNAT to less than 50 per cent so that they can deregister the union. New members are not put in the system and members are removed from the system by the Government without the members' knowledge; (v) the Government continues to initiate and encourage union-bashing as seen in the Government sponsored splinter groups, casualization of teachers, print and electronic media threats against SNAT, suspension of union officials, implementation of the "no work no pay" policy, use of threats, spying, and vilification of SNAT leaders and members. The consequences of the Government's deliberate actions to weaken SNAT, lead to increased intimidation, a decrease in SNAT membership, an increase in conflicts and grievances in schools, incapacitated leadership leading to a fear of assuming union positions, and low turnout in union activities; (vi) violent repression by the police against protests and a march organized by SNAT between 2018 and 2019; (vii) EI is alarmed by the threats made against SNAT and its members, including the declaration of SNAT as a terrorist entity by people holding high positions in Eswatini; and (viii) Ms Xolile Mnisi Sacolo, Chairperson of the Limkokwing Branch of the National Workers Union of Higher Institutions (NAWUSHI), appealed against a predetermined disciplinary action targeting her as a union official was wrongfully dismissed by a court decision in August 2023 on claims that she was causing delays.

In its reply, the Government denies the allegations that Mr Mbongwa Dlamini, President of SNAT, was forced into exile following threats by security forces and asserts that he is actively participating and

engaging in union activities. Furthermore, the Government states that there is no criminal matter pending against Mr Dlamini, nor is there an arrest warrant issued or pending. Additionally, the judicial appeal against the Industrial Court decision of May 2023 in favour of Mr Dlamini is still pending before the High Court. Regarding its alleged attempt to stop collection and remittance of the union dues, the Government declares the allegations as fallacy and untrue. The Government and SNAT have a clear and standing Recognition Agreement that dates back many years, which it fully respects.

With regard to the allegations of threats against the leadership of SNAT, the Committee firmly recalls that acts of intimidation and physical violence against trade unionists constitute a grave violation of freedom of association and the failure to protect against such acts amounts to de facto impunity, which can only reinforce a climate of fear and uncertainty highly detrimental to the exercise of trade union rights. **The Committee urges the Government to provide its comments to the remaining allegations, to indicate any measures taken to enable SNAT to develop its activities in the education sector without threats against its leadership or interference, on the present status of Mr Mbongwa Dlamini who was allegedly harassed and threatened because of his union mandate, and on the outcome of the judicial appeal against the decision of May 2023 of the Industrial Court in favour of Mr Dlamini and any follow-up to it.**

*Article 3 of the Convention. Ban on trade union gatherings by administrative order.* The Committee notes with **concern** the allegation from all of the above-mentioned trade unions that the rights of the freedom of assembly of workers' organizations is considerably restricted as the laws regulating gatherings are suspended by an administrative order of October 2021 of the Ministry of Housing and Urban Development, which extended the ban on demonstrations, marches and petition deliveries in all urban areas and towns. The said ministerial order revoked the powers of Municipal Councils to entertain gathering notices. The situation is akin to an undeclared state of emergency as the police can only allow up to three people to march. Despite a court ruling lifting the ban in February 2022, the Government allegedly continues to prohibit and cracks down on gatherings and protests. This matter remained unresolved at the mediation. In the midst of a voluntary conciliation meeting to resolve the issue in July 2023, the Government issued a public announcement, purporting a relaxation of the ban, thereby allowing the Municipal Councils, as of 18 July 2023, to issue permits for gatherings not exceeding ten people. TUCOSWA recalled however that the Public Order Act, 2017, permits the gathering of not more than 50 people without notice requirements. The trade unions regretted that trade union gatherings remain banned in Eswatini.

In this regard, the Committee recalls that trade unions should be able to hold meetings, in accordance with the principle embodied in *Article 3 of the Convention*, whereby organizations have the right to freely organize their activities without interference from the authorities. The authorities should refrain from any interference which would restrict freedom of assembly or impede the lawful exercise thereof, provided that the exercise of these rights does not cause a serious and imminent threat to public order (see [the General Survey of 2012 on the fundamental Conventions](#), paragraph 115). The Committee also considers that trade unions must conform to the general provisions applicable to all public meetings and must respect the reasonable limits which may be fixed by the authorities to avoid disturbances in public places. **Consequently, the Committee urges the Government to take all necessary measures to ensure in law and in practice that representative organizations fully enjoy the right to hold public meetings enshrined in the Convention, and therefore to repeal any text whose application would considerably limit the possibilities of representative organizations to hold large-scale public meetings to defend the occupational interests of their members.**

*Police violence against industrial actions. Findings of the Investigation Committee.* The Committee previously requested the Government to provide information on the outcomes of the examination by the Independent Investigation Committee of the complaints made in September 2018 and September 2019 by TUCOSWA and the ITUC on the alleged violence against peaceful industrial actions. The Committee notes that the Investigation Committee recommended, inter alia, the following: (i) training



of lower ranked police officers, the union leadership and Marshalls, and the public at large in trade union rights and the handling of industrial actions; (ii) both police and union leadership should commit to upholding the law during industrial actions and develop a culture of cooperation; (iii) video recording of industrial actions should be considered for review purpose; and (iv) an independent monitor (individual or organization) should be involved in the preparation during the industrial action.

The Committee notes that in parallel to this investigation process, the Government and TUCOSWA negotiated and agreed in May 2023 to resort to a national voluntary conciliation on matters giving rise to a complaint lodged before the Committee on Freedom of Association (Case No. 3425 presented by TUCOSWA in March 2022), and those addressed in this comment. The Committee observes, from the report of the conciliation issued in September 2023, that the parties agreed to avail themselves of the technical assistance of the Office regarding the regulatory and practical issues concerning the handling of industrial action and public gatherings organized by trade unions.

The Committee recalls that allegations of police violence while handling trade union demonstrations have been recurrent in the past years and that the Government has benefited from the technical assistance of the Office for the adoption and the dissemination of the Code of Good Practice for Industrial and Protest Actions (Legal Notice No. 202 of 2015), the Code of Good Practice on Gatherings (Legal Notice No. 201 of 2017) and the Public Order Act of 2017, as a capacity-building strategy of the various stakeholders on how industrial and protest actions can be well managed in the country, in order to minimize unwarranted confrontations between protestors and members of the law enforcement agencies and Municipal Councils. In its 2019 report, the Government reported plans for the sensitization of members of Parliament, Cabinet Ministers and executive leaders of trade unions in this regard. The Committee acknowledges the tangible measures taken by the Government in 2022 and 2023 to investigate the matters previously raised by the unions and to seek corrective measures. ***Taking note of the recommendations of both the Investigation Committee and the national voluntary conciliation, the Committee expects that the Government will take measures without delay and in consultation with the social partners for the dissemination of codes of good practices so that trade union rights to engage in protest and industrial action in defence of occupational interests are indeed protected, both in law and practice. The Committee hopes that the Government will avail itself of the technical assistance of the Office in this regard. The Committee requests the Government to report fully on progress made in this regard and once again requests that the Government also provides information, where appropriate, on violations identified and penalties imposed pursuant to section 49(1) of the Police Service Act, No.22 of 2018 (disciplinary action against abuse of power by members of the police).***

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

***[The Government is asked to reply in full to the present comments in 2025.]***

## Ethiopia

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)

#### [Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021, as well as those of Education International (EI), received on 31 August 2023 concerning matters examined in this comment.

## Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (the Conference Committee) concerning the application of the Convention and examines the effect given to its conclusions below.

*Articles 2 and 5 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The right to establish and join federations and confederations.* The Conference Committee called upon the Government to amend section 3 of the Labour Proclamation No. 1156/2019 (LP) to recognize and guarantee the right to organize for the categories of workers excluded from its scope. The Committee recalls that section 3(2) of the LP excludes the following categories of employment relations or workers in both public and private sectors from its scope: (a) contracts for the purpose of upbringing, care or rehabilitation; (b) contracts for the purpose of educating or training other than apprentices; (c) managerial employees; (d) contracts of personal (domestic) service, and (e) employees of state administration, judges, prosecutors and others whose employment is governed by special laws. The Committee notes that, regarding domestic workers, section 3(3)(c) of the LP provides that the Council of Ministers shall issue a Regulation governing their conditions of work. The Committee further notes that certain excluded groups such as teachers have formed “professional associations” governed by the Organizations of Civil Societies Proclamation No. 1113/2019 (CSOP), but that according to the ITUC and EI, these organizations cannot join federations and confederations. The Committee notes the Government’s indication that every effort will be made to solve the problem by conducting a research-based discussion with the stakeholders using the newly created platform relating to the inclusion of the right to establish and join organizations in the special laws governing the conditions of work of excluded workers. The Committee notes with **concern** that four years after its previous examination of the application of the Convention in Ethiopia and two years after the Conference Committee discussion, no concrete measures have been taken to recognize and guarantee the right of excluded workers and employers to establish and join organizations. **Recalling that the only possible exception to the application of the Convention pertains to the members of the police and the armed forces, the Committee urges the Government to either amend section 3 of the LP or adopt adequate legal provisions to recognize and guarantee the rights enshrined in the Convention to the excluded categories of workers and employers. The Committee requests the Government to provide detailed information on the steps taken in this respect.**

*Civil servants.* The Conference Committee requested the Government to provide information on the status of the ongoing civil service reform as regards the granting of the right to organize to all civil servants. The Committee previously noted that the Government had repeatedly affirmed its readiness to address the matter and that, in full consultations with the social partners, it would 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. The Committee notes with **concern** that the Government does not report any progress in this regard but only indicates that civil servants can form “professional associations” and that the Government is still in the process of studying and discussing measures to ensure their right to organize. The Committee further notes that the “professional organizations” formed under the CSOP do not appear to enjoy important rights specific to employers and workers’ organizations, such as the right to represent their members in labour relations and to establish or join federations and confederations, whereas these rights are defined within the framework of the LP only. **The Committee is therefore bound to urge the Government to take the necessary measures, in full consultation with organizations representing the employees concerned, to recognize and guarantee the right to organize of all civil servants, including employees of state administration, teachers in public schools, care workers, judges, prosecutors and managerial workers and to provide information on any progress in this respect.**

*Teachers.* The Conference Committee called upon the Government to take all necessary measures, in law and in practice, to ensure that teachers' trade unions are registered and recognized as such and can join other trade unions. The Committee notes the Government's indication that the National High Court ruled that, due to the existence of a professional association previously registered under the name of the National Teachers' Association (NTA), no other association could be registered under this name. The Committee also notes the Government's submission to the Conference Committee that the Ethiopian Teachers' Association (ETA), an affiliate of EI which has more than 600,000 members, has been registered since 1949 and operates for the advancement of teachers' rights and interests. The Committee notes that according to the EI, the ETA is unable to become a member of the Confederation of Ethiopian Trade Unions because of the exclusion of workers involved in education and training from the coverage of the LP. It further notes the ITUC's indication that while the registration request of the NTA appears to have failed, the ETA is only recognized as an occupational organization, although it has been requesting recognition as a trade union for a long time to be able to fully represent its associates in collective bargaining and to join a trade union confederation; however, in absence of legislative reforms, such recognition remains impossible. The Committee recalls that in May 2013, in the framework of the Joint Statement on the Working Visit of the ILO Mission, the Government had committed itself to registering the NTA under the Charities and Societies Proclamation (the predecessor of the CSOP). The Committee notes with **regret** that despite this longstanding formal commitment of the Government, the NTA has not succeeded in obtaining registration. The Committee notes that the legal issues raised in relation to the full recognition and guarantee of Ethiopian teachers' right to organize are due to: (i) the exclusion of private and public sector teachers from the scope of the LP and, (ii) the inadequacy of the guarantees granted to teachers' associations governed by the CSOP, which do not allow the ETA to join a confederation or represent its members in collective bargaining. **Therefore, the Committee urges the Government to, in full consultation with the social partners, review the legislation with a view to giving full recognition and guarantee to the rights of private and public sector teachers under the Convention. The Committee requests the Government to provide information on any steps taken in this respect.**

*Articles 2 and 7. Right to establish organizations without previous authorization, conditions of recognition of legal personality.* The Conference Committee called upon the Government to revise section 59.1(b) of the CSOP in order to ensure that the grounds for refusal of trade union registration are not excessively broad. The Committee notes that section 59.1(b) provides that the Civil Societies Organization Agency shall refuse to register an organization where it finds that the aim of the organization or the activities description under its rules are contrary to law or public morals. The Committee notes with **regret** that the Government does not provide any information in this regard, while in its written submission to the Conference Committee it had indicated that this provision primarily aims to prevent wrongdoing by civil society organizations and NGOs. The Committee further notes that pursuant to section 61 of the CSOP, the acquisition of legal personality depends on registration. The Committee once again recalls that registration should be a simple formality and should not amount to a requirement of prior authorization for establishment of organizations, and that "public moral grounds" constitute too wide and vague a ground for refusal of registration and acquisition of legal personality, giving an excessively broad discretion to the authorities to block the registration and acquisition of legal personality for organizations. **Therefore, the Committee once again requests the Government to take the necessary measures to revise section 59.1(b) of the CSOP with a view to removing "contrary to public morals" as grounds for refusal of registration of an organization and to provide information on the steps taken in this respect.**

*Article 3. Right of organizations to organize their administration and activities and to formulate their programmes. Essential services.* In its previous comments the Committee requested the Government to take the necessary measures to delete air transport and urban light rail transport services from the list of essential services. The Committee notes the Government's indication that currently, light rail

transport constitutes the main means of transportation for large numbers of people in urban areas and would be deleted from the list of essential services when other public transportation options start being widely used. 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 once again that the Government take the necessary measures so that the air and urban light rail transport services are deleted from the list of essential services in section 137.2(a) and (d) of the LP 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 steps taken or envisaged in this respect.**

*Quorum required for a strike ballot.* The Committee notes that section 159.3 of the LP requires that a decision to take a strike action must be supported by a simple majority of the workers concerned in a meeting attended by at least two-thirds of the trade union members. The Committee recalls that it requested the Government to revise the legislation, with a view to reducing the two-thirds quorum required for the strike ballot, which may unduly hinder the possibility of calling a strike. The Committee notes the Government's indication that the right to strike would not be effective in the absence of support by the majority of workers. Recalling that strikes are essential means available to workers and their organizations to protect their interests, the Committee considers that where the law requires a vote by workers before a strike can be held, account should be taken only of the votes cast and the required quorum and majority should be fixed at a reasonable level. The observance of a quorum of two-thirds of union members may be difficult to reach and can unduly hinder the right to strike in practice. **Therefore, the Committee once again requests the Government to take the necessary measures to amend section 159.3 of the LP and to provide information on the steps taken in this respect.**

*Article 4. Dissolution and suspension of organizations by the administrative authority.* The Conference Committee called upon the Government to make sure that the appeal of members, founders or managers against dissolution of their organization by administrative decision has suspensive effect. The Committee notes that section 77.4 of the CSOP gives the Director General of the Civil Societies Organization Agency the power to order the suspension of the activities of an organization for a period not exceeding three months, when investigation has revealed a grave violation of the law in relation to those activities. A right to appeal of the organization to the board of the Agency and then to the Federal High Court is provided in section 77.5. The power of the Director General to suspend the activities of the organization is also provided under section 78.4, in case an organization does not alter or rectify its practice after receiving a strict warning. In this case, the suspension order can entail the dissolution of the organization unless it has been lifted by the Board of the Agency or by court order. Section 78.5 of the CSOP provides for a right to appeal to the Federal High Court for the members, founders or managers of the organization dissolved by decision of the Board. The Committee notes with **regret** that the Government does not provide any information regarding the suspensive effect of appeals, and recalls that the dissolution and suspension of trade union organizations constitute extreme forms of interference by the authorities in the activities of organizations and should therefore be accompanied by all the necessary guarantees. This can only be ensured through a normal judicial procedure, which should also have the effect of a stay of execution (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 162). **Therefore, the Committee requests the Government to take the necessary measures to amend the CSOP so as to ensure that the appeal against such administrative decisions has suspensive effect. The Committee requests the Government to provide information on the steps taken in this respect.**

The Committee reminds the Government of the possibility of availing itself of ILO technical assistance regarding the issues raised in this comment.

**[The Government is asked to reply in full to the present comments in 2024.]**

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

(ratification: 1963)

### Previous comment

*Articles 1–6 of the Convention. Personal scope of the Convention.* In its previous comment the Committee had requested the Government to amend section 3 of Labour Proclamation No. 1156/2019 (LP) or adopt other adequate legislative provisions to recognize and guarantee the rights enshrined in the Convention to the categories of workers excluded from the scope of the LP. Section 3(2) of the LP excludes the following employment relations or workers in both public and private sectors from its scope: (a) contracts for the purpose of upbringing, care or rehabilitation; (b) contracts for the purpose of educating or training other than apprentice; (c) managerial employees; and (d) contracts of personal (domestic) service. The Committee notes the Government's indication in this regard that it will continue its efforts to ensure the protection of the right to organize and collective bargaining by conducting research-based discussions with social partners about the necessity and inclusion of such right in the special laws governing the working conditions of excluded categories. The Committee notes with **concern**, that the Government does not report any progress regarding this longstanding issue. The Committee recalls that the Convention applies to all workers, with the sole exception of members of the police and the armed forces and public servants engaged in the administration of the State and that workers in care, education and domestic work sectors, as well as managerial employees should be guaranteed all the rights enshrined in the Convention in law and in practice. **Based on the above, the Committee urges the Government to take the necessary measures to ensure that the categories of workers and employers excluded from the scope of the Labour Proclamation are guaranteed the rights enshrined in the Convention, either by amending section 3(1) of the Labour Proclamation, or through the adoption of adequate provisions in the special laws that apply to those categories. The Committee further requests the Government to: (i) communicate the texts of the special laws that govern the working conditions of excluded categories, including any Council of Ministers Regulation concerning "personal services" (domestic work) that may be adopted pursuant to section 3.3(c) of the Labour Proclamation; and (ii) to provide information on any steps taken to extend legal protection to the excluded categories.**

*Article 2. Adequate protection against acts of interference.* In its previous comment, the Committee had noted that the LP does not provide specific protection against acts of interference and had requested the Government to take measures in this regard. The Committee notes with **regret** that the Government does not provide any information in this regard. The Committee recalls that to provide the guarantees enshrined in *Article 2* of the Convention, the law should prohibit acts of interference, for instance acts designed to promote establishment of workers' organizations under the domination of an employer or an employers' organization, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations. Express provision should also be made for rapid appeal procedures, coupled with effective and dissuasive sanctions ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 194–197). **Based on the above, the Committee requests the Government once again to take the necessary legislative measures, in full consultation with the social partners, to prohibit acts of interference and provide for rapid appeal procedures, coupled with effective and dissuasive sanctions against such acts. It requests the Government to provide information on any measures taken in this respect.**

*Articles 4–6. The personal and material scope of the right to collective bargaining. Religious and charitable organizations.* In its previous comment, the Committee had requested the Government to amend section 5(1) of the Council of Ministers Regulation No. 342/2015, which dispensed religious and charitable organizations from the obligation to enter into collective bargaining concerning wage and benefits with their employees in charge of administrative or charity work. The Committee notes the

Government's indication that the rationale behind section 5(1) is that it is unethical and impracticable to allow negotiations concerning salary and benefits in non-profit organizations which are funded by donations from various bodies to do religious and charity work. The Government adds that charitable and religious organizations with better financial capabilities, may apply section 5(2) of Regulation No. 342/2015 which provides that increments of wages, benefits, incentives and other similar matters may be governed by work rules or employment contracts. The Committee notes with **concern** that the Government does not report any progress on this longstanding issue, which has been the object of its comments since 2006, when the draft regulation was first brought to its attention. The Committee recalls that the Convention covers employees of non-profit organizations, and that the right to collective bargaining provided in *Article 4* of the Convention covers "terms and conditions of employment", and that wages and benefits are essential elements of such terms and conditions. The non-profit nature of the activities of the employer organization, or the fact that it is mainly funded by donations, do not justify the deprivation of its employees from their rights to collective bargaining under the Convention. **The Committee therefore urges the Government to take all the necessary measures to amend section 5 of the Council of Ministers Regulation No. 342/2015 to bring it into conformity with the Convention and to provide information on any steps taken in this respect.**

*Articles 4 and 6. The right to collective bargaining of public servants not engaged in the administration of the State, including teachers in public schools.* In its 2003 observation, the Committee had noted that the newly adopted Federal Civil Servants Proclamation (FCSP) No. 262/2002 did not guarantee the right of public servants not engaged in the administration of the State to collective bargaining. The Committee notes that the FCSP currently in force (No. 1064/2017) equally fails to guarantee this right. The Committee further notes that in its observations concerning the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the International Trade Union Confederation indicates that the Ethiopian Teachers' Association (ETA), which is recognized only as an occupational organization, has, due to legal and practical obstacles, failed to gain recognition as a trade union and therefore remains unable to represent its associates in collective bargaining. For several years the Government has reported that a comprehensive civil service reform is underway, without however indicating any progress regarding the guarantee of the right of public servants to collective bargaining. The Committee notes with **regret** that in its latest report the Government once again has failed to indicate any progress concerning this matter. **The Committee therefore urges the Government, in full consultation with organizations representing the public employees concerned, to take the necessary legislative measures to fully recognize and guarantee the right to collective bargaining of public servants not engaged in the administration of the State and to provide information on any measures taken in this respect.**

## Fiji

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2002)

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 supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government and the social partners this year, as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019 and 15 September 2020 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. **While duly noting the context of the current COVID-19 pandemic, the Committee trusts that the direct contacts mission requested by the Conference Committee will be able to take place as soon as the situation so permits and, if possible, 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, however, the 2020 ITUC allegations that Mr Anthony is currently charged with one count of malicious acts under the Public Order Act, 1969 in relation to his trade union activities following the mass termination of 2,000 workers' contracts by the Fiji Water Authority in April 2019, which led to protests and the arrest of trade unionists and union members, including Mr Anthony. The ITUC alleges that Mr Anthony was to appear before the court on 1 September 2020 and if convicted, he could receive a fine of up to US\$2,500 or be imprisoned for up to three years. The Committee notes the Government's reply that the arrest and subsequent criminal prosecution of Mr Anthony are not a targeted attack but a matter that is criminal in nature and that the presiding court will make a determination on the criminal charges and penalties imposed, if any. The Committee further notes with **concern** 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. Furthermore, the Committee firmly**

***expects that any charges against Mr Anthony related to the exercise of his trade union activities will be immediately dropped.***

*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 Joint Implementation Report.* 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 notes from the resolutions adopted at the 48th biennial delegates conference of the FTUC provided by the Government in its supplementary report that: (i) the FTUC maintains its position on boycotting participation in any tripartite forums until its role as an important stakeholder with sincere engagement is recognized; and (ii) the FTUC expresses concern about the Government's failure to uphold its commitment to engage in genuine social dialogue and to take any positive action to review the labour legislation, and denounces the way in which the Ministry of Employment, Productivity and Industrial Relations has handled the review process. The Committee further observes 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. Finally, the Committee welcomes the Government's indication in its supplementary report that a detailed Plan of Action with timelines was elaborated with the ILO Country Office in September 2020 to give guidelines to the tripartite partners and the Plan of Action enumerates issues to be addressed in order to implement recommendations of the ILO supervisory mechanisms, including the reconvening of the ERAB, the ERA matrix, the reform of the essential services list, training and sensitization of the police on civil liberties and freedom of association, as well as the organization of the direct contacts mission. ***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 and the September 2020 Plan of Action, 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 ITUC and 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 and the September 2020 action plans, 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 been requesting 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). In this regard, the Committee observes, from the resolutions adopted at the 48th biennial delegates conference of the FTUC provided by the Government in its supplementary report, the concerns expressed by the FTUC about the inefficiency of the Arbitration Court and the Employment Tribunals, as well as the need to improve the current dispute resolution system in order to reduce considerable delays in resolving disputes. **The Committee therefore urges the Government 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 urges 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.***

*Article 4. Dissolution and suspension of organizations by administrative authority.* The Committee notes the ITUC allegations that in February 2020, the Government suspended five trade unions for failing to submit their annual audited reports and indicated that they faced penalties and deregistration if they continued to fail to comply with the legislation (the Hot Bread Kitchen Employees Trade Union, the Fiji Maritime Workers Association, the Viti National Union of I-taukei Workers, BPSS Co Limited Workers and Carpenters Group of Salaries Association and the I-taukei Land Trust Board Workers Union). According to the ITUC, such arbitrary measures represent a clear attempt at quashing independent trade unions and the legislation does not provide for sufficient guarantees for trade unions to operate without undue interference by the authorities, as demonstrated by section 128(3) of the ERA, which gives the Registrar excessive power to request detailed and certified accounts from the treasurer at any time. The Committee notes that the Government refutes this allegation as baseless and untrue and asserts that any suspension of trade union activity is done in accordance with section 133(2) of the ERA. With regard to the mentioned trade unions, the Government informs that: (i) in June 2019, the Registrar issued notices to 11 unions for failure to submit their annual returns under section 129 of the ERA; in August 2019, the Registrar issued a follow-up notice; and in September 2019, seven trade unions, which had not rectified their breach, were issued a notice of suspension; (ii) the notice of suspension provided the unions two months to show cause as to why their registration should not be suspended; (iii) despite the notice, four unions failed to rectify their breach and in June 2020, the Registrar published a notice of cancellation concerning the four unions; and (iv) the unions were again given two months to rectify their breach and the Registrar only cancelled the registration of those unions that failed to respond to the notice, whereas the remaining three suspended unions were able to submit their annual reports. The Government adds that there are currently 46 active unions in Fiji, which freely conduct their activities and the Registrar does not have the authority to dictate how they operate or function under their constitution, thus ensuring absolute freedom for trade unions to deal with their affairs. The Committee takes due note of the steps taken by the Registrar before suspending or cancelling the registration of the above trade unions and recalls that under section 139 of the ERA, a trade union may appeal a decision against suspension or cancellation of registration to the competent court. ***Further recalling however that the dissolution and suspension of trade union organizations constitute extreme forms of interference and should be reserved for serious breaches of the law after exhausting other possibilities with less serious effects for the organizations, and observing the ITUC's allegations that these measures constitute an attempt at quashing independent trade unions, the Committee requests the Government to consider, in consultation with the most representative organizations, any measures that are appropriate to ensure that the procedures for suspension or cancellation of trade union registration are, both in law and in practice, in full accordance with the guarantees set out in the Convention.***

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

## **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1974)**

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 supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government this year (see *Article 4* below), as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations of the International Trade Union Confederation (ITUC) 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 microenterprise 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 (hereinafter Employment Relations Act (ERA)) 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 it has provided the necessary conditions under section 149 of the ERA for trade unions and employers' organizations to engage in good faith employment relations. It indicates that, between 2016 and 2018, there has been successful bargaining between employers and workers resulting in the signing of 63 collective agreements and 59 amendments to collective agreements and that, between August 2019 and September 2020, the Ministry of Employment, Productivity and Industrial Relations registered 20 collective agreements and processed 46 disputes filed by trade unions, including on allegations of failure to engage in negotiations or to implement collective agreements and unfair dismissal of trade union representatives. The Committee observes, however, 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 undermining the right of workers to bargain collectively and 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 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.**

*Compulsory arbitration.* In its previous comment, the Committee noted that sections 191Q(3), 191(R), 191(S) and 191AA(b) and (c) of the 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 Industrial 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 (*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 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.***

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

## France

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1951)

#### Previous comment

The Committee notes the observations of the General Confederation of Labour (CGT), received on 29 August 2023, and the Government's replies in this regard. The Committee notes that the CGT's observations contain in particular allegations of: (i) restrictions on the exercise of collective rights, including collective bargaining during the COVID-19 pandemic; and (ii) acts of anti-union discrimination in the public and private sectors in a general context, according to the CGT, of increasing restrictions on trade union rights. The Committee also notes in relation to this latter point the general information contained in the observations of the French Confederation of Management – General Confederation of Professional and Managerial Employees (CFE-CGC), provided in relation to the application of the Workers' Representatives Convention, 1971 (No. 135), and the Government's corresponding replies. The Committee takes due note of the detailed replies by the Government on the measures adopted to facilitate collective bargaining and workers' representation activities in the specific context of the pandemic. The Committee also notes the Government's views concerning protection mechanisms against anti-union discrimination and the replies provided in relation to certain specific allegations. ***In light of the allegations of a general nature by the representative organizations in relation to anti-union discrimination, the Committee requests the Government to engage in dialogue with representative social partners on the effectiveness of measures to prevent and punish acts of anti-union discrimination. The Committee requests the Government to provide information in this regard.***

#### Follow-up to the recommendations of a tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that in March 2023, the Governing Body approved the report of a tripartite committee appointed to examine a representation made by the General Confederation of Labour – Force Ouvrière (CGT-FO) and the CGT under article 24 of the ILO Constitution ([GB.347/INS/18/3](#)) concerning the application by France of Conventions Nos 87 and 98 and certain limited aspects of the reforms adopted in 2016 and 2017 in relation to social dialogue and collective bargaining. The Committee notes that the tripartite committee requested the Committee of Experts to follow-up its recommendations, particularly in relation to the application of *Article 4* of this Convention. The Committee notes that the tripartite committee requested the Government to: (i) engage with the social

partners to ensure that the legislation on the relationship between the different bargaining levels is implemented in a manner that ensures the principle of free and voluntary collective bargaining; (ii) review and assess with the social partners concerned the application of the provisions granting the employer the option of holding a consultation with employees with a view to approving an enterprise agreement that would not have received the support of the majority trade unions in the enterprise and for which the signatory unions have not put the matter to a workplace referendum; and (iii) provide information on the implementation of the reforms and their effects on collective bargaining in practice. **While noting the Government's indications concerning the rulings of the Council of State of 7 October 2021, which are examined below in the present comment, the Committee requests the Government to: (i) provide information on the dialogue with the social partners called for by the tripartite committee concerning, on the one hand, the implementation of the reform with regard to the relationship between bargaining levels and, on the other, the consultation of employees at the initiative of the employer for the purposes of the adoption of an enterprise agreement; and (ii) continue to provide information on the implementation and effects of the 2016 and 2017 reforms in relation to collective bargaining.**

*Articles 1 and 4 of the Convention. Protection against anti-union discrimination and promotion of collective bargaining for platform workers considered to be self-employed workers.* The Committee recalls that, after noting the initiatives taken by the Government in this regard, it requested it to provide information on the adoption of any text concerning the exercise of the rights recognized by the Convention by platform workers, irrespective of their contractual status. The Committee notes the Government's indication that: (i) Ordinance No. 2021-484 of 21 April 2021 on the procedures for the representation of self-employed workers using platforms for their work and on the conditions for exercising this representation, approved by Act No. 2022-139 of 7 February 2022, has organized the representation of platform workers on the principle of a national election under the auspices of a new public establishment, the Authority for Industrial Relations of Employment Platforms (ARPE); (ii) provisions for the protection of workers' representatives apply during their mandate and for a period of six months following the end of their mandate: the termination by the platform of the commercial contract concluded with a workers' representative during this protection period is subject to prior administrative authorization and representatives who consider that they have suffered a decline in their activity due to the platform can appeal to the courts, with the burden of proof being reversed in such a case; (iii) the first election of the organizations representing platform workers was held in May 2022; (iv) Ordinance No. 2022-492 of 6 April 2022 organizes social dialogue and collective bargaining at the sectoral level for the sectors of passenger vehicles with drivers and the delivery of goods using two- or three-wheel vehicles; (v) to be valid, a sectoral collective agreement must be signed by at least one platform organization and by workers' organizations representing over 30 per cent of the votes cast during the elections and must not have been opposed by workers' organizations representing 50 per cent of the votes cast; (vi) the agreement that is concluded applies to platforms affiliated to the signatory organizations and their workers in the sectors concerned; it is compulsory for commercial contracts binding the platforms and workers in the sector concerned, unless there are more favourable provisions in commercial contracts; and (vii) the Ordinance sets out the obligation to engage in bargaining every year at the sectoral level on certain subjects. The Committee notes with **satisfaction** the adoption of the instruments referred to above recognizing and organizing the collective rights of self-employed platform workers and, in two specific sectors, establishing a complete framework to facilitate the exercise of the right to collective bargaining of the self-employed workers concerned. In this regard, the Committee notes with **interest** the conclusion in 2023 of several collective agreements in the two sectors referred to above relating, among other areas, to the remuneration of self-employed workers and the conditions governing the termination of their contractual relationship with the platform. **The Committee encourages the Government to continue its efforts so that all platform workers, irrespective of their type of activity and their contractual status, are able to exercise effectively the rights recognized by**

***the Convention. The Committee requests the Government to continue providing information on this subject.***

*Article 4. Collective bargaining with non-unionized workers in small enterprises.* The Committee recalls that, on the basis of successive observations by the CGT-FO, the CFE-CGC and the French Democratic Confederation of Labour (CFDT), it examined the possibilities for the conclusion of agreements with non-unionized workers opened up by the 2017 Ordinance.

On the basis of the information provided by the Government, the Committee recalls that it noted the existence of three main methods of concluding collective agreements in small enterprises, each subject to specific rules and conditions: (i) the conclusion of an agreement with one or more trade union delegates or one or more employees mandated by a trade union (the latter may also be elected staff representatives); (ii) in the absence of a trade union delegate, the conclusion of an agreement with one or more elected staff representatives not mandated by a trade union; and (iii) the approval under certain conditions in enterprises with up to 20 employees of an employers' proposal by a direct vote of the employees in the enterprise by a two-thirds majority. The Committee observed that the first method is in line with *Article 4* of the Convention, under the terms of which collective bargaining takes place between employers and employers' organizations, on the one hand, and workers' organizations, on the other. With regard to the second method, the Committee recalled that direct negotiation with elected staff representatives should only be possible in the absence of trade unions at the relevant level. In relation to the third method, the Committee considered that the adoption of an employer's proposal by a direct vote of the employees does not have the characteristics of a collective bargaining mechanism within the meaning of the Convention. On the basis of the above, the Committee requested the Government to: (i) clarify whether, in a small enterprise where there is an employee mandated by a representative trade union for the purposes of collective bargaining, the employer may freely choose another method of concluding a collective agreement; (ii) continue to provide statistics on the use of the different methods for the conclusion of collective agreements in small enterprises; and (iii) continue to provide information on the measures to promote collective bargaining between the employer and workers' organizations in small enterprises.

With reference to the choice by the employer of the method for the conclusion of an agreement, the Committee notes the Government's indication that: (i) in enterprises with fewer than 50 employees and in the absence of a trade union delegate, the Labour Code permits the employer to choose negotiation either with an employee mandated by a trade union, or with an elected employee, whether or not the latter is mandated; (ii) in enterprises with between 11 and 20 employees, in the absence of an elected member of the staff delegation on the social and economic committee (CSE), the employer may opt to negotiate with an employee mandated by a trade union or to consult the employees directly.

The Committee notes the information provided by the Government on the different types of agreements concluded in small enterprises in 2021: (i) for enterprises with fewer than 50 employees as a whole, 24.8 per cent of agreements or addenda, except those covering salary savings schemes, were concluded by trade union delegates (19 per cent in 2020), 14.1 per cent by elected representatives and employees mandated by trade unions (17.7 per cent in 2020); 20.2 per cent by elected representatives not mandated by trade unions (20.7 per cent in 2020) and 40.2 per cent by votes by employees with a two-thirds majority (41 per cent in 2020); and (ii) 40.2 per cent of agreements, except those covering salary savings schemes, were concluded by votes by employees with a two-thirds majority in enterprises with between 11 and 20 employees (72.9 per cent in 2020) and 82.6 per cent in enterprises with fewer than 11 employees (89 per cent in 2020). The Committee notes the Government's indication that the development of recourse to alternative methods for the conclusion of agreements in small enterprises is not replacing negotiation with representatives of trade unions, as the proportion of agreements signed with trade union delegates rose in 2021 and their presence in enterprises with between 10 and 49 employees rose from 3.6 per cent in 2014 to 4.5 per cent in 2021.

The Committee notes the Government's further indication that: (i) the employee mandated by the union is not empowered to represent the union in the enterprise on a permanent basis, but only for a specific negotiation; (ii) only trade unions can present candidates to stand in the first round of elections to the CSE and 54 per cent of the employees elected from the personnel in enterprises with fewer than 50 employees are unionized; (iii) the method of the trade union mandating an employee is very rarely used; and (iv) the conclusion of agreements by a vote by the personnel with a two-thirds majority does not consist of the mere approval of an employer's decision, but gives rise to dialogue between employees and the employer.

The Committee notes that the Government also recalls that: (i) in order to avoid all small enterprises from being structurally excluded from the possibilities offered by enterprise agreements, methods of negotiation are offered that are adapted to their specific characteristics, including those of enterprises without any trade union actors (mandated employees or elected staff representatives who are unionized or mandated), which has resulted in a significant increase in the agreements concluded in this type of enterprise; and (ii) the organization of an election every four years has been provided for since 2012 with a view to measuring the support for trade unions in enterprises with fewer than 11 employees.

The Committee takes due note of these various elements. While recalling that *Article 4* of the Convention sets out the obligation to promote collective bargaining with workers' organizations, the Committee is also aware of the specific context of collective bargaining in small and very small enterprises, particularly due to the weak presence of trade unions. The Committee recognizes in this respect the efforts made by the Government to enable the conclusion of agreements in small enterprises and the existence of specific mechanisms (particularly, the mandating of employees) so that these agreements are concluded with trade union actors. However, the Committee emphasizes the need for workers and their organizations to be able to set this type of measure in motion independently. In this regard, the power attributed to the employer to be able to set aside negotiations with an employee who has been mandated by a representative trade union in favour of other methods of concluding agreements without the involvement of trade union actors does not appear to be in conformity with the Convention insofar as: (i) it does not promote collective negotiation with workers' organizations, as provided in *Article 4* of the Convention; and (ii) by virtue of the principles of non-interference and free and voluntary collective negotiation, as established in *Articles 2* and *4* of the Convention, respectively, it is for the workers, and not the employer, to choose their representatives for the purposes of negotiation. ***On the basis of the foregoing, the Committee requests the Government, in consultation with representative social partners, to take the necessary measures to: (i) ensure that the methods for the conclusion of collective agreements not involving the participation of trade unions are only possible in the absence of trade union actors capable of negotiating collectively in the specific enterprise; and (ii) ensure that in the event of a plurality of options for the representation of workers in collective bargaining, the choice does not lie with the employer. The Committee requests the Government to provide information on the measures adopted in this regard.***

*Possibility of derogating through agreements concluded by non-union actors from the protective clauses contained in higher-level agreements concluded by trade unions.* The Committee recalls that it previously noted that, following the reforms introduced by the 2017 Ordinance, enterprise agreements not signed by a trade union, in particular in enterprises with fewer than 50 employees, including those resulting from an employer's proposal submitted to a vote by the employees, are able to set aside, in relation to a significant number of subjects open to collective bargaining, clauses that are more favourable to employees contained in the branch agreements negotiated and signed by representative trade unions. The Committee emphasized that this option is not consistent with the obligation to promote collective bargaining set out in *Article 4* of the Convention and therefore requested the Government to provide information on the occurrence in practice of this possibility of derogation and



to take the necessary measures to review the power of derogation from higher-level agreements available through agreements signed by non-union actors.

The Committee notes the reference by the Government to the rulings of the Council of State of 7 October 2021 providing that the minimum level of overall remuneration set by a branch agreement is compulsory for the enterprise, and the margin for manoeuvre left for the enterprise agreement only covers the manner in which this minimum level is attained. The Committee understands that this information is intended to indicate the limits upon the possibilities for derogation accorded to enterprise agreements by the 2017 Ordinance.

While recalling that under the 2017 Ordinance, with the exception of a number of subjects specifically defined in law, the content of enterprise agreements henceforth prevails over that of higher level agreements (section L.2253-3 of the Labour Code), the Committee observes that the Government has not provided information on the specific point raised in its previous comments, namely the possibility accorded to agreements signed by non-union actors to derogate from higher-level agreements concluded by the social partners. ***Emphasizing once again that this possibility is not in conformity with the obligation to promote collective negotiation with workers' organizations as set out in Article 4 of the Convention, the Committee requests the Government, in consultation with representative social partners, to take the necessary measures to review the possibility accorded to enterprise agreements concluded by non-union actors to derogate from protective provisions in higher-level agreements concluded by the social partners. The Committee requests the Government to provide information on the progress achieved in this respect.***

## Gabon

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

#### [Previous comment](#)

In its previous comments, further to the observations of the International Trade Union Confederation (ITUC) relating to restrictions on the right to strike in the public sector on the repeatedly invoked grounds of ensuring public safety, the Committee asked the Government to provide detailed information on the number of strikes called in the public sector, the sectors concerned and the number of strikes prohibited on the grounds of a possible disruption of the public order.

Moreover, further to the observations received from Education International (EI) denouncing the adoption of various regulations which are making the exercise of trade union activities in the education sector increasingly difficult, the Committee requested the Government to indicate the measures taken in that sector to ensure that trade unions have access to educational establishments so that they can perform their representative functions and defend their members' interests.

The Committee notes that according to the Government, only 12.34 per cent of school establishments across the entire national territory were affected during the unlimited general strike called in September 2021 by the National Congress of Education Sector Unions (CONASYSED) and the National Education Union (SENA). However, the Government adds that it is not able to provide the information requested by the Committee, since the collection and centralization of data is ongoing.

***The Committee regrets the Government's inability to provide the requested information, and reiterates its request with the hope that the Government will shortly be able to provide said information.***

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

## Guatemala

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

#### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2023, relating to the discussions held in the Conference Committee on the Application of Standards (the Conference Committee) on the application of the Convention by Guatemala. The Committee also notes the observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), received on 1 September 2023, which relate to matters examined in the present comment. The Committee further notes the observations of the International Trade Union Confederation (ITUC), on the one hand, and of the Autonomous Popular Trade Union Movement, Global Unions of Guatemala, on the other, received on 27 and 29 September 2023, respectively, which also refer to matters examined in the present comment. The Committee notes the Government's replies to the corresponding observations.

#### Follow-up to the conclusions of the Conference Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the discussion held in June 2023 in the Conference Committee on the application of the Convention by Guatemala. The Committee notes that the Conference Committee, after noting with deep concern the persistence of allegations of murders of trade unionists and other acts of anti-union violence, as well as the general situation of impunity that prevails in the country, urged the Government, in consultation with the social partners, to: take immediate measures to address the general situation of violence and intimidation, put an end to acts of violence and the threat thereof against trade union leaders and members; fully implement the road map adopted on 17 October 2013 without further delay, as well as any recommendations prepared by the ILO; investigate without delay all acts and threats of violence against trade union leaders and members to determine responsibilities, punish the perpetrators and identify the root causes of violence; provide rapid and effective protection to all trade union leaders and members who are under threat by increasing the budget for such programmes and ensure that protected individuals do not personally have to bear any costs arising from those schemes; adopt without delay the agreed amendments to eliminate legislative obstacles to the full exercise of freedom of association and develop legislation to allow for the formation of trade unions at the sectoral level; ensure the efficient registration of trade unions, including the implementation of the electronic tool designed by the ILO; and increase the visibility of the awareness-raising campaign on freedom of association in the media and ensure that there is no stigmatization of trade unions, their leaders and collective agreements.

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

The Committee notes that for the third and final year, the Governing Body followed up at its session in October-November 2023 the action taken by the Office in the context of the ILO technical cooperation programme "Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards (GB/349/INS/10(Rev.1)). The Committee recalls that the purpose of the action is to support the implementation of the road map on freedom of association adopted in 2013 by the Government of Guatemala. The Committee notes that on this occasion special attention was paid to the implementation of the priority actions identified by the joint mission undertaken by the ILO, IOE and ITUC in September 2022.

### Presentation of a complaint under article 26 of the ILO Constitution

The Committee notes that, at its 349th Session, the Governing Body declared receivable a complaint made under article 26 of the ILO Constitution by various delegates to the 111th Session of the International Labour Conference alleging non-observance by Guatemala of this Convention and of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the content of which will be examined by the Governing Body at its session in June 2024 (GB/349/INS/19/2).

### Trade union rights and civil liberties

The Committee *regrets* to note that it has been examining since 2005 allegations of serious acts of violence against trade union leaders and members, including numerous murders, and the related situation of impunity. In this regard, the Committee notes the examination by the Committee on Freedom of Association at its session in March 2023 of [Case No. 2609](#) in relation to numerous murders and other acts of violence against members of the trade union movement.

The Committee notes the information provided by the Government concerning the status of the investigations and court proceedings relating to the murders of 98 members of the trade union movement between 2004 and 2022, according to which, up to now: (i) in 26 cases there have been a total of 37 sentences handed down (26 convictions, ten acquittals and one security and corrective measure); (ii) the criminal prosecutions in seven cases were terminated due to the deaths of the persons accused; (iii) in seven cases, arrest warrants have been issued and are being served; (iv) in one case, the hearings have begun, one is at an intermediary stage and one is at the stage of the public hearings; (v) ten cases are under investigation; and (vi) 46 cases have been shelved, in accordance with section 327 of the Code of Criminal Procedure, due to the material impossibility of identifying the perpetrators of the murders, although it is still possible that the cases will be reopened. The Committee notes that the Government adds that: (i) of the sentences, 15 were imposed on the perpetrators of the murders, three on the instigators and ten on both the perpetrators and the instigators; (ii) 14 of the 98 victims referred to were not members of the trade union movement, with two of those murders resulting in sentences being handed down; (iii) in none of the sentences referred to was an anti-union motive identified; (iv) since 1 January 2023, four new convictions have been handed down, and five acquittals; and (v) the most recent procedures show a significant reduction in the period between the commission of the crime and the sentence being handed down. The Committee also notes the Government's indication that the funding and resources available to the Office of the Public Prosecutor in general and to the Office of the Special Prosecutor for Crimes against Judicial Officials and Trade Unionists in particular have been increased substantially and that the results achieved show that there is no impunity in the country. The Government indicates in this regard that: (i) following its doubling between 2021 and 2022, the annual budget of the Office of the Special Prosecutor rose from US\$1,288,252 in 2022 to US\$1,539,774.51 in 2023; and (ii) while in 2017 there were only 64 municipal public prosecutors, the Office of the Public Prosecutor now has a presence in a total of 340 municipalities in the country. The Committee further notes the emphasis placed by the Government on regular contacts between the Office of the Public Prosecutor and the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS) concerning progress in the related investigations, particularly through personal appearances by the Prosecutor-General.

The Committee further notes the information provided by the Government on the security measures adopted for members of the trade union movement who are at risk, according to which: (i) between 1 June 2022 and 15 January 2023, the Ministry of the Interior received 97 individual or collective applications for risk analyses (of which 58 were from the Office of the Public Prosecutor), with 128 protection measures being granted; (ii) the risk analyses are carried out immediately, within one week; (iii) the Ministry of the Interior is updating with workers' representatives the Ministerial Decision on the unit for the analysis of attacks against trade union leaders and members to ensure that it is in line with

the needs raised by the unions; and (iv) there are six canteens in the capital so that the meals of police officers are not at the expense of protected trade union members.

The Committee also notes that the ITUC regrets the murder of over 100 members of the trade union movement and deplores the fact that the Government attributes their murders to the general situation of violence in the country, thereby contributing to the persistence of the situation of impunity. The Committee also notes that the national trade union confederations: (i) hope that, in the case of the murder of Tomás Ochoa, Secretary-General of the Sitrabremen union, the Office of the Public Prosecutor will challenge, on the basis of the existing evidence, the decision by the court of first instance to find that the alleged instigators were not connected to the crime; and (ii) expect progress in the investigation of the murder in 2022 of Hugo Eduardo Gamero González, the disputes secretary of the SINEPORC union. The Committee also notes with **deep concern** the references, during the discussion of the ILO technical cooperation programme for Guatemala in the Governing Body in October-November 2023, to the murder of Ms Doris Lisseth Aldana Calderón, leader of the SITRABI union, which occurred on 4 October 2023. The Committee notes in this regard the Government's indications concerning the investigations carried out by the Office of the Public Prosecutor.

In light of the foregoing, while taking due note of the significant action that the Government is continuing to take, the results reported and the difficulties involved in shedding light on older murders, the Committee **deeply regrets** to note that in the case of the great majority of the many murders of members of the trade union movement that have been reported there have not been any convictions and that in an even more limited number of cases the instigators of the murders have been identified and punished.

In this context, in the same way as the Committee on Freedom of Association in Case No. 2609, the Committee notes with **deep concern** the indication that 46 older cases of the murder of members of the trade union movement in which it has not been possible to identify the potential perpetrators have been shelved. Although it recognizes the particular difficulties involved in shedding light on older murder cases, the Committee emphasizes the importance, in cases involving anti-trade union violence, of investigations achieving specific results with reliable findings concerning the crimes committed, the motives for the crimes and those responsible so that the corresponding sanctions can be applied and action taken to avoid their recurrence in future. **While welcoming the continuing increase in the budget allocated to the Office of the Special Prosecutor for Crimes against Judicial Officials and Trade Unionists and the regular contacts between the Office of the Public Prosecutor and the CNTRLLS on the subject of anti-union violence, the Committee once again urges the Government to continue taking and intensifying as a matter of urgency all the necessary measures to: (i) investigate all acts of violence against trade union leaders and members, with the objective of determining responsibilities and punishing both the perpetrators and instigators of these acts, taking fully into consideration in the investigations the trade union activities of the victims; and (ii) provide prompt and effective protection for all trade union leaders and members in situations of risk so as to prevent any further acts of anti-union violence. In relation to the specific action required in this regard, the Committee refers to the recommendations made by the Committee on Freedom of Association in the context of Case No. 2609. The Committee requests the Government to continue providing all relevant information in this respect.**

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

- amend section 215(c) of the Labour Code, which requires a membership of "50 per cent plus one" of the workers in the sector to establish a sectoral trade union;
- amend sections 220 and 223 of the Labour Code, which establish the requirement to be of Guatemalan origin and to work in the relevant enterprise or economic activity to be eligible for election as a trade union leader;

- amend section 241 of the Labour Code, under the terms of which strikes have to be called by a majority of the workers and not by a majority of those casting votes;
- amend section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996, which provides for the possibility of imposing compulsory arbitration in non-essential services and establishes other obstacles to the right to strike;
- amend sections 390(2) and 430 of the Penal Code and Decree No. 7186, which establish labour, civil and criminal penalties in the event of a strike by public officials or workers in certain enterprises;
- ensure that the various categories of public sector workers (hired under item 029 and other items of the budget) enjoy the guarantees afforded by the Convention.

In its previous comment, the Committee noted the new impetus given to the process of legislative reform by the joint mission by the ILO, IOE and ITUC in September 2022. In particular, the Committee noted that: (i) following the mission, the President of the Republic had submitted to the Congress of the Republic a Bill containing the texts which had received tripartite approval in March 2018 and September 2022 (Bill No. 6162) on the requirements for election to trade union office, compulsory arbitration in services that are not essential and other obstacles to the right to strike, the sanctions in the event of strikes set out in various legislative provisions and the application of the guarantees of the Convention to various categories of public workers; and (ii) on the basis of the guiding principles agreed in August 2018, bipartite and tripartite discussions with support from the Office would be held for the development of an agreed text of proposed reforms on sectoral unions and the conditions for strike ballots. The Committee **regrets** to note that, according to the information provided by the Government and the social partners, Bill No. 6162 has still not been adopted and that social dialogue has not been resumed on sectoral unions and the conditions for strike ballots. In this regard, the Committee once again emphasizes the importance of amending section 215(c) of the Labour Code, which establishes membership requirements for the establishment of sectoral unions that are contrary to *Article 2* of the Convention. In a context that is characterized, on the one hand, by a large number of small enterprises and, on the other, legislation that requires a minimum of 20 workers to establish a union, the excessive membership requirements established for the creation of sectoral unions has the effect of excluding a large number of workers from being able to exercise their right to organize. ***In light of the foregoing, the Committee once again urges the Government to, in consultation with the social partners, take the necessary measures to bring the national legislation into conformity with the Convention. The Committee firmly expects to be able to note tangible progress in this regard in the near future and recalls the availability of the Office to provide the necessary technical assistance.***

#### Application of the Convention in practice

*Registration of trade unions.* In its previous comments, the Committee noted the persistent differences between the indications provided by the Government and the trade unions concerning the process of the registration of unions by the labour administration. The Committee took specific note of the allegations by unions concerning the role reported to be attributed to the employer in the registration process. The Committee also notes the Government's indication that: (i) 2,579 unions are registered (749 in the public sector, 901 in the private sector and 929 in the self-employed sector); (ii) 34 applications for the registration of unions were received in 2022, and 25 organizations were registered; and (iii) 16 applications for the registration of unions were received between 1 January and 6 July 2023, with eight organizations being registered.

The Committee notes the further indications by the Government that: (i) the law does not require the labour administration to inform the employer when applications for registration are received; (ii) the authorities in Guatemala respect the principle of non-interference by employers in the establishment and operation of unions as set out in *Article 2* of Convention No. 98; (iii) at the time of its publication in the Official Journal, information on the registration of a union becomes public and, in

accordance with section 275 of the Labour Code, the decisions of the Ministry of Labour and Social Welfare can be challenged through administrative appeals; and (iv) in 2021 and 2022, nine decisions to register trade unions were challenged through appeals lodged by employers, with three appeals being set aside, one rejected as being out of time and five awaiting a decision.

The Committee notes the indication by the ITUC that trade unions continue to complain of challenges by employers against the registration of unions, the denial of registration and delays by the labour administration in updating lists of trade union members.

The Committee takes due note of these various elements. ***The Committee requests the Government to continue providing statistical information on the registration of trade unions, including the grounds for refusals of registration and to maintain an open dialogue with trade union confederations on administrative practice in this respect. With reference to appeals by employers against registration decisions, the Committee requests the Government to indicate: (i) the grounds given for the appeals; (ii) whether the filing of an appeal has the effect of suspending registration; and (iii) whether the employer has access to the identity of the members of the union that has just been registered.***

***Campaign on freedom of association.*** The Committee notes the Government's indication that: (i) at the beginning of 2023, materials were disseminated on freedom of association in 35 municipalities in the country; (ii) an awareness-raising campaign on freedom of association continued to be carried out through media with broad circulation, reaching around 7,500 readers of the Official Journal, 66,876 users of social networks and 432,000 readers of a broadly read outlet. ***The Committee notes these initiatives with interest and encourages the Government to: (i) continue the awareness-raising campaign in media with broad circulation; and (ii) take measures for the awareness-raising campaign to reach sectors characterized by a very low unionization rate, such as agriculture and the maquila. The Committee requests the Government to provide information in this regard.***

***Noting with concern the persistence of serious violations of the Convention, the Committee urges the Government, with the technical assistance of the Office, to intensify its efforts to overcome the legislative and practical difficulties examined in the present comment.***

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

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

### [Previous comment](#)

The Committee notes the observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), received on 1 September 2023, which relate to matters examined in the present comment. The Committee also notes that the observations concerning the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), of the International Trade Union Confederation (ITUC), on the one hand, and the Autonomous Popular Trade Union Movement: Global Unions of Guatemala, on the other, received on 27 and 29 September 2023, respectively, contain elements relating to the application of the present Convention, examined in this comment. The Committee notes that the observations of the Autonomous Popular Trade Union Movement: Global Unions of Guatemala also contain numerous allegations of anti-union discrimination and obstacles to collective bargaining in the private and public sectors. ***While noting the Government's responses to these observations, the Committee requests it to continue its specific follow-up on each of the cases indicated by the trade unions with a view to ensuring the application of the guarantees set out in the Convention.***

The Committee notes that, since its previous examination of the application of the Convention by Guatemala, the Governing Body has continued the follow-up to the ILO technical cooperation project "Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association

in Guatemala for the effective application of international labour standards" (GB/346/INS/10 and GB/349/INS/10(Rev.1)). The Committee observes that the Governing Body noted in particular the joint mission to Guatemala by the ILO, the International Organisation of Employers (IOE) and the ITUC in September 2022 to follow up the technical cooperation provided by the ILO in relation to the application of the road map on freedom of association approved by the Government in 2013. The Committee notes that the mission and the members of the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS) jointly identified a series of priority actions, several of which are related to the application of the present Convention.

### Submission of a complaint under article 26 of the ILO Constitution

The Committee notes that at its 349th Session the Governing Body declared receivable a complaint filed by various delegates under article 26 of the ILO Constitution alleging non-observance by Guatemala of this Convention and of Convention No. 98, the content of which will be examined by the Governing Body at its session in June 2024 (GB.349/INS/19/2).

*Article 1 of the Convention. Protection against anti-union discrimination. Activities of the labour inspection services.* In its previous comments, the Committee referred once again to the effects on protection against anti-union discrimination of the implementation of Legislative Decree No. 7/2017, which restored the power of the labour inspection services to impose penalties. The Committee notes the Government's indication that the General Labour Inspectorate applies a special investigation procedure for freedom of association and collective bargaining, which contains a series of methodological and technical recommendations. The Government adds that, between 1 January 2021 and 16 August 2023, the General Labour Inspectorate: (i) dealt with 211 cases relating to trade union organizations and collective bargaining; (ii) noted 36 violations of the law in respect of freedom of association and imposed the same number of penalties to a total amount of 1,021,532.73 quetzales (approximately US\$132,800). The Government adds that, under the legislation that is in force, those penalties may be subject to administrative appeals and action. The Committee also notes the Government's indication that, at the request of worker representatives, the General Labour Inspectorate has established 80 dialogue roundtables to resolve collective disputes, with solutions being found that are satisfactory to the workers, such as the reinstatement of dismissed workers and the payment of wage arrears in 19 cases. The Committee takes due note of this information. ***Also observing the persistence of many allegations by trade unions of anti-union discrimination, the Committee requests the Government to continue strengthening measures so that violations of trade union and collective bargaining rights are addressed as a priority by the labour inspection services. The Committee requests the Government to continue providing information on the number and type of penalties imposed by the General Labour Inspectorate in trade union matters, with an indication of the stage of their implementation and the number of administrative or judicial appeals made against them.***

*Effective judicial proceedings.* In its previous comments, the Committee urged the Government to take action as soon as possible to overcome the obstacles to effective compliance with reinstatement orders handed down by the courts and to adopt new procedural rules to ensure that all cases of anti-union discrimination are examined by the courts in summary proceedings. The Committee notes the Government's indication that: (i) in 2022, a coordinating group was established between the Office of the Public Prosecutor, the judicial authorities and the Ministry of Labour and Social Welfare to address bilaterally cases raised by workers' representatives, and is still waiting for the workers to indicate a date for meetings to begin; (ii) on 10 February 2023, the Pluripersonal Court of Penal Resolution was inaugurated to hear crimes relating to the failure to give effect to labour and social welfare rulings, and is based in the City of Guatemala; (iii) its competence includes cases of failure to comply with reinstatement orders issued by courts; (iv) up to 27 July 2023, a total of 137 orders had been referred to the Court, with 38.34 per cent of the cases being under investigation and hearing dates have already been set for the third quarter of 2023 for another 38.4 per cent of the cases and/or procedural solutions

have been applied. The Committee notes the Government's further indication that it does not have available specific data on reinstatement procedures in cases of anti-union dismissals, as not all the economic and social disputes referred to the courts by the executive committee of unions concern anti-union dismissals. Despite that, the Government indicates that, between 2020 and 2022, the courts examined 21 cases relating to the reinstatement of trade union leaders or the members of unions that were being established, with the following outcomes: (i) the employer accepted the reinstatement in one case; (ii) the employer has not accepted it in four cases; (iii) it was not possible to examine the issue in 12 cases; and (iv) the court ruling was not implemented in four cases. The Government adds that, as agreed by the joint mission by the ILO, IOE and ITUC and the CNTRLLS, the ILO is currently carrying out an analysis of the challenges faced in achieving compliance with court reinstatement orders in cases of anti-union dismissals. The Committee also notes a series of further initiatives reported by the Government with the intention of facilitating judicial processes in labour matters, including in particular: (i) the establishment of a system for the electronic notification of the parties to cases; (ii) the specialization of various labour and social insurance tribunals, with their separation from the family branch; and (iii) the creation by the Supreme Court of the sixth chamber for labour and social insurance, which will allow the more rapid treatment of cases in which appeals are lodged.

The Committee takes due note of this information and particularly welcomes the establishment of the Pluripersonal Court for crimes of non-compliance in labour matters. However, the Committee observes: (i) the persistence of many allegations of the lack of judicial protection in relation to anti-union discrimination; (ii) the observation by the joint mission by the ILO, IOE and ITUC of the existence of a combination of legal, institutional and practical factors preventing the effective operation of the justice system in relation to anti-union discrimination in general and compliance with reinstatement orders in particular; and (iii) that the data provided by the Government on a limited number of cases confirm the difficulties involved in enforcing court reinstatement orders. ***In light of the above, the Committee requests the Government to continue and intensify the current efforts to ensure compliance with reinstatement orders, taking due account of the guidance provided in the analysis that is currently being prepared by the Office, and to provide statistics on the specific results achieved by the new judicial body in terms of compliance with and the execution of reinstatement orders. Furthermore, observing the lack of legislative progress in relation to judicial labour procedures, the Committee once again urges the Government to, in consultation with the social partners, take the necessary measures for the adoption of new 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.***

*Article 4. Promotion of collective bargaining.* In its previous observations, the Committee noted the existence of various legislative obstacles (particularly those deriving from section 215(c) of the Labour Code, which requires at least 50 per cent membership in a particular sector to be able to establish an industry union, which has the effect of preventing any collective bargaining at the sectoral level) and practical obstacles to the exercise of collective bargaining, and noted the very low number of collective agreements concluded and approved in the country. The Committee notes that the Government refers firstly to a series of activities to promote collective bargaining, including (i) the campaign on freedom of association and the initiatives to facilitate the registration of trade unions described in the Committee's comments on the application of Convention No. 87; (ii) the various initiatives of the Ministry of Labour and Social Welfare in general, and the General Labour Inspectorate in particular, to resolve collective disputes through dialogue (and particularly the dialogue round-tables referred to above in relation to *Article 1* of the Convention); and (iii) the capacity-building for labour judges, especially on the subject of collective bargaining. The Government also indicates that it is awaiting the technical assistance of the Office to facilitate tripartite dialogue on the legislative reform relating to industry unions and sectoral bargaining. The Committee notes the information provided by the Ministry of Labour and Social Welfare to the Governing Body indicating that, between 2015 and July 2023, the Ministry approved a total of 140



collective agreements (in the private and public sectors). The Committee also notes that trade union and international organizations continue to allege the persistence of major obstacles to the exercise of collective bargaining in both the private and public sectors, especially in relation to the process of approval by the Ministry of Labour and Social Welfare. The Committee **regrets** to note, in light of the above, that legislative obstacles persist which prevent collective bargaining at the sectoral level and that it has not been provided with specific information on the number of enterprise collective agreements concluded and approved over the past two years. **The Committee therefore once again urges the Government to, in consultation with the social partners, take the necessary measures to: (i) reform the legislation so that collective bargaining is possible at all levels; and (ii) actively promote the use of free and voluntary collective bargaining and ensure that the approval procedure does not constitute an obstacle to it. The Committee requests the Government to keep it informed in this regard and to provide full information on the number of collective agreements adopted and in force in the country, the sectors concerned and the workers covered.**

*Articles 4 and 6. Promotion of collective bargaining in the public sector.* In previous comments, the Committee requested the Government to provide information on the timeframe for the approval of public sector collective agreements on conditions of work and on the reasons for decisions not to approve such agreements. The Committee also requested the Government to provide information on developments in relation to cases in which the validity of certain clauses of public sector collective agreements has been subject to legal challenges. The Committee notes the Government's indications that: (i) the period for the approval of collective agreements, whether in the private or public sectors, is 25 working days, although the application of that period is subject to the comments (*previos*) made by the labour administration to guarantee the legality of the agreements and the response time of the parties to those comments; (ii) the reasons for decisions not to approve agreements are due to the absence of responses by the parties to the comments made by the labour administration; (iii) between 2012 and July 2023, a total of 119 collective agreements were approved in the public sector, of which 23 were approved with reservations, while 25 were not approved; (iv) within the context of the priority actions identified by the joint mission of the ILO, IOE and ITUC, the implementation of a tripartite examination, with ILO assistance, of the practice relating to the approval of collective agreements in the public sector is still pending; and (v) the Government needs to obtain more detailed information on specific cases that have given rise to legal action by the authorities against collective agreements in the public sector.

The Committee also notes the observations by national and international trade union organizations, which continue to denounce, based on a series of specific allegations, that the procedure for the approval of public sector collective agreements by the Ministry of Labour and Social Welfare gives rise to practices that are contrary to free and voluntary collective bargaining and that the Office of the National Attorney-General is continuing to challenge in the courts the validity of certain collective agreements that have already been concluded.

While noting the information provided by the Government, both in general and in relation to specific cases raised by the unions, the Committee notes the existence of profound discrepancies between the Government and the unions concerning the practices of the Ministry of Labour and Social Welfare in relation to the approval of collective agreements and the alleged challenges by the Office of the Attorney General against collective agreements concluded in the public sector. The Committee recalls that, in previous comments, it encouraged the Government to make efforts to ensure that there is a clear and balanced regulatory framework for collective bargaining in the public sector, but that it has not been provided with any further information on this subject. **In view of the above, and recalling that Guatemala has also ratified the Collective Bargaining Convention, 1981 (No. 154), the Committee requests the Government to carry out broad consultations with the unions concerned with a view to: (i) evaluating and guaranteeing, in the specific context of the public administration, the conformity of the approval procedure for collective agreements with the principle of free and voluntary collective**

***bargaining; and (ii) identifying the reforms necessary to ensure that collective bargaining in the public sector is based on a clear and balanced regulatory framework. The Committee recalls that the Government can continue to rely on ILO technical assistance in this regard.***

*Application of the Convention in practice. The maquila sector.* In its previous comments, the Committee regretted the persistence of a very low level of the exercise of collective rights in the maquila (export processing) sector and the absence of initiatives focusing specifically on their promotion. The Committee notes the Government's indications that: (i) four of the cases examined by the recently created Pluripersonal Court of Penal Resolution to hear cases of failure to comply with labour and social welfare orders are related to the maquila sector; (ii), in 2023, the General Labour Inspectorate carried out inspections in 177 enterprises in the maquila sector, without identifying violations of freedom of association and collective bargaining; and (iii) training activities are being carried out for women working in the maquila sector, such as the diploma in auxiliary nursing specializing in reproductive rights and the promotion of human rights, which includes references to ratified ILO Conventions. While noting this information, the Committee observes that: (i) it has not received any further information on the exercise of collective rights in the maquila sector (such as bargaining, the conclusion of collective agreements or the registration of unions); (ii) it has not been provided with information on specific action to promote trade union rights and collective bargaining focusing on the maquila sector; and (iii) the complaint filed in June 2023 under article 26 of the ILO Constitution alleges that anti-union harassment is common in the sector. ***In light of the above, the Committee urges the Government, in collaboration with the social partners and in accordance with the campaign described in the Committee's comments on the application of Convention No. 87, to take specific measures to promote freedom of association and collective bargaining in the maquila sector and to provide information on this subject. The Committee also requests the Government to provide updated information on the exercise of collective rights in the sector, including the number of collective agreements in force and the number of workers covered by them, and the number of active unions.***

*Application of the Convention in municipal authorities.* In its previous comments, in light of the existence of allegations of the violation of the Convention in various municipal authorities in the country, the Committee urged the Government to take all the necessary measures, including legislative measures where necessary, to ensure the application of the Convention at the municipal level. The Committee notes the Government's indications that: (i) three of the cases examined by the recently created Pluripersonal Court of Penal Resolution are related to municipal authorities; (ii) as indicated previously, a coordination group has been created between the Office of the Public Prosecutor, the judicial authorities and the Ministry of Labour and Social Welfare which is at the disposal of workers' representatives to examine cases that they consider to have priority; (iii) the General Labour Inspectorate is addressing as a priority 54 complaints concerning freedom of association and collective bargaining made against municipal authorities between 2022 and April 2023; and (iv) 12 of the 19 dialogue round-tables established by the General Labour Inspectorate in which satisfactory results have been obtained are related to municipal authorities. The Committee welcomes the various institutional efforts referred to by the Government to resolve disputes that have arisen in a series of municipal authorities and takes due note of the detailed information provided on the specific cases raised by the unions. However, the Committee observes that, despite the above: (i) there are still a high number of allegations of anti-union discrimination and obstacles to collective bargaining in the municipal sector which may reflect the existence of structural difficulties in industrial relations in the sector, which is an important source of formal employment; and (ii) the fact that new mayors are taking office in January 2024 following the elections held in 340 municipalities in the country in 2023 is likely to give rise to new disputes. ***In view of the above, the Committee urges the Government to: (i) reinforce its current efforts to resolve existing disputes in municipal authorities in accordance with the Convention; and (ii) engage in broad dialogue with the social partners and the respective authorities with a view to finding lasting solutions, including of a legislative nature, to the issues arising in relation to the exercise of the***

**collective rights of municipal workers. The Committee requests the Government to provide information on this subject.**

*Tripartite settlement of disputes in relation to freedom of association and collective bargaining.* In its previous comments, the Committee regretted to note that the Subcommittee on Mediation and Dispute Resolution of the CNTRLLS had not yet started to discharge its functions in practice. The Committee notes the Government's indications that: (i) the Subcommittee does not yet have a mediator, for which reason it has not been able to examine the 14 cases that it has accepted; (ii) the joint mission by the ILO, IOE and ITUC identified the determination of the profile of the mediator as a priority action; and (iii) the Subcommittee has met on two occasions in 2023 and the determination of the profile of the mediator is continuing. In light of the numerous disputes referred to by the Government and the unions, the Committee emphasizes the importance of developing dispute resolution machinery based on social dialogue. **The Committee therefore encourages the tripartite constituents in the country to renew their efforts to provide the Subcommittee on Mediation and Dispute Resolution with one or more mediators so that it can begin to discharge its functions. The Committee requests the Government to provide information in this regard.**

**Noting the persistence of significant shortcomings in compliance with the Convention, the Committee urges the Government, with ILO technical assistance, to intensify its efforts to overcome the legislative and practical difficulties examined in the present comment.**

## Haiti

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

#### Previous comment

The Committee notes with **deep concern** that the Government's report has not been received. The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2023, as well as those of the International Trade Union Confederation (ITUC), received on 27 September 2023, which once again refer to the extremely serious and violent crisis in the country, and the repercussions this has on the exercise of trade union rights, which are already particularly under threat. **Taking note of the extent of the crisis in which the country is immersed at all levels, the Committee can only refer to its previous observation and direct request of 2020 and express the hope that the Government will be able to comment on all of the issues raised in the near future. To this end, the Committee reiterates that any request for technical assistance addressed by the Government to the Office will be acted upon as soon as possible.**

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

The Committee notes the observations made by the International Trade Union Confederation (ITUC), received on 27 September 2023, which relate to the extremely serious and violent crisis in the country, and which largely refer to those formulated in 2022.

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 Trade Union Confederation (ITUC), received on 1 September 2022, which contain new allegations of serious violations of freedom of association in the textile sector, such as anti-union dismissals. The Committee also notes the observations of the Confederation of Public and Private Sector Workers (CTSP) and the Confederation of Haitian Workers (CTH), received on 2 November 2022, which, in the context of the extremely serious and violent crisis in the country, denounce the blatant limitations on the right to organize and bargain collectively in practice. **The Committee**

**notes the extent of the crisis affecting the country at all levels and hopes that the Government will be able to comment on the issues raised in the near future.**

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

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

## Honduras

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

#### [Previous comment](#)

The Committee notes the observations of the Honduran National Business Council (COHEP) sent by the Government together with its report. The Committee also notes the observations of the International Trade Union Confederation (ITUC) and the Authentic Trade Union Federation of Honduras (FASH), received on 27 September and 7 November 2023, respectively, which relate to matters examined in the context of the present observation and also contain allegations of anti-union dismissals. **The Committee requests the Government to send its comments in this respect.**

#### Trade union rights and civil liberties

In its previous comment, having expressed deep concern at the persistence of acts of anti-union violence and the lack of sufficient progress in taking specific and rapid measures in this regard, the Committee once again urged the Government and all the competent authorities to: (i) take specific and rapid measures, including budgetary measures, to comply fully with the elements in the tripartite agreement, signed after the direct contacts mission 2019, concerning action against anti-union violence, giving the Committee on Anti-Union Violence, also established in 2019, the necessary and vital impetus for it to succeed in the performance of its functions, and ensuring the active involvement of all relevant authorities; (ii) institutionalize and make effective the participation of the representative trade unions in the National Council for the Protection of Human Rights Defenders; (iii) draw up a special investigation protocol to enable the Office of the Public Prosecutor to examine, systematically and effectively, any anti-union motives behind the acts of violence affecting members of the trade union movement; (iv) ensure that the criminal courts give priority treatment to cases of anti-union violence; and (v) ensure adequate and prompt protection for all at-risk members of the trade union movement. The Committee also requested the Government to continue providing detailed information on criminal investigations and proceedings relating to acts of violence against members of the trade union movement, including in relation to the murder of Jorge Alberto Acosta Barrientos and of Oscar Obdulio Turcios Funes, on 17 November 2019 and 13 July 2020, respectively.

The Committee notes the Government's indication that, according to a report by the Prosecutor for Crimes against Life, of the 12 cases currently under investigation and prosecution, final judgments have been handed down in 2 cases and 10 are still under investigation. The Government states that the investigation into the death of Oscar Obdulio Turcios Fúnes is still ongoing. The Government also provides statistical information concerning crimes of threats and usurpation, without indicating what these statistics refer to, or their relation to acts of anti-union violence.

The Committee notes with **deep concern** that the Government has not provided any further information concerning the progress made in the investigations and prosecutions relating to specific cases of murders of members of the trade union movement. The Committee also observes that the Government does not indicate in which two cases final judgments have been handed down. The Committee recalls that, as observed in its previous comment: (i) seven cases remain under investigation (the murders of Sonia Landaverde Miranda, Alfredo Misael Ávila Castellanos, Evelio Posadas Velásquez, Juana Suyapa Posadas Bustillo, Glenda Maribel Sánchez, Fredy Omar Rodríguez and Roger Abraham Vallejo) and (ii) five cases remain before the courts (the arrest warrants for the murders of Alma Yaneth Díaz Ortega, Uva Erlinda Castellanos Vigil, José Ángel Flores and Silmer Dionisio George remain to be issued and the conviction against the perpetrator of the murder of Claudia Larissa Brizuela is under appeal). In addition to those 12 cases, the Committee recalls that the Government had provided information on the investigations carried out by the Special Prosecutor for Crimes against Life to shed light on the murder, on 17 November 2019, of Jorge Alberto Acosta Barrientos.

The Committee recalls that in its previous comment, it noted with concern the slow progress in the investigations of murders committed almost a decade ago, and the low number of judicial convictions to date. The Committee **most particularly and deeply regrets** that it has not received any information on the progress in these investigations and emphasizes once again that justice delayed is justice denied. The Committee also **regrets** that it has not received any information from the Government relating to protection measures taken in respect of members of the trade union movement who are at risk.

The Committee notes that COHEP and FASH express concern about unresolved cases related to anti-union violence and indicate that anti-union violence continues to increase. The Committee notes that, according to statistical data provided by COHEP, between 2020 and 2022, the impunity rate for homicides in the country ranged from 87 to 95 per cent. The Committee recalls that the Committee on the Application of Standards examined the application of the Convention in 2018 and 2019 and noted with grave concern the absence of convictions against the perpetrators of the crimes, which created a situation of impunity reinforcing the climate of violence and insecurity. The Committee notes that COHEP and FASH emphasize that they have not received any update on the investigations and criminal proceedings concerning acts of violence that have affected members of the trade union movement from either the Committee for the Handling of Disputes referred to the ILO (MEPCOIT) or the Committee on Anti-Union Violence. Both COHEP and FASH also express concern about the limited impact of the Committee on Anti-Union Violence. The Committee recalls that the Committee on Anti-Union Violence was established after the Office conducted a technical assistance mission in 2019 to support the implementation of the tripartite agreement signed following the direct contacts mission. The Committee notes with **regret** that, according to COHEP and FASH, although the Committee on Anti-Union Violence was moderately functioning from 2019 to June 2021, it has not been functioning for two years and did not hold any meetings in 2023.

***In the light of the above-mentioned concerns, the Committee firmly urges once again the Government and all the competent authorities to: (i) take specific and rapid measures, including budgetary measures, to comply fully with the elements in the tripartite agreement of 2019 concerning action against anti-union violence, ensuring that the Committee on Anti-Union Violence holds its meeting and giving it the necessary and vital impetus for it to succeed in the performance of its functions, ensuring the active involvement of all relevant authorities; (ii) institutionalize and make***

***effective the participation of the representative trade unions in the National Council for the Protection of Human Rights Defenders; (iii) draw up a special investigation protocol to enable the Office of the Public Prosecutor to examine, systematically and effectively, any anti-union motives behind the acts of violence affecting members of the trade union movement; (iv) ensure that the criminal courts give priority treatment to cases of anti-union violence; and (v) ensure adequate and prompt protection for all at-risk members of the trade union movement. The Committee urges the Government to report in the near future on the progress made on each of these points, as well as the progress made in the investigations and prosecutions relating to the acts of violence that have affected members of the trade union movement.***

### Legislative issues

*Articles 2 et seq. of the Convention. Establishment, autonomy and activities of trade unions.* The Committee recalls that it has been requesting the Government for many years to amend the following provisions of the Labour Code to bring them into conformity with the Convention:

- 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));
- the prohibition of more than one trade union in a single enterprise (section 472);
- the requirement of at least 30 workers to establish a trade union (section 475);
- 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));
- the prohibition on strikes called by federations and confederations (section 537);
- 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);
- the authority of the competent minister to end disputes in oil industry services (section 555(2));
- 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);
- 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).

In its previous comment, after regretting that there had been no progress in the tripartite discussion process envisaged in the tripartite agreement signed in 2019, the Committee reiterated that while it was aware of the obstacles that the COVID-19 pandemic might have raised, it trusted that the Government, with the technical support of the Office, would move forward as soon as possible with holding tripartite discussions and make progress in the preparation of the reforms that had been requested for many years. The Committee encouraged the development of agreements in the framework of the Economic and Social Council (CES) that reflect the recommendations of the Committee. The Committee notes the Government's indication that: (i) the CES remains firmly convinced that social dialogue is a useful and appropriate mechanism for reaching the necessary agreements and reflecting the Committee's recommendations; (ii) the various technical bodies attached to the Technical Secretariat of the CES should be revived in the short term, with a view to holding the appropriate discussions to facilitate decision-making at the highest level of the CES; (iii) although the Technical Secretariat of the CES requested in March and December 2022, as well as in February 2023, that the worker, government and employer sectors accredit their representatives to form sectoral committees (technical bodies), including the MEPCOIT, to date, it has only received a reply from the employer sector through COHEP; and (iv) although the CES addressed a wide range of issues in 2022, no issues related to the reforms to the Labour Code that were linked to freedom of association were discussed. The

Committee also notes that the ITUC stresses the need for immediate action to be taken to amend the above-mentioned provisions of the Labour Code to bring them into conformity with the Convention. The Committee also notes that FASH indicates its willingness to discuss possible reforms to the Labour Code.

The Committee once again notes with **regret** that, although it has been requesting an amendment to the provisions of the Labour Code for several years, no progress has been made in this respect. ***The Committee strongly encourages the Government and all the parties concerned, with the technical support of the Office, to make every effort to revive the various technical bodies attached to the Technical Secretariat of the CES and to hold tripartite discussions to enable progress to be made in the implementation of the reforms that have been requested for many years. The Committee requests the Government to report on any developments in this regard.***

***New Penal Code.*** In its previous comment, after noting some concerns regarding the impact of certain provisions of the Penal Code adopted in 2020 on the free exercise of trade union activities, the Committee requested the Government to provide information on the consultation process initiated in this respect. The Committee notes that the Government describes in detail the issues addressed by the CES at its meetings and observes that these meetings did not address issues related to the Penal Code. The Committee also notes that, according to COHEP, a new Government took office on 27 January 2022 and most of the technical staff of the executive branch was removed, so it is unclear whether the Ministry of Labour and Social Security has continued since then the consultation process on the Penal Code. ***The Committee regrets that it does not have any information on the consultation process in question and once again requests the Government to provide information in this regard.***

***Application of the Convention in practice.*** In its previous comment, while aware of the obstacles that the COVID-19 pandemic may have created in relation to the operation of the MEPCOIT, the Committee emphasized the essential role that the MEPCOIT could and must play in the resolution of industrial disputes and hoped that it would resume its activities at the earliest possible opportunity. The Committee notes the Government's indication that, although it recognizes the MEPCOIT as a privileged space for addressing various issues and reaching consensus to reduce conflict and harmonize industrial relations, the MEPCOIT has not held any meetings since 2021. The Government expresses the wish that dialogue resume and that the MEPCOIT meet the commitments set out in the tripartite agreement concluded in 2019. The Committee also notes that, according to the Government, the Technical Secretariat of the CES requested in 2022 and early 2023 that the worker, government and employer sectors accredit their representatives to form sectoral committees (technical bodies), including the MEPCOIT, and that to date, it has only received a reply from the employer sector through COHEP. The Committee notes with **regret** that even though several years have passed since its establishment and despite the role, as recognized by the Government, it can play in the resolution of labour disputes, the MEPCOIT has not been able to meet. ***Noting the Government's indications regarding the accreditation of the representatives of the various sectors to form sectoral committees (technical bodies), including the MEPCOIT, and recalling the essential role that the MEPCOIT can and must play in the resolution of labour disputes, the Committee urges the Government and all the parties concerned to make every effort to ensure that this committee resumes its activities as soon as possible. The Committee requests the Government to report on this matter.***

***The Committee requests the Government to take, as soon as possible, the necessary measures to bring its legislation and practice into conformity with the Convention. The Committee strongly encourages the Government to redouble its efforts to ensure that the Committee on Anti-Union Violence and the MEPCOIT resume their meetings and that progress is made in respect of the above-mentioned measures through social dialogue. The Committee reiterates that the technical assistance of the Office is at its disposal and requests the Government to provide detailed information in its next report on any progress made with regard to the issues raised.***

## Indonesia

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

#### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2023 concerning the discussions that took place at the Conference Committee on the Application of Standards with respect to the application of the Convention. The Committee further notes: (i) the observations of the Employers' Association of Indonesia (APINDO) received on 31 August 2023; (ii) the joint observations of the Confederation of Indonesian Trade Unions (KSPI), the Confederation of All Indonesian Workers' Union (KSPSI) and the Indonesian Trade Union Prosperity (KSBSI), received on 31 August 2023; and (iii) the observations of the International Trade Union Confederation (ITUC) received on 27 September 2023. All of the above noted observations refer to the matters addressed below.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee), in June 2023 concerning the application of the Convention. The Committee observes that the Conference Committee noted with deep concern the significant gaps in law and practice regarding the protection against anti-union discrimination, the scope of collective bargaining permitted under the law, the promotion of collective bargaining, and interference in free and voluntary collective bargaining with respect to the Convention. The Conference Committee further urged the Government to: (i) review the Law on Job Creation in consultation with the social partners and adopt without delay the amendments necessary to bring that law into compliance with the Convention; (ii) ensure in law and practice that there is no interference of employers or government officials in a voting procedure of trade unions in accordance with *Article 2* of the Convention; (iii) ensure that unilateral recourse to compulsory arbitration as a way to avoid free and voluntary collective bargaining is employed only in very limited circumstances and ensure its use does not impede the right of trade unions to freely organize their activities; (iv) promote collective bargaining, and provide information to the Committee of Experts on the measures taken in this regard as well as on the results achieved, including the number of collective agreements specifying the sectors of activity concerned; (v) ensure that the rights under the Convention are guaranteed for workers in all the zones, equivalent to export processing zones, where export products are produced, and provide information to the Committee of Experts on the trends and number of collective agreements in force in these zones; (vi) prevent any act of violence and ensure, in law and practice, adequate protection of individuals for their legitimate exercise of their rights under the Convention, including through effective and expeditious access to justice, adequate compensation as well as the imposition of effective and sufficiently dissuasive sanctions; (vii) provide to the Committee of Experts statistics on the number of complaints of anti-union discrimination and interference filed, the number of complaints brought before the courts, as well as any remedies and sanctions imposed and the average duration of proceedings under each category; and (viii) take decisive and effective measures to promote a climate of non-violence, as well as constructive social dialogue and labour relations at all levels. The Committee observes that the Conference Committee concluded by requesting the Government to avail itself of ILO technical assistance with a particular focus on labour law reform, including the Job Creation Law, and with the full involvement of the social partners so as to ensure full compliance with the Convention's obligations.

*The Job Creation Law.* In respect of the tripartite review of the law and its regulations, the Committee notes that, according to the Government: (i) Law No. 11 of 2020 concerning Job Creation had



been revoked and replaced with a Government Regulation in Lieu of Law (Perppu), No. 2 of 2022, which was later enacted into law as Law No. 6 of 2023; (ii) discussions were held across 18 regions to gather inputs on Government Regulations Nos 35 and 36 of 2021 implementing the Job Creation Law; and (iii) the said discussions covered all provinces and were attended virtually by all stakeholders, including workers' and employers' organizations. The Committee further notes in this regard APINDO's indication that the Government had engaged with its members to provide information on and receive inputs with respect to the Law on Job Creation. As concerns the abovementioned laws, the Committee notes that the Job Creation Law's validity was upheld by the Constitutional Court in October 2023 and that Government Regulation No. 36 of 2021 on wages was enacted as Government Regulation No. 51 in November 2023. In respect of these developments, the Committee notes with **concern** the KSPI, KSPSI and KSBSI allegations that although they constitute the nation's largest workers' organizations, they had not participated in the consultations referred to by the Government and were not consulted or involved in the determination of the composition of the National Tripartite Council (LKS tripartite). Additionally, the Committee notes with **regret** that the technical assistance proposed by the Office with regards to the mentioned consultations on the Government Regulation could not take place.

The Committee notes moreover that the Indonesian unions and the ITUC continue to raise several concerns with respect to the Job Creation Law, in particular that it: (i) exposes certain categories of workers to greater risk of anti-union discrimination; (ii) restricts the scope of collective bargaining, especially for workers in micro and small enterprises (MSEs); and (iii) undermines collective bargaining by removing many protective regulations regarding the use of fixed-term contracts and outsourcing. ***In light of these allegations and bearing in mind the conclusions of the Conference Committee, the Committee requests the Government, in full consultation with the social partners, to carefully monitor the impact of the Job Creation Law and its attendant regulations, with a view to ensuring the full application, in practice, of the Convention. The Committee requests the Government to provide detailed information in this respect.***

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* The Committee previously requested the Government to provide statistics on the number of complaints of anti-union discrimination and interference filed, the number of complaints brought before the courts, as well as any remedies and sanctions imposed and the average duration of proceedings under each category. The Committee notes the information supplied in this regard, particularly the list of complaints submitted to the Ministry of Manpower regarding alleged violations of freedom of association. As regards complaints of violations of freedom of association handled by labour inspectors, the Government indicates that: (i) in 2020, one case was resolved by a decision of the Tangerang High Court resulting in two convictions; (ii) no cases of violations of freedom of association were recorded in 2021; and (iii) two cases were resolved through mediation, and one through bipartite negotiation in 2022.

The Committee notes the very small number of complaints reported by the Government, particularly in view of the size of the country's workforce. The Committee also notes the conclusions of the Conference Committee highlighting the existence of significant gaps in law and practice regarding the protection against anti-union discrimination, the Government's acknowledgment of the concerns raised by trade unions in this respect, as well as its indication that it would continue to pay attention to this important matter and receive the Office's technical assistance as appropriate. ***Based on the above, the Committee requests the Government to review, in full consultation with the social partners concerned, the existing system of protection against acts of anti-union discrimination, with a view to ensuring that it establishes comprehensive protection against anti-union discrimination, including swift recourse to mechanisms that may impose sufficiently dissuasive sanctions against such acts, in accordance with Article 1 of the Convention. The Committee further encourages the Government to avail itself of the Office's technical assistance in respect of this matter and to report on the results of the referred review.***

*Article 2. Adequate protection against acts of interference.* The Committee recalls its longstanding comments on the need to amend section 122 of the Manpower Act, so as to discontinue the presence of the employer during a voting procedure held in order to determine which trade union in an enterprise shall have the right to represent the workers in collective bargaining. It furthermore recalls that in its previous comment, it had noted with concern the Government's statement that it was satisfied with this provision and did not deem it necessary to amend it. The Committee **regrets** to note that the Government once again largely repeats the indications it had previously provided, including that the employer and the Government are merely present during the vote as witnesses and that their presence will not affect the voting. **Once again emphasizing the need to ensure adequate protection against acts of interference in practice, the Committee reiterates its expectation that the Government will amend section 122 of the Manpower Act so as to prohibit the presence of the employer during voting procedures. It once again requests the Government to provide information on developments in this regard.**

*Article 4. Promotion of collective bargaining.* The Committee had previously urged the Government to review sections 5, 14 and 24 of Law No. 2 of 2004 concerning the Industrial Relations Dispute Settlement Act (IRDS Act), to ensure that compulsory arbitration during collective bargaining can only be invoked under exceptional circumstances. The Committee notes that according to the Government, the IRDS Act promotes the resolution of disputes through the negotiation of the involved parties. Ministerial regulation No. 31/2008 requires the holding of bipartite negotiations before resorting to mediation and conciliation; should these procedures fail, the Industrial Relations Court may settle the dispute as a last resort. The Government further indicates that the arbitration procedure must be based on written agreements between the parties involved (section 32 of the IRDS Act), before repeating its previous assertion that there is therefore no strong reason to amend the above-noted sections.

The Committee notes this information and observes, additionally, that the settlement of disputes through arbitration is established by sections 29-54 of the IRDS Act. The Committee recalls, however, that sections 5, 14 and 24 of the IRDS Act allow one of the parties to an industrial dispute to file a legal petition to the Industrial Relations Court for final settlement of the dispute, if conciliation or mediation fails. The Committee highlights in this respect that the possibility for a single party to collective bargaining to submit the resolution of the dispute to the decision of a court has the same restrictive effect on the principle of free and voluntary collective bargaining as compulsory arbitration mechanisms. In this sense, unilateral recourse to a court to settle a collective bargaining process is only acceptable: (i) in essential services in the strict sense of the term; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; and (iv) in the event of an acute crisis. **Accordingly, the Committee once again urges the Government to take measures to amend sections 5, 14 and 24 of the IRDS Act to ensure that the unilateral recourse to compulsory arbitration or to a tribunal to settle a collective bargaining process may only occur in the limited set of situations mentioned above. The Committee requests the Government to provide information on any progress in this respect.**

*Recognition of organizations for the purposes of collective bargaining.* The Committee previously requested the Government to continue providing statistics on the number of collective bargaining agreements (CBAs) in force, specifying the sectors of activity concerned and the number of workers covered. The Government indicates in this respect that nationwide there were a total of 18,144 CBAs and provides the following information on the number of CBAs by sector: Wholesale and Retail Trade, Repair of Motor Vehicles and Motorcycles (4,086); Manufacturing Industry (3,985); Rental and Leasing Activities without Option of Labour Travel Agent (1,347); Professional, Scientific and Technical Activities (1,025); and Accommodation and Food Service Activities (889). **The Committee requests the Government to continue providing statistics on the number of CBAs in force, specifying the sectors of activity concerned and the number of workers covered.**

*Collective bargaining at the sectoral level.* The Committee previously requested the Government to also promote collective bargaining at the sectoral and regional levels and to provide information in this regard. The Committee notes the Government's information concerning the general activities carried out to promote collective bargaining during the 2015–23 period, including trainings on negotiation skills conducted in 34 provinces. **Recalling once again that collective bargaining should be possible at all levels, the Committee requests the Government to take the necessary steps to also promote collective bargaining at the sectoral and regional levels and to provide information specifically thereon in its next report.**

*Export processing zones (EPZs).* The Committee previously requested the Government to take the necessary steps to ensure that workers in all the zones equivalent to EPZs are covered by the Convention's guarantees, and to inform it of the progress made in the tripartite consultations on the alleged denial of the rights under the Convention to workers in EPZs. It further requested the Government to provide detailed information, including statistics, on the existing collective agreements and collective bargaining practice in the referred zones. In this respect the Committee notes that, according to the Government, 687 CBAs had been concluded in EPZs. **As highlighted in its previous comment, the Committee requests the Government to complement the information on the number of collective agreements in force in these zones with elements on the number of workers covered and to provide information, including statistical data, on any trends observed in the coverage of the collective agreements concluded in the referred zones. Observing finally that the Government provides no information on the tripartite consultations previously referred to, the Committee requests the Government to provide information on any developments in this regard.**

**The Committee expects that the Government will take all the necessary measures to address the different points raised in this comment and that it will fully avail itself of the Office's technical assistance as requested by the Conference Committee.**

## Japan

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

#### Previous comments

The Committee notes the following observations concerning matters addressed in this comment, as well as the Government's replies thereto: the observations of the Japanese Trade Union Confederation (JTUC-RENGO) and of the Japan Business Federation (Nippon Keidanren), transmitted with the Government's report; and the observations of the Firefighting Personnel and Ambulance Workers (ZENSHOKYO), received on 10 August 2023.

*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 has 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 of the personnel and to submit its conclusions to the chief of the fire department. Surveys directed to fire defence headquarters are regularly conducted to gather information on the deliberations and results of the FDPC. In its latest report, the Government refers to specific surveys, conducted in 2018 and 2022, aimed at assessing the operation of the FDPC system and seeking improvement. The Government also reports that, from January 2022 up to March 2023, the Ministry of Internal Affairs and Communications (MIC) held the seventh to the tenth consultation 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, as well as various topics

such as the re-employment of fire defense personnel, harassment in the workplace, the employment and empowerment of female firefighters, the state of the ambulance services and working hours.

In this regard, the Committee notes the ZENSHOKYO indication that since 1977 it handles issues such as the improvement of the equipment and facilities for firefighting and ambulance personnel, as well as their working conditions without being able to negotiate and consult with management due to the denial of the right to organize. The sanitary crisis during the COVID-19 pandemic led to worsened working conditions for emergency personnel and in particular the ambulance services. Despite clear proposals gathered from the first-responder firefighters, ZENSHOKYO was unable to engage with management on urgent remedial measures in the absence of a system where labour and management could cooperate. Based on such experience and in anticipation of any future crises, ZENSHOKYO calls for the recognition of the right to organize for firefighting personnel. The Committee notes that the Government recalls the emergency measures taken in cooperation with concerned organizations to reduce the burden on firefighters and ambulance services during the sanitary crisis, as well as initiatives to increase the personnel and the budget. The Government also recalls that the use of the FDPC system, even during the sanitary crisis, enabled the review of about 5,000 opinions per year - of which 40 per cent are considered appropriate for implementation. Since the authorities were able to address the difficult situation of ambulance transport during and after the COVID-19 pandemic, and taking into account the concerns raised by the Fire Chiefs' Association of Japan, and other organizations, that the granting of the right to organize may disrupt the firefighting staff's reporting line and organizational order, and thus hinder the activities during wide-scale disasters, the Government does not share the view of ZENSHOKYO that the right to organize of firefighters is indispensable to prepare for future crises. The Committee further notes that JTUC-RENGO reiterates that the reporting systems, consulting services or fairness committees set up by the Fire and Disaster Management Agency are not functioning, and amount to nothing more than makeshift measures and the Government's denial of the right to organize hampers fire and emergency services by lowering morale among personnel, impedes firefighting and emergency services and ultimately endangers the lives and properties of citizens and residents. The Committee also notes that Nippon Keidanren shares the view expressed by the Government.

The Committee is bound to recall that the implementation policy for the FDPC remains distinct from the recognition of the right to organize under *Article 2* of the Convention. It notes that views remain divergent on the meaningfulness of the consultations held under the FDPC system and notes with **regret** that no progress was made towards bringing positions closer together on the right to organize of firefighting personnel. ***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 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 recalls its position that prison officers are included in the police, that this view was accepted by the Committee on Freedom of Association in its 12th and 54th Reports, and that 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. The Government reiterates that, in cases where any emergency occurs in a penal institution, it is required to bring the situation under control, by force if necessary; therefore, granting the right to organize to the personnel of penal institutions could pose a problem for the performance of their duties and maintenance of discipline and order. Since 2019, the Government decided to grant expanded opportunities for the personnel of penal institutions to express their opinions in the eight regional correctional headquarters across the country. In 2022, the sessions took place partly online with the participation of 222 general staff members (from 75 penal institutions). The participants exchanged

opinions on improving the work environment, on the staff training and on the reduction of the workload. The Committee notes Nippon Keidanren's observations supporting the Government's view that prison officers should be considered part of the police.

The Committee notes that according to JTUC-RENGO: (i) the various measures described by the Government to provide opportunities for the personnel of penal institutions to express their opinions on their working conditions are irrelevant to union rights, including the right to organize. They merely constitute an exchange of views with individual employees and cannot be considered negotiation; and (ii) the measures described by the Government serve as substitutes for a meaningful discussion on granting the right to organize to the personnel of penal institutions.

While noting the information on the Government initiatives to give opportunities to the personnel of penal institutions to provide their opinions on various aspects, including on their working conditions, the Committee must reiterate that, in its view, these initiatives remain distinct from the recognition of the right to organize under *Article 2* of the Convention. The Committee notes with **regret** that, despite reiterated calls from this Committee and the Committee on the Application of Standards of the International Labour Conference (hereafter the Conference Committee), the Government has again failed to engage in consultation with the social partners to determine the categories of prison officers that may form and join an organization of their own choosing to defend their occupational interests. In this regard, the Committee recalls 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 judicial police officials with regard to crimes which occur in penal institutions and who have the authority to arrest, search and seize. **Therefore, the Committee once again urges the Government to engage without further delay in consultations with the social partners and other stakeholders concerned to determine 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 service 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 once again by the Government on its overall approach, which remains to continue to hear opinions from employee organizations. The Government refers once again to the procedures of the National Personnel Authority (NPA) presented as a compensatory guarantee for public service employees whose basic labour rights are restricted. The Government indicates that the NPA held 180 official meetings with employees' organizations in 2021 and 190 official meetings in 2022, making recommendations enabling working conditions of public service employees to be brought into line with the general conditions of society. The Government invokes the example of the use of the NPA recommendation system through fact-finding surveys nationwide for revision of the remuneration of public service employees, implemented since 1960. Therefore, the Government restates that these compensatory measures maintain appropriately the working conditions of public service employees. The Committee notes the Nippon Keidanren observations supporting the Government's intention to continue to carefully review and consider measures for an autonomous labour-employer relations system, taking into account views from employees' organizations.

The Committee notes, however, 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 initiate consultation with the organizations concerned. Furthermore, JTUC-RENGO reiterates that the NPA recommendations are left to political decision, making it obvious that such a mechanism is defective as a compensatory measure. JTUC-RENGO regrets that on all occasions the Government merely and invariably repeats its statement made in 2013 in the House of Representatives that "an autonomous industrial relations system would have a wide range of issues and as citizens' understanding has not been gained yet, it will be necessary to continue to consider this carefully." JTUC-RENGO deplores the evident lack of intention on the part of the Government to reconsider the legal system regarding the basic labour rights of public service employees.

***Noting with deep regret that the report fails to provide any sign of progress on the matter, the Committee is bound to urge the Government to engage without further delay in consultations with the social partners and other stakeholders concerned to determine the necessary measures to ensure that public service employees, who are not exercising authority in the name of the State, enjoy fully their basic labour rights, in particular the right to industrial action. Moreover, the Committee also urges the Government to resume consultations 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. The Committee expects the Government to provide information on meaningful steps taken in this regard.***

*Local public service employees.* The Committee recalls that, in its previous comments, representative organizations in the local public sector had referred to the adverse impact of the entry into force of the revised Local Public Service Act in April 2020 on their right to organize on the following grounds: (i) non-regular local public service employees and their unions are not 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 new system, which aimed at limiting the use of part-time staff on permanent duties (through special service positions appointed by fiscal year just as regular service employees), has the effect of increasing the number of workers stripped of their basic labour rights; (iii) the conditional yearly employment system in place has created job anxiety and weakens union action; and (iv) these situations further call for the urgent restoration of basic labour rights to all public service employees.

The Committee notes that the Government merely reiterates that the legal amendments ensure proper appointment of special service personnel and temporary appointment employees and clarify the framework of appointment of regular service part-time staff. In the Government's view, the amendments guarantee the status of these personnel and employees along with the introduction of some allowances due to them. The change in the conditions of basic labour rights is therefore the consequence of the guarantee of the terms of appointment of these persons, as originally set out. The Government also states that it will carefully examine what the basic labour right of local public service employees should be "in a manner consistent with the measures for the labour-employer relations system of national public service employees" as prescribed by the supplementary provision of the Civil Service Reform Act. The Committee notes Nippon Keidanren's observations supporting the position of the Government for careful examination regarding the basic labour rights of local public service employees. The Committee further notes JTUC-RENGO's indication that while the legal amendments are a step to ensure proper appointment of special service personnel and temporary appointment employees, the basic labour rights of local public service employees remain unaddressed and should be addressed in the overall framework of the restoration of basic labour rights to all civil servants.

The Committee is once again bound to observe that the legal amendments to the Local Public Service Act that entered into force in April 2020 for local public service employees had the effect of broadening the category of public sector workers whose rights under the Convention are not fully ensured. ***Therefore, the Committee is once again bound to urge the Government to expedite without further delay its consideration of the autonomous labour-employer relations system, in consultation***

***with the social partners concerned so as to ensure that municipal unions are not deprived of their long-held trade union rights through the introduction of these amendments. It expects the Government to provide detailed information on meaningful steps in this regard.***

*Articles 2 and 3. Consultations on a time-bound action plan of measures for the autonomous labour-employer relations system.* The Committee notes with **regret** that the Government merely repeats that it is examining carefully how to respond to the conclusions and recommendations formulated by the Conference Committee in 2018, and reiterates that it is exchanging opinions with JTUC-RENGO in this regard. The Committee notes, however, that JTUC-RENGO denies that such exchange of opinions took place and deplores that, despite the five years that have lapsed since the Conference Committee called on the Government to develop a time-bound action plan together with the social partners in order to implement its recommendations, the Government has taken no steps towards its materialization. The Committee observes with **concern** that the Government has made no tangible progress in engaging with the social partners to draw-up the action plan requested by the Conference Committee since 2018. ***Therefore, the Committee is bound to urge the Government to take the necessary measures without further delay to define, in consultation with the social partners concerned, a time-bound plan of action to give effect to the recommendations of the Conference Committee. The Committee expects the Government to report specific steps in this respect.***

## Jordan

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

(ratification: 1968)

#### [Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2023 which concern certain matters examined in this comment.

*Articles 1–6 of the Convention. Scope of application of the Convention. Foreign workers.* In its previous comment, the Committee had noted that the legal restrictions to the freedom of association of foreign workers, in addition to the dominant union monopoly, have strongly contributed to a situation where, in many sectors foreign workers have no access to collective bargaining, while in some others, their bargaining power is significantly constrained in practice. In view of the foreign workers' large share in the workforce in Jordan, the Committee had noted that this issue significantly affected the exercise of freedom of association and the right to collective bargaining in the whole Jordanian economy and had urged the Government to repeal sections 98(f)1 of the Labour Code and 7(a) of the Jordanian Teachers' Association Act (JTA Act) which exclude foreign workers from the right to establish and join unions, and to promote collective bargaining in the sectors where foreign workers make up most of the workforce and encourage the existing unions to adopt an inclusive approach to the participation of foreign workers in collective bargaining. The Committee notes the Government's indication that the Jordanian Constitution grants the right to establish unions only to Jordanians and therefore repealing section 98(f)1 would be anti-constitutional. Regarding section 7(a) of the JTA Act, the Government indicates that pursuant to its section 19(d), proposals to amend the JTA Act must be made by the board of the union, and subsequently submitted to the Central Authority of the Association and finally to the Minister who will take the necessary legal measures. Regarding the promotion of collective bargaining in sectors where foreign workers make up most of the workforce (including agriculture, construction, domestic work and the garment industry), the Committee notes that the Government merely indicates that in 2022, the number of collective labour contracts reached 47, which covered 263,123 workers including foreign workers. In the first half of 2023, these numbers reached 31 and 146,746 respectively. The Government adds that in the construction sector there is a cooperation protocol between the General Union of Construction Workers and the Association of Investors in the Jordanian Housing sector, and negotiations between that union and the Jordanian Construction Contractors' Association are ongoing.

Noting the Government's replies to the legislative review requests, the Committee recalls that States have the obligation to give effect to the provisions of the Conventions they ratify, and it is in view of fulfilling this fundamental obligation that they must bring their law and practice into conformity with those Conventions. **Considering that the Convention does not allow the exclusion of foreign workers from its scope, the Committee once again urges the Government, in full consultation with the social partners, to repeal all the legal provisions that exclude foreign workers from the right to engage in collective bargaining, in particular sections 98(f)1 of the Labour Code and 7(a) of the JTA Act. The Committee further requests the Government to promote collective bargaining in the sectors where foreign workers are highly represented and take measures to ensure that their demands and concerns are taken into account in this process, and to provide information on the steps taken in this respect.**

*Agricultural and domestic workers.* In its previous comment the Committee had noted that domestic workers are not covered by the Labour Code provisions concerning freedom of association and collective bargaining. The Committee also noted that since the adoption of Decision No. 2022/45 of the Ministry of Labour (MOL), domestic workers can join a pre-existing sectoral union. The Committee had requested the Government to take measures towards the express recognition of the rights of domestic workers to organize and bargain collectively and to provide information on collective bargaining in domestic work and agriculture sectors. It notes with **regret** that the Government does not provide any information in reply to these requests. **Therefore, the Committee once again urges the Government to take appropriate measures to: (i) revise the Labour code or the Regulation on domestic work with a view to expressly recognizing the right of domestic workers to organize and bargain collectively; (ii) encourage and promote collective bargaining in agriculture and domestic work sectors and; (iii) provide information on any collective agreements concluded in these two sectors and the number of workers covered by them.**

*Workers aged between 16 and 18 years.* In its previous comments, the Committee had noted that minors between 16 and 18 years of age have access to employment but are prohibited from joining trade unions and had requested the Government to revise the law so that these workers can enjoy their rights under the Convention. The Committee notes that the Government merely reiterates in this respect that the purpose of subjecting the right to establish and join unions to the attainment of age of 18 is to protect the workers' will; that amending section 98(f) would go against Jordanian civil law provisions concerning the age of majority and the capacity to exercise civil rights; and that the Jordanian Chamber of Commerce has expressed its agreement with the current age limit. Recalling that it has always emphasized the need to guarantee that minors who have reached the minimum legal age for admission to employment, both as workers and as apprentices, can exercise their trade union rights, the Committee **regrets** the lack of progress on this matter. **Therefore, the Committee once again urges the Government to take the necessary measures to amend sections 98(e)2 and 98(f) of the Labour Code, with a view to fully recognizing and protecting the right of the workers aged between 16 and 18 years to exercise their rights under the Convention. It requests the Government to provide information on the measures taken or envisaged in this respect.**

*Education sector workers.* In its previous comment, the Committee had noted that despite the existence of a union they can join, public sector teachers, and private sector teacher members of the Jordanian Teachers' Association (JTA), do not appear to enjoy the right to collective bargaining in law or in practice and had requested the Government to ensure that this right is recognized and effectively respected. The Committee had also noted that at least two cases concerning JTA members and executives were pending before courts: (i) the case concerning the dissolution by judicial decision of the JTA executive board; and (ii) a penal case involving charges of incitement to hatred, disturbing the order at an educational institution, and instigating an unlawful assembly. The Committee had also noted the ITUC's observation alleging the arrest and detention of 14 leading members of the JTA. The Committee had requested the Government to provide information on all the court proceedings involving the JTA, the unionists involved in them and the concrete acts that had entailed their charges. The Committee



notes that the Government indicates that contrary to the General Union of Workers in Private Education (GUWPE), the JTA is established under the JTA Act and is not an association governed by Labour Law, therefore, the Ministry of Labour does not deal with any disputes related to this organization. The Government adds however, that JTA members who are teachers in private educational institutions, have the worker status under the Labour Code and enjoy the rights contained therein. According to the Government, a new collective labour contract was concluded between the GUWPE and the Association of Private School-Owners, which initiated a unified labour contract for all workers in private schools and kindergartens, strengthening their labour rights. Concerning the proceedings involving the JTA and its members, the Government indicates that on 12 December 2022, the Amman Magistrate's Court issued a judgment acquitting the JTA and the members of the first session of its Council from charges of misuse of authority and wasting public money. Nevertheless, the Court convicted 10 other members of the JTA Council for the offence of wasting public money. The Government adds that the Court of Appeal annulled this judgment on 27 April 2023 and the case was sent back to the first instance Court where it is still pending. The Committee also notes the observations of the ITUC stating that JTA members still face persecution from the authorities, and that although the organization has re-started its activities, its leadership has been replaced and members face restrictions in organizing collective actions. The ITUC alleges that genuine leadership and members have been unable to resume their trade union activities. Noting the information provided by the Government, the Committee **regrets** that no measures have been taken in view of guaranteeing the right to collective bargaining of the JTA members. The Committee recalls in this respect that education sector workers in both public and private sectors should enjoy the rights enshrined in the Convention including the right to collective bargaining. Furthermore, the Committee notes that the Government does not reply to the request for information concerning the JTA members who were accused of "incitement to hatred, disturbing the order at an educational institution, and instigating an unlawful assembly". **Therefore, the Committee once again urges the Government to take all the necessary measures, including legislative measures, to ensure that the right to collective bargaining of the JTA and all workers in the public and private education sector is explicitly recognized in law and effectively respected in practice. The Committee also requests the Government to provide information on all the penal and civil cases pending against the JTA and its members, including the identity and trade union office of the prosecuted JTA member and the concrete acts that have entailed the charges against them. Finally, the Committee requests the Government to provide its comments with respect to the observations of the ITUC.**

*Workers not included in the 17 sectors recognized by the Government.* In its previous comment, the Committee had noted that the principle embodied in section 98(d) of the Labour Code, which provides for the existence of a closed list of industries and economic activities in which trade unions – only one per sector – can be established, is incompatible with the principles set out in the Convention concerning the workers covered as in view of the evolving nature of the economy and the continuous coming into existence of new activities, a closed list will inevitably have the effect of excluding entire categories of workers from the right to establish and join organizations and, therefore, from exercising the right to collective bargaining. The Committee recalls that the Convention covers all workers, with the only possible exceptions of the armed forces, the police and the public servants engaged in the administration of the State. The Committee further notes the Government's indication that the Ministry of Labour continuously amends the Decision on classification of industries and economic activities in which workers may establish unions, with a view to ensuring the inclusion of all workers in all sectors. The Committee recalls that the existence of a closed list of sectors where unionization and collective bargaining is allowed is incompatible with the Convention and notes with **regret** the lack of progress with respect to this long-standing issue. **Therefore, the Committee once again urges the Government to review section 98(d) of the Labour Code and to take the necessary measures to ensure that workers in all sectors of the economy can exercise their right to organize and freely bargain collectively through**

**the organization of their choosing. It requests the Government to provide information on the measures taken in this respect.**

*Article 2. Adequate protection against acts of interference.* In its previous comment, the Committee had noted that a bill amending section 139 of the Labour Code, which establishes the penalty applicable to acts of interference by employers, was pending before the House of Representatives, but that the proposed amendment still did not establish sufficiently dissuasive sanctions. The Committee had requested the Government to revise the draft submitted to the parliament with a view to effectively strengthen the penalties for interference. The Committee notes the Government's indication that the draft was adopted as such and therefore the highest fines imposed on employers in case of breach of labour law (including acts of interference) have increased from 100 Jordanian Dinar (JD) to JD1,000 (US\$1,410). The Committee notes that this fine, which can neither be adjusted with inflation nor adapted in proportion to the size of the enterprise may not be sufficiently deterrent in the long term and in cases in which the interfering employer disposes of considerable financial resources. **The Committee therefore requests the Government, in full consultation with the social partners, to review section 139 of the Labour Code with a view to effectively strengthen the penalties for acts of interference, so as to ensure that they are sufficiently dissuasive. It requests the Government to provide information on the measures taken in this respect.**

*Articles 4 and 6. Right to collective bargaining. Trade union monopoly.* In its previous comments, the Committee had noted that there is a situation of union monopoly in Jordan where 17 sectoral trade unions all affiliated to a single confederation are the only recognized workers' organizations and no new trade union has been registered since 1976, despite several requests by groups of workers. The Committee noted that this situation is based on sections 98(d) and 102(c) of the Labour Code, as well as on the Decision on classification of industries and economic activities. The Committee notes that the Government reiterates in this respect that the refusal of the Registrar of Trade Unions and Employers' Associations to register any new trade union with the same aims and purposes as an existing trade union is to avoid rendering the sector vulnerable to fragmentation and conflict of interest and that the rationale behind section 98 is to defend the workers' interest. Noting with **regret** the lack of progress on this very important and longstanding issue, the Committee recalls that the right of workers to free and voluntary collective bargaining should include the right to be represented in collective bargaining by the organization of their choice. **Therefore, the Committee urges the Government to take all the necessary measures to remove obstacles to trade union pluralism in law and in practice, including by removing the requirement of "one union per sector" in section 98(d) of the Labour Code and the Decision on the classification of industries and economic activities where trade unions may be established (Ministerial Decision No. 2022/45) so as to ensure that all workers can fully exercise their right to free and voluntary collective bargaining.**

*Collective bargaining in the public sector. Public servants not engaged in the administration of the State.* In its previous comment, the Committee had noted that in Jordan, the exercise of the right to collective bargaining in the public service is still not possible in the absence of a legal framework that would expressly recognize this right and regulate its exercise and had urged the Government to take measures in this respect. It had also requested the Government to provide information on any existing public service trade unions besides the JTA and the regulatory texts governing their establishment and functioning. The Committee notes that the Government merely indicates in this respect that employees in any Ministry, department, body or government institution may establish a special trade union for themselves, provided that this is done by virtue of regulations issued for this purpose in accordance with the opinion of the legislative authority which has the original competence with respect to the matter. The Committee notes therefore that the creation of organizations by public servants requires special legislation and that no such special legislation has been issued besides the JTA Act. **In view of the above, the Committee urges the Government to take the necessary measures to: (i) adopt legislation enabling public servants not engaged in the administration of the State to establish their**

**organizations; and (ii) to ensure that all public servants not engaged in the administration of the State have an effective framework in which they may engage in collective negotiations over their working and employment conditions through the trade union of their choice, for example, by revising the Civil Service Regulation No. 9 of 2020, or by extending the scope of the Labour Code. The Committee requests the Government to provide information on the steps taken in this regard.**

**The Committee reminds the Government of the possibility to avail itself of ILO technical assistance regarding the issues raised in this comment.**

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

### [Previous comment](#)

*Article 2 of the Convention. Facilities for workers' representatives in the undertaking.* In its previous comment, the Committee had noted that an adequate regulatory framework guaranteeing the workers' representatives access to appropriate facilities in accordance with *Article 2* of the Convention was yet to be adopted, despite the Government's indication that recommendations regarding principles and criteria governing the granting of time off from work for union activities were drawn up in 2017 by a committee nominated by the Ministry of Labour and made up of representatives of the General Federation of Trade Unions and the Jordanian Chambers of Industry and Commerce. The Committee notes with **regret** that the Government reports no progress in this regard and simply indicates that it was agreed to submit the recommendations on time off for union representatives to the next meeting of the Tripartite Committee for Labour Affairs (TCLA), the body competent for establishing the rules enabling trade union representatives to carry out their duties pursuant to section 107 of the Labour Code. **In view of the foregoing, the Committee urges the Government to ensure that criteria and principles governing time off for union activities are submitted to the TCLA without further delay. It further urges the Government to take all the necessary measures to ensure that an adequate regulatory framework, guaranteeing the workers' representatives all the facilities enabling them to carry out their functions promptly and efficiently, such as those listed in the Workers' Representatives Recommendation, 1971 (No. 143), is submitted to tripartite consultation and approval. The Committee requests the Government to provide information on any developments in this respect.**

## **Lebanon**

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

#### [Previous comment](#)

The Committee notes the observations of the General Confederation of Lebanese Workers (CGTL) transmitted with the Government's report, which refer to matters addressed in the present comment.

*2015 and 2016 observations of Education International. Wage increases in the education sector.* The Committee previously requested the Government to clarify, in relation to the 2015 and 2016 observations of Education International, which concerned reported wage increases for teachers in the public and private sectors, whether such increases were the result of collective bargaining. The Committee notes the Government's indication that the increase in wages mentioned in Act No. 46 of 21 August 2017 is the outcome of collective bargaining over several years. The Government further reports that in the public sector, wage increases have been approved over the past two years in the form of social assistance and are thus currently not included in the salary and that although relative increases to the value of educational and hospital grants were approved, they are insufficient. The Committee notes that the CGTL highlights in this regard that workers in State administration, who are not subject to the Public Sector Staff Act (applicable to employees in public administration) or the Labour Code but to Decree 5883/1994 would benefit from mainstreaming the provisions of the Labour Code and further reviewing the salaries and boosting the allowances owing to the economic crisis in the country.

**Welcoming the wage increases obtained as a result of collective bargaining and noting the Government's indication that further improvements can be made for public sector teachers, the Committee encourages the Government to continue to promote and strengthen collective bargaining, in law and in practice, as an effective means of enhancing working conditions of teachers both in the private and public sectors.**

### Legislative amendments

*Labour Code review.* The Committee recalls that for many years, it has been emphasizing the need to revise a number of provisions of the Labour Code and the draft Labour Code submitted by the Government in 2004. The Committee notes the Government's indication that, following several consultative meetings between employers and workers, a draft Labour Code was sent to the Cabinet of Ministers in April 2022 but has not yet been adopted due to the persistent change of governments. The Committee understands from the Government's report that one of the objectives of the draft Labour Code is to address the issues raised by the Committee, as described below. The Committee also notes the observations of the CGTL, which indicates that the review of the Labour Code should be done in compliance with the Convention and points to the need to conduct genuine awareness-raising in this regard among the relevant stakeholders, as well as cooperation among the Government, the social partners and the relevant actors. **The Committee requests the Government to provide information on any developments concerning the adoption of the draft Labour Code and expects the legislative reform to fully take into account the Committee's previous and present comments. The Committee requests the Government to provide a full copy of the draft Labour Code.**

*Scope of application of the Convention. Domestic workers.* The Committee recalled in its previous comments that domestic workers who work for private households are excluded from the scope of application of the Labour Code of 1946 (section 7(1)). The Committee notes with **interest** the Government's indication that the draft Labour Code proposes to amend sections 7 and 8 to make foreign and Lebanese domestic workers alike subject to the provisions of the Labour Code. The Government further states that: (i) domestic workers have the right to address ill-treatment or conflicts with employers or recruitment agencies by filing complaints at the Ministry of Labour, either individually, through their embassy or with the assistance of civil society groups and non-governmental organizations; and (ii) if amicable settlements fail, legal recourse is available through competent courts, including Labour Arbitration Councils, which have issued various rulings, including compensation for losses, damages and unpaid wages. While taking note of the procedures to address violations of domestic workers' individual rights, the Committee observes that the information provided by the Government does not refer to the possibility for domestic workers to join workers' organizations and be represented by them. **The Committee trusts that the new Labour Code, once adopted, will fully guarantee all the rights enshrined in the Convention to domestic workers, whether national or foreign workers, including the right to join organizations of their own choosing and to engage in collective bargaining. The Committee also requests the Government to take the necessary measures to promote the enjoyment of these rights by domestic workers in practice and to provide information in this regard, such as the names of relevant workers' organizations and the number of collective agreements concluded.**

*Articles 4 and 6 of the Convention. Promotion of collective bargaining.* The Committee notes the Government's information that the new draft Labour Code: (i) aims to effectively assert the right to collective bargaining and to active social dialogue (section 3); (ii) stipulates that collective bargaining is a dialogue between workers' and employer's representatives, which regulates and improves working conditions, regulates relations between employers and workers and creates means and resources to secure fundamental principles and rights at work (section 195); (iii) defines a collective employment contract (section 107); and (iv) regulates the procedure for collective bargaining, including in relation to the scope, the parties, the location of bargaining and its mandatory aspects (section 106). The

Committee further observes, on the basis of the provisions of the draft Labour Code provided by the Government that some aspects of the draft law may raise issues of compatibility with the Convention, in particular: (i) section 106(1) gives the labour authorities the power to approve the subject of collective bargaining previously agreed to by the parties (this should not be subject to the approval of the authorities); and (ii) section 110 establishes excessive requirements for the validation of collective agreements (a quorum of more than half of union members present at a meeting and the approval of two-thirds of those members, as previously reported by the ITUC). The Committee also observes certain issues relating to the extension of collective bargaining agreements. In particular, it is unclear whether agreement is required from the employers or their organizations and workers' organizations in the establishments to which the agreements aim to be extended (section 118). The Committee further observes that under section 121, the collective contract follow-up committee (composed of the Director General of the Ministry of Labour, two representatives of workers and two representatives of employers), which is responsible for providing opinion on the extension of collective agreements, can engage in valid meetings if more than half of its members are present. The Committee understands that this could lead to situations where opinions are issued only by the Chairperson and representatives of either workers or employers. Furthermore, the Minister has broad powers to accept or refuse extension of a collective agreement after the opinion of the collective contract follow-up committee (opinion is only binding for refusal to extend) (section 118). ***In line with the above, the Committee requests the Government to engage in further consultations with the social partners to ensure that all provisions of the draft Labour Code, including those on collective bargaining, are in line with the Convention and reminds the Government that it may avail itself of ILO technical assistance in this regard. Recalling the importance granted to the involvement of workers and employers in the process of extension by Paragraph 5(2)(c) of the Collective Agreement Recommendation, 1951 (No. 91), the Committee requests the Government to provide clarification on the concerns raised in relation to the extension of collective agreements and to provide further information on the special provisions and penalties regulating violations of collective agreements, referred to by the Government (section 128 of the draft Labour Code).***

*Excessive restrictions on the right to collective bargaining.* In its previous comment, the Committee recalled that the support of 50 per cent of Lebanese workers concerned, for collective bargaining to be considered as valid, stipulated in the draft Labour Code (a proposed reduction from 60 per cent), could pose problems of compatibility with the Convention, as it would prevent a representative union without an absolute majority from being able to engage in bargaining. The Committee observes in this regard that section 108 of the draft Labour Code stipulates that the discussion, amendment or cancellation of a collective agreement (but not its renewal without change) require workers' representatives to obtain the mandate of at least 51 per cent of members of the body and that the Minister of Labour shall determine the method for verifying the validity of the mandate. The Committee recalls that a workplace threshold of over 50 per cent of workers to be able to negotiate a collective labour agreement covering a workplace or an enterprise, is not conducive to harmonious industrial relations and does not promote collective bargaining in line with *Article 4* of the Convention. For the same reason, as well as to respect the collective autonomy of the trade union organization, the Committee considers that the approval of a collective agreement by a two-thirds majority of the participants in a general meeting of the body, which brings together at least half of its members and associates, as stipulated in section 110, may constitute an obstacle to the right to organize and collective bargaining. ***The Committee therefore requests the Government to ensure that, if no union represents the required percentage to be declared the exclusive bargaining agent, collective bargaining rights should be granted to all unions in the unit, at least on behalf of their own members and that trade unions should subsequently be able to make decisions in line with their statutes.***

*Right to collective bargaining in the public sector and the public service.* The Committee recalled, in its previous comment, that public sector workers not engaged in the administration of the State,

governed by Decree No. 5883 of 1994, should be able to enjoy the right to collective bargaining and observed that the draft Labour Code proposed amendments to this effect. The Committee notes the Government's indication that section 15 of the draft Labour Code establishes that all employers and workers at all establishments of all kinds, including workers and staff of municipalities and unions of municipalities (unless they are subject to special regulations) and staff working in public administrations and institutions who are not subject to special regulations (such as workers assigned to work by the administration itself) are subject to the provisions of the Labour Code. According to the Government, the different categories of workers will be eligible for the same protection and entitlements as those granted to other workers, while public servants are subject to their own system or to staff regulations for public administrations and institutions. It also notes that municipalities can provide their staff with a special status. While taking note of this information, the Committee recalls that only public servants engaged in the administration of the State can be excluded from the right to collective bargaining (*Article 6 of the Convention*). **The Committee therefore requests the Government to clarify the exact categories of public servants or employees that are excluded from the scope of application of the draft Labour Code or who can be excluded therefrom as a result of being subject to specific regulations, and to indicate to what extent these workers have the right to organize and engage in collective bargaining under the different provisions regulating their status and working conditions.**

*Compulsory arbitration.* In its previous comment, the Committee noted that, according to Decree No. 13896 of 3 January 2005, all public and private economic enterprises responsible for managing public services on behalf of the State or on their own account must resort to compulsory arbitration should negotiations fail. The Committee pointed to the need to take the necessary measures to ensure that compulsory arbitration in the context of collective bargaining can only be imposed in line with the Convention, that is, 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 in the event of an acute national crisis. The Committee notes that while the Government refers to an amendment of section 222 of the draft Labour Code of 2010 with regard to collective labour dispute resolution mechanisms, it does not clarify what the amendment is. The Government further points to section 182 of the draft Labour Code, which defines a collective labour dispute and section 183, which establishes that mediation and arbitration, as a means of settling collective labour disputes, shall be free and voluntary. While taking note of these proposed amendments, the Committee observes that the Government does not inform about whether Decree No. 13896, which provides for compulsory arbitration, continues to be applicable to economic enterprises responsible for managing public services on behalf of or on the account of the State. **The Committee therefore requests the Government to clarify the status of Decree No. 13896 and the amendment to section 222 of the draft Labour Code, reported by the Government, and trusts that any amendments made will take into account the above considerations in relation to collective bargaining.**

*Collective bargaining in practice.* The Committee notes the Government's indication that the last collective agreement adopted was an agreement between the Association of Banks in Lebanon and the Federation of Unions of Bank Employees in Lebanon. **The Committee requests the Government once again to provide statistics on the number of collective agreements concluded and in force and to indicate the sectors and number of workers covered.**

**Observing that support took place at a previous stage of the elaboration of the draft Labour Code, the Committee recalls that the Government can continue to avail itself of the technical assistance of the Office in this respect.**

## Liberia

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

#### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2023, which reiterate the comments made at the discussion held in the Committee on the Application of Standards of the Conference (hereinafter the Conference Committee) in June 2023 on the application of the Convention by Liberia. It further notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2023 and referring to the issues addressed by the Committee below. While noting the Government's indication that there has been progress in the resolution of the frictions in the trade union movement in Liberia and, in particular, that with the election of a new leadership of the Liberia Labour Congress (LLC), supported by a majority of its member organizations, the labour dispute caused by the elections was being resolved, the Committee notes the ITUC's allegation of the Government's interference in the election process. ***The Committee requests the Government to reply to this serious allegation of violation of trade union rights.***

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the discussion that took place in the Conference Committee in June 2023 concerning the application of the Convention. The Conference Committee, noting the long-standing nature and the prior discussion of the case, most recently in 2022, expressed its regret that the Government had not implemented its previous recommendations and requested it to take urgent steps, in full consultation with the social partners, to bring its law and practice into line with the Convention and in particular to: (i) ensure that all workers are able to exercise their labour rights under the Convention in an environment of respect for civil liberties, including the right to freedom of association, freedom of expression, peaceful assembly and protest without interference and fear for their personal safety and physical integrity; (ii) ensure that trade union leaders and members are not jailed for engaging in trade union activities and that threats against trade union leaders for their trade union activities are fully investigated and the perpetrators duly punished; (iii) put in place measures, including effective and sufficiently dissuasive sanctions, to ensure that trade unions can only be dissolved following due process and by a judicial authority only as a last resort; (iv) register the National Health Workers' Union of Liberia (NAHWUL) as a trade union organization without further delay and provide additional information to the Committee of Experts on any pending allegations; (v) review the Decent Work Act and any other related legislation to ensure that all workers are able to exercise the right to form or join a trade union of their choice and in particular, ensure that public sector workers and civil servants enjoy the rights and guarantees set out in the Convention; (vi) ensure that the rights enshrined in the Convention are afforded to maritime workers, including trainees, and that any laws or regulations adopted or envisaged cover this category of workers; and (vii) ensure that foreign workers are entitled to form and join unions of their own choosing in line with the Convention. The Conference Committee urged the Government to provide information to the Committee by 1 September 2023 on all the measures taken to implement these recommendations and to comply with its obligations under the Convention and on any developments in this regard. The Conference Committee also called on the Government to continue to avail itself of technical assistance from the Office and to accept a direct contacts mission.

The Committee recalls that it previously urged the Government to conduct an independent investigation into the allegations by the African Regional Organization of the ITUC (ITUC – Africa) denouncing the dissolution of a trade union by a state-owned company; the use of police force to break

up peaceful strikes; and the arrest of union leaders and wrongful dismissal of workers for their participation in strike actions and that it requested the Government to provide information on the outcome. The Committee further requested the Government to provide its comments on the ITUC's recurring allegations pertaining to the increasing intolerance towards workers exercising their civil liberties and rights under the Convention. The Committee notes the Government's indication that no trade union leaders are currently in the custody of the national security forces and that preventive measures have been taken. The Committee **regrets** that the Government does not indicate whether an independent investigation has been conducted into the above-mentioned allegations with a view to punishing the perpetrators, as requested by the Conference Committee. **Noting with concern the ITUC's most recent observations denouncing the continuously shrinking space for the exercise of trade union rights, the Committee urges the Government to investigate all of the above-mentioned allegations and to provide detailed information on the outcome. The Committee requests the Government to provide detailed information on the nature and scope of the preventive measures it referred to in its report.**

*Scope of application.* The Committee previously requested the Government to grant full recognition to NAHWUL through the harmonization of the Decent Work Act 2015 and the Civil Servant Standing orders. In this respect, it requested the Government to provide specific information on developments regarding the creation of a framework for the harmonization of the Decent Work Act and the Civil Service Standing orders for the enjoyment by public sector workers of the rights enshrined in the Convention. The Committee notes the Government's indication that there was a sequence of meetings scheduled with legislators, beginning 31 August 2023, to facilitate the creation of exemptions through amendments of the Decent Work Act that would grant both NAHWUL and the National Teachers Association in Liberia recognition. The Committee notes the ITUC's allegation that there has been no progress with the harmonization of the law to ensure the right of civil servants and public servants to form or join a trade union. **Recalling that all workers, with the sole possible exception of the police and the armed forces, are covered by the Convention, the Committee reiterates its previous request and expects that necessary measures will be taken to that end without further delay. The Committee therefore once again urges the Government to harmonize the Decent Work Act and the Civil Servant Standing orders in order to enable NAHWUL to register as a trade union organization and grant it full statutory recognition in law and in practice without further delay, in accordance with the Committee's previous request and the most recent call to this effect by the Conference Committee, and expects the Government to provide detailed information on the developments, including any legal measures adopted or envisaged in this respect.**

*Article 1 of the Convention. Right of workers, without distinction whatsoever, to establish organizations.* The Committee previously noted that section 1.5(c)(i) and (ii) of the Decent Work Act excludes from its scope of application, maritime workers, including trainees, and requested the Government to provide information on the application of the rights enshrined in the Convention for such workers and on any laws or regulations adopted or envisaged covering this category of workers. **The Committee reiterates its deep regret at the lack of information in this respect and firmly expects that the Government's next report will contain the relevant information.**

The Committee recalls that it previously requested the Government to amend section 45.6 of the Decent Work Act to guarantee foreign workers their right to work, and that, having taken note of the Government's indication that discussions had been opened with existing foreign workers' bodies with regards to their rights to organize and defend their occupational interest, the Committee requested the Government to provide information on the outcome of the discussions. The Committee notes the Government's indications that there were no requests received in connection with trade unions for foreign workers or any complaints made to the Government regarding the refusal of existing unions to admit such workers. **Noting with regret that the Government provides no information pertaining to the discussions which it previously indicated it had commenced or regarding any legislative measures taken to guarantee foreign workers the right to organize, the Committee expects the Government to**



**take the necessary measures, in the near future, including through the amendment of section 45.6 of the Decent Work Act, to fully guarantee, in law and in practice, foreign workers their right to organize. The Committee requests the Government to inform it of developments in this regard.**

*Article 3. Determination of essential services.* The Committee previously requested the Government to provide information on how the designation of essential services by the National Tripartite Council operates in practice, to clarify whether the President is also bound by the definition of the notion of essential services set out in section 41.4(a) of the Decent Work Act (services the interruption of which would endanger the life, personal safety or health of the whole or any part of the population of Liberia), and to provide information on any presidential decisions concerning the designation of essential services and how such designation operates in practice. The Committee notes the ITUC's indication that, although according to section 4.1 of the Act, recommendations by the National Tripartite Committee inform the designation of certain services as essential, the final decision on such designation is taken by the President who is not bound by the recommendations of the National Tripartite Committee. **Noting with regret that the Government provides no information in this regard, the Committee reiterates its previous request and expects the Government to provide the relevant information.**

**Noting the Government's indication that it avails itself of the offer of ILO technical assistance, the Committee expects that all of the above-mentioned issues will be addressed without further delay so as to bring the national law and practice into full conformity with the Convention. Like the Conference Committee, the Committee calls on the Government to accept a direct contacts mission.**

## Madagascar

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

#### Previous comments

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2023, and the observations of the Randrana Sendikaly Alliance, received on 30 September 2023, which relate to issues examined in the present comment.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the discussion held in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2023 on the application of the Convention by Madagascar, during which it noted with concern the long-standing issues relating to the restrictions on trade union activities in the maritime sector, the absence of any elections for staff representatives since 2015 and the use of compulsory arbitration. The Committee expressed its deep concern regarding the imprisonment of Mr Zotiakobanjina Fanja Marcel Sento and noted the Government's information regarding his release by Presidential Decree. Taking into account the discussion of the case, the Committee urged the Government to:

- take all necessary steps in order to ensure that the new Maritime Code guarantees to seafarers the right to freely establish and join the organizations of their own choosing without previous authorization;
- organize as soon as possible the elections for the designation of workers' representatives;
- refrain from intervening in the activities of workers' and employers' organizations, including in the designation process of their representatives in the various social dialogue bodies;
- ensure that unilateral recourse to compulsory arbitration as a way to avoid free and voluntary collective bargaining is employed only in very limited circumstances and take the necessary

measures to amend sections 220, 225 and 228 of the Labour Code to bring them in conformity with the Convention;

- immediately and unconditionally quash the conviction of Mr Zotiakobanjinina Fanja Marcel Sento;
- refrain from using the criminal law to target trade unionists;
- amend all provisions of the Criminal Code hindering the right to freedom of association of workers and employers; and
- provide a copy of the Maritime Code once adopted and detailed information to the Committee of Experts before 1 September 2023 on the outcome of any meeting concerning allegations of anti-union acts in the maritime sector, on any developments on the adoption of the Maritime Code and on the factors that have prevented the holding of elections for staff representatives since 2015.

The Conference Committee also recommended that the Government avail itself of the technical assistance of the Office to ensure full compliance with its obligations under the Convention.

The Committee notes with **deep regret** that the Government has not submitted the report requested under the Convention. The Committee considers that the absence of information in this regard indicates not only an apparent lack of action by the Government to follow-up on these recommendations, but also an apparent lack of commitment to ensure compliance with its standards-related obligations. **The Committee urges the Government to take, without delay, all the above-mentioned measures which the Conference Committee requested the Government to take, and which require immediate action, and to report any progress achieved in the implementation of these measures. The Committee also urges the Government to avail itself of the technical assistance of the Office to ensure full compliance with its obligations under the Convention.**

*Trade union rights and civil liberties.* The Committee noted the Government's indications that the trade unionist Mr Zotiakobanjinina Fanja Marcel Sento had been released. However, the Committee notes with **deep concern** that he has been reimprisoned following a decision of the Court of Appeal of Madagascar dated 16 June 2023. The Committee **deplores** the treatment of Mr Sento, who is accused of having posted on Facebook the results of meetings held with the management of an enterprise in the textile sector, which was in the performance of his trade union duties. In these circumstances, the Committee wishes to firmly recall that the resolution adopted by the Conference in 1970 concerning trade union rights and their relation to civil liberties reaffirms the essential link between civil liberties and trade union rights, which was already emphasized in the Declaration of Philadelphia (1944), and enumerates the fundamental rights that are necessary for the exercise of freedom of association, which include: the right to freedom and security of person and freedom from arbitrary arrest and detention; freedom of opinion and expression and in particular freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontier; and the right to a fair trial by an independent and impartial tribunal (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 59). **In the same way as the Conference Committee, the Committee urges the Government to take the necessary steps to immediately and unconditionally quash the conviction of Mr Zotiakobanjinina Fanja Marcel Sento.**

*Article 2 of the Convention. Workers governed by the Maritime Code.* The Committee previously noted that a new Maritime Code was to be adopted and requested the Government to ensure that the Code provides for the right of seafarers to establish and join trade unions. **The Committee urges the Government to provide a copy of the Code once adopted, and to indicate the specific provisions providing for the right of seafarers to establish and join trade unions.**

*Articles 2 and 3. Right to organize and free exercise of trade union activities.* In its previous comments, the Committee noted the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) on allegations of restrictions on the right to organize, and especially the right of trade unions

to organize their management and training activities, and on the difficulties encountered in establishing trade unions. The Committee notes the observations of the ITUC, deploring the fact that the Government's current legislation does not fully guarantee the right to organize, and that the legal provisions on elections of staff representatives are ineffective. **Recalling the Government's responsibility to ensure that the rights provided for in the Convention are respected both in law and in practice, the Committee urges the Government to provide the information due on the measures taken to ensure the effective application of sections 136 et seq. of the Labour Code, as well as Decree No. 2011-490 and its implementing order No. 28968-2011 providing for the promotion of trade union rights in the country.**

*Restrictions on trade union activities in the maritime sector.* The Committee previously requested the Government to provide information on the initiatives taken to put an end to the conflict between the General Maritime Union of Madagascar (SYGMMA) and an enterprise in the port sector (see Case No. 3275 of the Committee on Freedom of Association, which concerns SYGMMA and for which replies have long been awaited from the Government). **The Committee urges the Government to provide any relevant information on the possibility for SYGMMA to freely exercise its activities in the port sector.**

*Article 3. Representativeness of workers' and employers' organizations.* The Committee previously requested the Government to provide specific information on the factors that have prevented the holding of elections for staff representatives since 2015, and to provide its comments on the serious allegations of the General Confederation of Workers' Unions of Madagascar (FISEMA) concerning the unilateral changing of the names of its representatives by the Government. The Committee takes note of the observations of the Randrana Sendikaly Alliance that the Ministry of Labour: (i) refused to validate the staff representative election results in favour of the Alliance in an enterprise in the sugar industry; (ii) encourages candidates who are not members of trade union organizations to occupy trade union posts; and (iii) unilaterally appointed new administrators in the National Social Welfare Fund. **The Committee requests the Government to respond to these allegations and to provide specific information on any issues relating to the holding of elections for staff representatives.**

*Compulsory arbitration.* The Committee requested the Government to take the necessary measures to amend sections 220, 225 and 228 of the Labour Code, which provide that if mediation fails, the collective dispute is referred by the Ministry of Labour and Social Legislation to a process of arbitration and that the arbitral award ends the dispute and the strike, and for the possibility of requisitioning striking employees in the event of disruption of public order. **The Committee is once again bound to repeat its previous request and urges the Government to take the necessary measures to amend articles 220, 225 and 228 of the Labour Code, and to communicate any new developments in this regard.**

## Myanmar

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

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

The Committee recalls that last year it noted the establishment of a Commission of Inquiry concerning the non-observance by Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and indicated that it would resume its examination of the application of the Convention once the Commission had completed its mandate. The Committee notes the detailed [report](#) issued by the Commission of Inquiry on 4 August 2023, which was [noted by the Governing Body at its 349th Session](#) (November 2023).

The Committee notes that the Commission of Inquiry highlighted the interdependence and complementarity between this Convention and the Forced Labour Convention, 1930 (No. 29) and the importance of taking this into account in the implementation of its recommendations. The Committee shares the views of the Commission that freedom of association lies at the heart of democracy and the rule of law and is a prerequisite for social dialogue, collective bargaining and tripartite cooperation.

The Committee notes that in its report the Commission of Inquiry concluded that the various measures imposed by the military authorities, including the labour authorities under their control, in combination with the climate of complete insecurity and constant threats to trade union leaders and members, resulted in far-reaching restrictions on the specific trade union rights set out in Convention No. 87 (paragraphs 520–594). In particular, the Commission of Inquiry concluded:

- that multiple and wide-spread actions of the military authorities constitute severe impediments to the exercise of the following civil liberties, all of which represent a sine qua non for the exercise of freedom of association: the right to life, security and the physical and moral integrity of the person; freedom from arbitrary arrest and detention; freedom from cruel and inhumane treatment; the right to a fair trial and due process of law; freedom of movement; freedom of assembly; freedom of opinion and expression; and the protection of the private property of trade union leaders and members.
- that there currently exist serious practical obstacles to the establishment of workers' organizations without previous authorization, including a lengthy registration procedure, the use of bribes to discourage registration or for registration, pressure from the labour authorities to return registration certificates, an environment of union-busting in the private sector and a lack of recourse to independent authorities to challenge restrictions on registration, contrary to *Article 2* of the Convention.
- that the military authorities have interfered in the freedom of unions to elect their leadership, including in the particular case of the Confederation of Trade Unions of Myanmar (CTUM); that the right to strike, as an essential means for workers to defend their interests, has been severely limited since the coup, both as a result of military orders restricting assemblies of more than five persons in public spaces and because of the significant risks and repercussions faced by strike participants, contrary to *Article 3* of Convention No. 87; and that the right of workers' organizations to freely organize their administration, activities and programmes is further inhibited by the climate of violence and intimidation of trade union leaders and members, resulting from their persistent stigmatization and prosecution.
- that the military authorities' declaration of 16 trade unions and civil society organizations as not being registered legally in accordance with the Labour Organization Law (LOL) is contrary to *Article 4* of the Convention.

The Committee also notes that based on the above-mentioned findings, the Commission of Inquiry urged the military authorities to (paragraph 643):

- (a) immediately cease all forms of violence, including gender-based violence, torture and other inhumane treatment against trade union leaders and members and other persons in relation to the exercise of legitimate workers' or employers' activities, including ethnic, religious and other minorities; this includes, in particular, violence perpetrated in the context of the suppression of peaceful public protests and demonstrations, at the time of arrests, during detention, as well as military attacks against civilian infrastructure, which all together create a climate of violence and terror that undermines the effective exercise of freedom of association;
- (b) unconditionally and without delay release all trade unionists arrested, sentenced and detained in relation to the exercise of their civil liberties and legitimate trade union activities, including those that have been arrested, sentenced and detained for having expressed

- opinions critical of the military authorities, or for having participated in, or organized, peaceful protests or otherwise peacefully demonstrated opposition to the military authorities following the coup d'état;
- (c) withdraw all criminal charges pending against trade unionists and others peacefully exercising their civil liberties in relation to legitimate trade union activities; and immediately stop all forms of intimidation, threats, stigmatization, harassment and surveillance of trade unionists and their families, as well as attacks against and destruction of trade union premises and property;
  - (d) revoke any military orders or other measures, including those of a legislative nature, decreed since February 2021 and identified as restricting freedom of association and the basic civil liberties of trade unionists; and fully restore the protection of the basic civil liberties necessary for the exercise of freedom of association that have been suspended or restricted, including freedom from arbitrary arrest and detention, the right to a fair trial by an independent and impartial tribunal, freedom of assembly, opinion and expression and the protection of private property;
  - (e) cease all disproportionate or arbitrary punitive measures against those peacefully exercising their civil liberties in calling for the return to democratic rule in which their freedom of association rights could be fully exercised;
  - (f) revoke the withdrawal of citizenship and return travel documents to the trade union leaders and members concerned without delay;
  - (g) stop any form of interference in the establishment, administration and functioning of trade unions at all levels, including interference in the election of trade union leadership, labour dispute resolution, conduct of collective action and administrative dissolution or suspension of trade unions; and
  - (h) refrain from taking any action and measures or issuing statements that condone, facilitate or encourage union-busting, interference and other abuses of trade union rights by private and public employers.

The Committee notes the recommendation of the Commission of Inquiry that the military and the authorities under its control should immediately cease or reverse any measures or actions that violate Myanmar's obligations under the Convention.

The Committee further notes that the Commission of Inquiry, observing that genuine implementation of the Convention will require the return to a civilian government, fully democratic institutions and the rule of law, formulated additional recommendations addressed to Myanmar to be implemented as soon as there is a return to democratic rule (paragraphs 645–647 and 649).

The Committee notes that in a communication dated 29 September 2023, the military authorities indicated to the Governing Body that Myanmar's position regarding the Commission of Inquiry's recommendations would be communicated within three months.

The Committee **deeply deplores** the reports of the continuing grave violations of the basic civil liberties of workers and employers committed by the military authorities. It notes with **deep concern** that the Commission of Inquiry has only confirmed the deepest concerns it had previously expressed and has not been able to observe any positive steps to ensure the application of the Convention. **The Committee strongly urges the military authorities to immediately implement the Commission of Inquiry's recommendations and to provide a detailed report on the steps taken in this regard, as well as on all the detailed requests set out in its 2021 comment.**

## Netherlands

### Sint Maarten

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

##### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2023, reiterating the comments made in the discussion held in the Conference Committee on the Application of Standards in June 2023 on the application of the Convention.

##### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee takes note of the discussion that took place in the Conference Committee on the Application of Standards (Conference Committee) in June 2023 concerning the application of the Convention. The Committee observes that the Conference Committee urged the Government, in consultation with the social partners, to: (i) fully implement all pending recommendations of the Conference Committee; (ii) refrain from any undue interference with the right to freedom of association of employers' and workers' organizations, including any interference through the promotion of organizations that are not freely established or chosen by workers and employers, and ensure that this right is fully guaranteed both in law and in practice; (iii) ensure in law and practice the ability of workers' and employers' organizations to establish higher-level organizations in full freedom, including for the purpose of participation in the Socio-Economic Council (SER); (iv) ensure that workers' and employers' representatives on the SER are appointed by autonomous organizations freely established by workers and employers and convene the SER without delay; (v) engage in a dialogue with autonomous organizations freely established by workers and employers on all matters affecting their interests or of their members; and (vi) ensure that public sector workers are able to fully exercise the rights and guarantees protected under the Convention in law and practice. The Conference Committee once again encouraged the Government to request technical assistance from the ILO, with a view to bringing national law and practice fully in conformity with the Convention. Finally, the Conference Committee requested the Government to provide a report containing information on all measures taken and progress achieved to the Committee of Experts before 1 September 2023.

*Article 3 of the Convention. Right of organizations to elect their representatives in full freedom.* The Committee had previously noted with deep regret the information from the Sint Maarten Employers Council (ECSM) that the Government had apparently granted the Soualiga Employer Association (SEA), whose establishment had been facilitated by a governmental agency, one seat on the SER, and had urged the Government to ensure that workers' and employers' representatives to the SER are only appointed by organizations which are freely established or chosen by workers and employers and to engage with the ECSM on matters affecting its interests. The Committee notes with **deep regret** that the Government indicates that the SEA is a legally established organization, that section 3 of the National Ordinance of the Social Economic Council of Sint Maarten allows for multiple employer organizations to be represented on the SER, and that nomination letters dated 23 May 2023 were sent to the ECSM and the SEA to ask them to jointly select three members for the term 2023-2026 of the SER. The Committee also notes the Government's indication that it met with the ECSM to discuss the applicability of the Convention, and that it requested technical assistance from the Office. **The Committee strongly urges the Government to take the necessary steps to ensure that the employers' representatives to the SER are only appointed by organizations which are freely established or chosen by employers, and requests it to provide information on any progress made in this regard.**

*Right of workers' organizations to organize their administration and activities.* In its previous comments, the Committee had requested the Government to specify whether public employees, who were prevented from striking by section 374(a), (b) and (c) of the old Penal Code, are forbidden from striking under the Penal Code of 2015. It had also noted that the National Ordinance on Substantive Civil Service Law had been amended to allow the courts to forbid strikes which threaten public welfare or safety, and requested the Government to provide detailed information on the circumstances in which strikes may be prohibited on the basis of that Ordinance. The Committee notes with **regret** that the Government does not provide any information in this regard. ***The Committee once again requests the Government to indicate whether public employees, such as teachers, are forbidden from striking under the new Penal Code, and to provide a copy thereof. The Committee also reiterates its request that the Government provide detailed information on the circumstances in which strikes may be prohibited based on the National Ordinance on Substantive Civil Service Law.***

## Nicaragua

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

#### [Previous comment](#)

The Committee notes the observations of the International Organisation of Employers (IOE), received on 7 March 2023, in which it expresses deep concern at the ministerial decisions adopted on 3 March 2023 through which the Government arbitrarily and unlawfully annulled the legal personality of the Higher Council for Private Enterprise of Nicaragua (COSEP), the most representative employers' organization in Nicaragua established three decades ago and a member of the IOE, as well as its 18 affiliated associations. The Committee notes the Government's indication in its reply, received on 14 March 2023, that: (i) neither COSEP nor the 18 associations are registered in the Directorate of Trade Union Associations of the Ministry of Labour, as COSEP is a non-profit-making organization to which the Ministry of Labour does not grant legal status; and (ii) the IOE's arguments bear no legal relation to the functions of the ILO. The Committee observes that these issues were examined during the discussion held in the Committee on the Application of Standards of the Conference (hereinafter the Conference Committee) in June 2023 on the application of the Convention by Nicaragua.

The Committee also notes the observations of the IOE received on 1 September 2023, in which it reiterates the comments made to the Conference Committee and indicates that several Employer delegates to the International Labour Conference in 2023 submitted a complaint under article 26 of the ILO Constitution alleging non-compliance by Nicaragua with this Convention, as well as the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Committee notes that the complaint was declared receivable by the Governing Body at its 349th Session (October 2023) and that its content will be examined by the Governing Body at its session in March 2024.

#### [Follow-up to the conclusions of the Committee on the Application of Standards \(International labour Conference, 111th Session, June 2023\)](#)

The Committee notes the [discussion](#) at the Conference Committee at the 111th Session of the Conference (2023) and observes that, after noting with deep concern the persistent climate of intimidation and harassment of independent workers' and employers' organizations, and the allegations of the arrest and detention of employer leaders and the further deterioration of the situation, as well as the absence of any progress and cooperation on the part of the Government since last year, the Conference Committee urged the Government to:

- ensure that workers and employers can establish their own organizations and operate without interference, including the COSEP;
- immediately cease all acts of violence, threats, persecution, stigmatization, intimidation or any other form of aggression against individuals or organizations in connection with both the exercise of legitimate trade union activities and the activities of employers' organizations, including COSEP, and adopt measures to ensure that such acts are not repeated including the return of the Nicaraguan nationality of those who have been deprived of it for this reason;
- immediately release any employer or trade union member who may be imprisoned in connection with the exercise of the legitimate activities of their organizations and provide information on all the measures taken in that regard;
- promote social dialogue without further delay through the establishment of a tripartite dialogue round table under the auspices of the ILO, that is presided over by an independent chairperson who has the trust of all sectors, that duly respects the representativeness of employers' and workers' organizations in its composition and that meets periodically, as recommended by the Committee in 2022;
- repeal Act No. 1040 on the regulation of foreign agents, the Special Act on Cybercrimes and Act No. 1055 on the defence of the rights of the people to independence, sovereignty and self-determination for peace, which limit the exercise of freedom of association and freedom of expression.

The Conference Committee also urged the Government to avail itself of ILO technical assistance to ensure full compliance with its obligations under the Convention in law and practice.

The Committee notes that the Government refers in its report to the recommendations made by the Conference Committee and indicates that it has consulted the most representative social partners in the country in this regard. The Government claims that full freedom of association exists in the country without any type of discrimination, that there are no trade union leaders who have been deprived of their freedom for exercising the right to organize or engaging in trade union activities, that there are no restrictions on the right to organize and that there is no trade union persecution or repression. The Government adds that it is continuing to take initiatives in support of the right to organize and emphasizes that, although there is full freedom to organize in the country and there is no persecution of different ideas or views, there are legal provisions in the country that have to be complied with. The Government reiterates that since 2007 it has been working to ensure the restoration and protection of the labour rights of workers through tripartite dialogue and consensus as the principal means of achieving labour stability and peace.

While taking due note of the above indications, the Committee observes with **deep concern** that the Government does not indicate in its report that it has taken any action to give effect to the recommendations made by the Conference Committee in 2022 and 2023. The Committee also **deeply regrets** to note that, despite the Conference Committee urging the Government on both occasions to promote social dialogue without delay through the establishment of a tripartite dialogue round table under the auspices of the ILO and to avail itself of ILO technical assistance to ensure full compliance with its obligations under the Convention, the Government has not commented on this subject.

The Committee notes that various United Nations bodies, including the Human Rights Council, the Group of Human Rights Experts on Nicaragua and the Inter-American Commission on Human Rights have indicated in various reports and resolutions issued in 2023 that human rights violations and abuses in the country are continuing and are worsening, and have expressed profound concern at the deterioration of restrictions on civic and democratic activities. The Committee also recalls that in its previous comments it noted with deep concern that, as denounced by the IOE, the President, Vice-President and former President of COSEP had been arbitrarily detained and that both the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights had urged the



Government to proceed to their immediate release. The Committee observes that, according to the indications provided during the discussion in the Conference Committee, those employer leaders were released from prison in February 2023, expelled from the country and stripped of their nationality. The Committee **deplores** all these events and observes that the Conference Committee urged the Government to immediately cease all acts of violence, threats, persecution, stigmatization, intimidation or any other form of aggression against individuals or organizations in connection with both the exercise of legitimate trade union activities and the activities of employers' organizations, including COSEP, and to adopt measures to ensure that such acts are not repeated, including the return of Nicaraguan nationality to those who have been deprived of it for this reason.

The Committee expresses **deep concern** at the fact that, despite its reiterated comments and the recommendations made by the Conference Committee over the past two years, not only has it not been possible to observe any progress in this regard, but it appears from the Government's report that there is no recognition of the need to take action to give effect to these recommendations. **Under these conditions, the Committee is once again bound to urge the Government in the strongest terms to adopt as soon as possible, in consultation with the social partners, each and every measure that it has been urged to take by the Conference Committee. It also requests the Government to provide information on all the measures adopted to ensure that effect is given to each of the recommendations made by the Conference Committee and on any progress achieved in the implementation of these measures. The Committee also urges the Government, with a view to achieving tangible progress in this regard, to establish without delay the tripartite dialogue round table recommended by the Conference Committee and to have recourse to ILO technical assistance to ensure full compliance with its obligations under the Convention.**

*Article 3 of the Convention. Right of workers' organizations to organize their activities in full freedom and to formulate their programmes.* The Committee recalls that for over a decade it has been referring to the need to take measure to amend sections 389 and 390 of the Labour Code, which provide that collective disputes shall be referred to compulsory arbitration once 30 days have elapsed since the calling of the strike. The Committee notes in this respect that the Government reiterates that, as a sovereign nation, it does not see the need to amend the wording of sections 389 and 390 of the Labour Code, as those provisions do not restrict trade union activities as, to reach such an extreme situation, the parties will have had to hold 23 negotiating sessions. The Committee is once again bound to remind the Government that the imposition of compulsory arbitration to end a strike, beyond the cases in which a strike may be limited or even prohibited, is contrary to the right of workers' organizations to organize their activities and to formulate their programmes in full freedom. **The Committee therefore once again strongly urges the Government to take the necessary measures to amend sections 389 and 390 of the Labour Code in order to ensure that compulsory arbitration is only possible in cases in which strikes may be limited or even prohibited, namely in cases of disputes in the civil service involving officials exercising authority in the name of the State, in essential services in the strict sense of the term or in the event of an acute national crisis. The Committee requests the Government to report any developments in this respect and firmly hopes that progress will be achieved in compliance with the Convention.**

*Article 11. Protection of the right to organize.* In its previous comment, the Committee noted the statistical information on the establishment of new trade unions, as well as the updating of existing unions, and recalled that the rights conferred upon the employers' and workers' organizations protected by the Convention are totally void of meaning when there is no respect for fundamental freedoms, the right to protection against arbitrary detention and imprisonment and the right to a fair trial by an independent and impartial tribunal. Further recalling that *Article 11* of the Convention establishes the requirement to take all necessary and appropriate measures to ensure that workers and employers can freely exercise the right to organize, the Committee requested the Government to report on the initiatives taken to guarantee the exercise of this right by workers and employers, and to provide

information on their results. The Committee notes the Government's indication that it is continuing to promote initiatives in support of the right to organize, that policies have been adopted to promote and encourage trade union organization and that, between 2018 and the first quarter of 2023, 156 new trade unions were established with a membership of 5,586 workers and that the existing 4,992 unions that have 352,454 members were updated. **While noting the information provided by the Government, the Committee recalls once again that the rights of employers' and workers' organizations protected by the Convention are totally void of meaning when there is no respect for fundamental freedoms, the right to protection against arbitrary detention and imprisonment and the right to a fair trial by an independent and impartial tribunal. The Committee therefore once again requests the Government, in light of the above and taking into account the recommendations made by the Conference Committee, to provide detailed information on the initiatives adopted to guarantee the free exercise of the right to organize by both workers and employers.**

## North Macedonia

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1991)

#### [Previous comment](#)

The Committee recalls the 2021 observations of the Confederation of Free Trade Unions of Macedonia (KSS), alleging restrictions on the right to strike in the education sector, the failure to transfer to trade unions the dues withheld by the employers, as well as pressure on workers to leave their trade unions. The Committee addresses some of these allegations below and notes that these issues were also raised and discussed during the Direct Contacts Mission (DCM) on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No.98), which took place from 3–6 October 2023, pursuant to a request by the Committee on the Application of Standards in June 2023.

*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 that these "administrative bodies" included ministries, other state administration bodies and administrative organizations. The Committee requested 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. The Committee notes the Government's indication that it will notify the Parliament in case of possible amendments to the Constitution in the future and that the Committee's comments shall be taken into account. **Recalling once again 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 urges the Government to take the necessary measures to ensure that article 37 of the Constitution is amended accordingly. The Committee requests the Government to provide information on developments in this regard.**

*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: (1) employees in the public sector are obliged to provide minimum services in the event of strikes, taking into account the rights and interests of citizens and legal entities; and (2) 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 had recalled that the maintenance of minimum services in the event of strikes should only be possible in the following situations: (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 had further recalled that minimum services imposed should meet at least two requirements: (i) they 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 had requested the Government to amend the legislation so as to ensure that the determination of minimum services in public enterprises conformed 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).

The Committee notes the Government's indication that to regulate the participation of trade union representatives in the definition of minimum services during a strike, the Government and the Trade Union of Workers from the Administration, Judicial Bodies and Citizens' Associations of the Republic of Macedonia (UPOZ) signed a Branch Collective Agreement for the State Administration Bodies. According to the Government, pursuant to article 35 paragraph 6 of the Collective Agreement, the employer together with the UPOZ President shall agree on the rules to determine the list of public interest activities which cannot be interrupted during a strike, the number of employees who will perform their duties during a strike, as well as the way of providing conditions for the exercise of the right to strike. According to paragraph 7 of the same article, in the absence of an agreement, only the tasks that must not be interrupted during a strike, i.e. the termination of which would cause disproportionate damage to the state, citizens and the employer and which could not be compensated by any additional measure or activity after the end of the strike, will be maintained. **The Committee requests the Government to clarify the application in practice of the above-mentioned paragraph 7 on the determination of minimum service in the absence of an agreement by the social partners. It further once again requests the Government to provide information on the types of activities, and percentage of employees in those activities, that have been affected by a determination of minimum services. While welcoming that currently, a Branch Collective Agreement regulates the determination of minimum services in consultation with the relevant trade union, the Committee once again requests the Government to amend the relevant legislation so as to bring it into conformity with the Convention. The Committee requests the Government to provide information on developments in this regard.**

The Committee recalls that it had previously 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 while it has not yet amended the above-mentioned legislation, in practice, these provisions were not referred to during the education strike in April 2022 organized by the Trade Union for Education, Science and Culture and no substitute workers were used. The Committee further notes the Government's commitment to remove the above provisions during the next amendments to the Law on Primary Education and the Law on Secondary Education. **The Committee expects the Government to proceed without further delay to amending 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. The Committee requests the Government to provide a copy of the amended legal texts once adopted.**

*Law on Labour Relations.* The Committee notes the Government's indication that the preparation of the new Law on Labour Relations is underway, and that representatives from all trade unions and employers' associations are involved. The Committee notes from the report of the DCM that under that Law, in order to obtain legal personality, enterprise level trade unions need to obtain an approval from a higher-level union and that this restriction negatively impacts the rights and interests of enterprise level trade unions. The Committee recalls that by virtue of *Article 7* of the Convention, the acquisition of legal personality cannot be made subject to conditions of such a character as to restrict the application of *Articles 2, 3 and 4* of the Convention. **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.**

## Papua New Guinea

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

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Legislative matters.* In its previous comments, the Committee had noted the Government's indication that the new Industrial Relations Bill (IRB 2014) was undergoing a vetting process at the Government Executive Committee and the Central Agency and Consultative Council to harmonize it with other relevant legislation and that the revised Bill should be presented to Cabinet before November 2016 or early 2017 and consultations on the matter should be held in the national Tripartite Consultative Council. **Noting that the last information sent by the Government through an anticipated report dates back to 5 January 2017 and that its 2018 report was not received, the Committee hopes that the Government will provide in its next report information on the outcome of these consultations and whether the IRB 2014 has been enacted.**

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* The Committee had previously requested the Government to provide information on the measures taken to ensure effective implementation of the prohibition of anti-union discrimination in practice and to provide statistics on the number of anti-union discrimination complaints brought before the competent authorities, their follow-up, sanctions and remedies imposed. **Noting that the Government did not provide specific information in this regard, the Committee reiterates its previous request.**

*Article 4. Promotion of collective bargaining. Power of the Minister to assess collective agreements on the grounds of public interest.* The Committee had previously requested the Government to take the necessary measures to bring section 50 of the Industrial Relations Bill (2011) into conformity with the principle that the approval of a collective agreement may only be refused if it has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation. While observing once again that the Government does not provide a copy of the Bill, the Committee takes note of the Government's indication that section 50 of the IRB 2014 has been amended and that under the revised version the Attorney General is not entitled to appeal against the making of an award on the grounds of public interest.

*Compulsory arbitration in cases where conciliation between the parties has failed.* While recalling that it had noted the conformity of section 78 of the IRB 2014, as described by the Government, with the Convention, the Committee notes that the Government has still not clarified the content of section 79 of the IRB 2014. **The Committee trusts once again that the Government, taking into account the Committee's comments, will ensure the full conformity of any revised legislation with the Convention. In this regard, the Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes and requests it to provide detailed information on the process of revision of the Industrial Relations Bill.**

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

## Peru

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

#### [Previous comment](#)

The Committee notes the observations of the International Organisation of Employers, received on 1 September 2023, in which it reiterates the comments made at the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2023 concerning the application of the Convention by Peru. The Committee also notes the observations of the International Trade Union Confederation, received on 27 September 2023, relating to matters examined in the present comment.

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)**

The Committee notes the discussion that took place at the 111th Session of the Conference Committee in June 2023 and observes that, while the Conference Committee welcomed certain legislative developments, it expressed concern at the ongoing restrictions in law and in practice on the right to freedom of association and the right to organize, and requested the Government, in consultation with the social partners, to adopt time-bound measures to:

- ensure that existing and prospective legislation is in conformity with the Convention;
- ensure that public servants, including judges, prosecutors and employees in positions of trust and leadership in the public administration, without distinction whatsoever, have the right in law and practice to establish and join workers' organizations of their own choosing;
- ensure the proper functioning of the National Labour and Employment Promotion Council (CNTPE) with a view to facilitating social dialogue and consultation with the social partners on labour law reform;
- ensure in law and practice the right of workers' and employers' organizations to organize their activities and formulate their programmes in full freedom.

The Conference Committee also requested the Government to provide information, before 1 September 2023, in consultation with the social partners, on the application of the Convention in law and in practice, and invited the Government to accept a direct contacts mission in order to fully implement those recommendations.

The Committee notes the Government's indication in its report that it aims to decisively promote tripartite social dialogue as a central focus of the management of the Ministry of Labour and Employment Promotion. To that end, on 13 July 2023 the 129th Ordinary Session of the CNTPE was held, attended by the Ministry of Labour and Employment and the main representatives of employers' associations and trade union confederations. The Government indicates that, after almost one year, it was possible to obtain the willingness of the social partners to reactivate the Council. The Government further indicates that it was agreed to resume dialogue within the CNTPE and to reactivate its technical committees and, also, that the agreements adopted at Ordinary Sessions Nos 127 and 128 (May and July 2022) and the requests made by the parties at the July 2023 session would be addressed in accordance with the Rules of Procedure of the CNTPE. With the resumption of the sessions of the CNTPE, the Government reiterates its firm will and commitment to prioritize social dialogue as an engine, tool and governance instrument for achieving sustainable labour development in the country. The Government emphasizes that employers and workers showed willingness to continue the dialogue and

that it is confident that it can continue to rely on the will and commitment of the social partners, without whom tripartite social dialogue is impossible. The Government also indicates that on 21 July 2023, a high-level meeting was held at which officials from various ministries and state bodies expressed their willingness to carry out a joint technical analysis in order to respond to the request of the Conference Committee and of this Committee, with social dialogue as a central focus. The Government also expresses its willingness to coordinate the future visit of the contacts mission requested by the Conference Committee.

The Committee takes due note of this information. The Committee welcomes the reactivation of the CNTPE and its technical committees and further welcomes the fact that a high-level meeting was held and that the commitment of the various institutions to social dialogue was reaffirmed. The Committee also welcomes the Government's willingness to coordinate the future visit of the contacts mission requested by the Conference Committee. ***The Committee encourages the Government and all parties concerned to make every possible effort to ensure that the CNTPE continues to function and fulfil a fundamental role as a tripartite body for social dialogue. The Committee reiterates the importance of consultations in the preparation and drafting of legislation on collective labour relations and expects that any concerns in this respect will be duly addressed within the CNTPE. The Committee also reiterates its hope that the implementation of Supreme Decree No. 014-2022-TR which, according to the Government, has its origins in concerns at the situation of freedom of association in the country, will contribute to ensuring the full enjoyment and exercise of the rights enshrined in the Convention. The Committee once again requests the Government to provide information on the impact of the Supreme Decree's application. Moreover, in the light of the concerns expressed by the Conference Committee in respect of the ongoing restrictions in law and in practice on the right to freedom of association and the right to organize, the Committee firmly hopes that through strengthened social dialogue, it will be able to note progress in the very near future on the matters highlighted by the Conference Committee and which the Committee has highlighted in its previous comments. The Committee reminds the Government the technical assistance of the Office remains available and hopes that the direct contacts mission can be carried out within the shortest possible period and that it will contribute to the full implementation of the Convention.***

The Committee recalls below the points that it has highlighted in its previous comments, which require the adoption of specific measures to bring the legislation into full conformity with the Convention.

*Article 2 of the Convention. Right of all workers, without distinction whatsoever, to establish and join organizations.* For several years, the Committee has been indicating to the Government the need to revise Act No. 28518, its implementing Regulations and the General Education Act in order to ensure the express recognition of freedom of association in vocational training schemes. The Government has indicated that: (i) on 13 April 2022, Ministerial Decision No. 092-2022-TR provided for the pre-publication of the preliminary draft of the Labour Code drawn up by the Ministry of Labour and Employment Promotion, which, in section 75, defines vocational training arrangements as special types of employment contracts, recognizing the labour element of such contracts; and (ii) that it received comments and suggestions concerning the preliminary draft text from the public until June 2022, which were shared with the workers' and employers' representatives participating in the CNTPE. For their part, the trade union confederations have indicated that: (i) to date, there has been no initiative to amend Act No. 28518; (ii) the generic recognition in the Constitution of trade union rights does not on its own empower persons engaged in training schemes to exercise those rights; and (iii) section 76 of the preliminary draft indicates that vocational training arrangements are not covered by general labour regulations, which means that the preliminary draft text maintains the policy direction of the current legislation of failing to offer express recognition of the trade union rights of persons engaged under vocational training schemes. ***The Committee hopes that the preliminary draft of the Labour Code will be the subject of extensive tripartite consultation and that, during this process of dialogue,***

**consideration will be given to the adoption of specific measures to revise the legislation so as to set out the explicit recognition of the right to freedom of association of workers engaged under vocational training schemes. The Committee requests the Government to provide information on any progress achieved in this regard.**

In previous comments, the Committee requested the Government to revise the relevant provisions of the legislation to secure the exercise of the right to organize, in law and practice, of judges and prosecutors, and of employees in positions of trust and leadership in the public administration. The Committee requested the Government to provide information on any developments in this regard. The Committee noted with regret the Government's indication that it had noted the request for information and would provide it shortly. The Committee recalled that *Article 2* of the Convention guarantees the basic right to establish and join organizations of their own choosing to all workers without distinction whatsoever, including all public servants, irrespective of the nature of their functions, the only exceptions permitted by the Convention being members of the armed forces and the police. However, the Committee has indicated that senior public officials may be barred from joining trade unions provided that they are entitled to establish their own organizations to defend their interests (see the [General Survey of 2013 on collective bargaining in the public service](#), paragraphs 43 et seq., and the [General Survey of 2012 on the fundamental Conventions](#), paragraph 66). **The Committee urges the Government to take the necessary measures to revise the relevant provisions of the legislation in order to secure the right to organize, in law and practice, of judges and prosecutors, and of employees in positions of trust or leadership in the public administration. The Committee requests the Government to provide information on any developments in this regard.**

*Article 3. Right of organizations to organize their activities and formulate their programmes. Determining the unlawfulness of strikes.* Having observed that the Civil Service Support Commission was competent to decide whether a strike is inappropriate or unlawful and given that it had not yet been established, the Committee requested the Government to take the necessary measures to ensure that competence to determine the lawfulness of strikes, in both the private and public sectors, lay not with the Government but with an independent body trusted by the parties. In this respect, the Government indicated that while the body competent to determine the lawfulness of a strike in the private sector is the Administrative Labour Authority, which issues its decision with independence, impartiality and in accordance with the law, the preliminary draft of the Labour Code provides that, at the request of the employer or employers affected by the measure, the judicial authority shall determine the lawfulness or unlawfulness of a strike. With regard to the public sector, the Government recalled that, in accordance with the Tenth Supplementary Transitional Provision of the Regulations of the Civil Service Act, the Administrative Labour Authority shall assume the functions of the Civil Service Support Commission until the latter is established. The Committee observed that the trade union confederations considered that the fact that the Administrative Labour Authority continued to determine the lawful nature of strikes in both the private and the public sectors (in view of the persistent failure to establish the Civil Service Support Commission with guarantees of its real impartiality) bore witness to the reluctance of the State to bring the legislation into conformity with the provisions of the Convention and they indicated that 100 per cent of strikes in 2020 were found to be unlawful by the Administrative Labour Authority. **The Committee urges the Government to take the necessary measures to ensure that the authority to determine the lawful nature of strikes in the private sector does not lie with the labour administration, but rather with an independent and truly impartial body that has the trust of all the parties. The Committee hopes that the proposed amendment contained in the preliminary draft of the Labour Code will be the subject of extensive tripartite consultations, and requests the Government to keep it informed of any developments in this regard. Observing with concern the indications of the trade union confederations, the Committee urges the Government to take all necessary measures so that the Civil Service Support Commission is established without further ado and expresses its firm**

**hope that it will be a genuinely independent body. The Committee requests the Government to provide information on any progress in this regard.**

*Definition of minimum services in essential public services.* The Committee previously observed that the Consolidated Single Text of the Collective Labour Relations Act provided that the Civil Service Support Commission would be the competent body to determine the minimum services required during strikes affecting essential services, and it trusted that the Civil Service Support Commission would be established in the near future. The Government indicated that section 435 of the preliminary draft of the Labour Code provides that, in the event of disagreement, the matter shall be referred to an independent technical body for the determination of the minimum service and that the decision shall be binding. The Committee noted that, in addition to reiterating that the Civil Service Support Commission had still not been set up, the trade union confederations indicated that section 68 of the Regulations of the Collective Labour Relations Act, as amended by Supreme Decree No. 014-2022-TR, provides that, while the Administrative Labour Authority may avail itself of the support of an independent body to resolve any disagreement concerning minimum services in essential public services, the Administrative Labour Authority shall resolve the matter on the basis of the report of the independent body. While taking due note of the modifications introduced by Supreme Decree No. 014-2022-TR, the Committee recalls that disagreements between the parties on the number and functions of workers should not only be examined, but also resolved by an independent body. **The Committee reiterates the need for the Civil Service Support Commission to be established without delay and requests the Government to provide information on any developments in this respect.**

*Right of trade unions to hold meetings and to access workplaces.* The Committee previously requested the Government to revise the final provisions of Supreme Decree No. 017-2007-ED, which defines as serious offences by head teachers and deputy head teachers in schools the acts of providing school premises for trade union meetings and allowing political and/or union advocacy in educational institutions, in order to enable head teachers of schools to determine with the trade unions arrangements for access to workplaces that do not jeopardize the efficient operation of those institutions. In this respect, the Government indicated that the Ministry of Education was carrying out an assessment of the legislation in relation to the matter as a basis for determining the need to amend or repeal certain provisions of the Regulations of Act No. 28988 declaring regular basic education to be an essential public service, as approved by Supreme Decree No. 17-2007-ED. **The Committee requests the Government to provide information on any developments in relation to the revision of the final provisions of the above-mentioned Supreme Decree so that head teachers in educational institutions can agree with the trade unions concerned on an arrangement for access to workplaces that does not jeopardize the effective operation of those institutions.**

Lastly, the Committee notes that the Committee on Freedom of Association referred to it the legislative aspects of [Case No. 3245](#) concerning the determination by means of Regulations of which trade union authority appoints the regional representatives of the teachers' unions that are granted paid leave. The Committee invited the Government, in full consultation with the representative trade unions in the sector, to consider how to revise the current regulations such that it is the organizations of education workers themselves that determine the internal mechanisms by which the representatives that will receive union leave are named (see 403rd Report, June 2023). **The Committee requests the Government to provide information on any measures taken in this respect.**

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



## Philippines

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953)

#### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2023, reiterating the comments made in the discussion held in the Conference Committee on the Application of Standards in June 2023 on the application of the Convention, and the Government's reply thereto. It further notes the joint observations of the International Trade Union Confederation (ITUC) and the International Transport Workers' Federation (ITF), received on 27 September 2023, relating to matters addressed below and alleging continued and serious violations of workers' civil liberties and trade union rights. The Committee also notes the observations of the Center of United and Progressive Workers (SENTRO), received on 19 October 2023, referring to matters addressed below and alleging the murder of a trade union officer. **The Committee requests the Government to provide its comments in this regard.**

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (Conference Committee) in June 2023 concerning the application of the Convention. The Committee observes that the Conference Committee urged the Government, in consultation with the social partners, to: (i) put an immediate end to any act of violence and intimidation against union members for the legitimate exercise of their rights under the Convention as well as violations of freedom of association, in line with the recommendations of the ILO high-level tripartite mission; (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 own choosing in accordance with *Article 2* of the Convention. The Conference Committee also urged the Government to take decisive and effective measures to promote a climate of non-violence, as well as constructive social dialogue and labour relations at all levels in the country. Finally, the Conference Committee requested the Government to finalize, with ILO technical assistance and in consultation with the social partners, the road map on effectively addressing all outstanding issues and transmit a report on progress made to the Committee of Experts by 1 September 2023.

*Tripartite road map to implement the 2019 Conference Committee conclusions and achieve full compliance with the Convention. High-level tripartite mission.* The Committee had previously called on the Government to rapidly and genuinely engage with the social partners in order to elaborate a constructive tripartite road map detailing progressive steps to be taken to implement the conclusions of the 2019 Conference Committee and to achieve full compliance with the Convention. The Committee had noted the Government's indication that it would develop such a road map and review its Guidelines on the conduct of stakeholders relative to the exercise of workers' rights and activities through the institutionalized tripartite process, and expected both instruments to significantly contribute to addressing in a meaningful manner the long-standing concerns and serious violations of civil liberties in the exercise of freedom of association rights.

The Committee notes the report of the high-level tripartite mission requested by the 2019 Conference Committee, which visited the country in January 2023. It further notes the Government's indication that discussions on the road map continued with the social partners and that, on 23 August 2023, the National Tripartite Industrial Peace Council (NTIPC) convened to consider a draft road map

structured along the areas of action identified by the 2019 Conference Committee. The Committee notes that during this meeting, the NTIPC issued Resolution No. 3, which approved the tripartite road map on freedom of association, and Resolution No. 2, which called on the Department of Budget Management, the House of Representatives and the Senate to increase the budget of the Commission on Human Rights (CHR) to allow it to independently perform its constitutional mandate to promote and protect human rights and to provide remedies in case of violations (both resolutions are still being circulated to NTIPC members for signature). As regards the review of the Guidelines on the conduct of stakeholders, the Committee notes that the Government states that the Department of Labour and Employment (DOLE) convened four inter-agency technical working group meetings to draft consolidated Guidelines, which have been approved in principle and elevated to the NTIPC. The Committee also notes that the Government indicates that, in line with the recommendations of the high-level tripartite mission, the President of the Philippines issued Executive Order No. 23 on 30 April 2023, thereby creating an Inter-Agency Committee (EO23 IAC) to promote and protect freedom of association and the right to organize of workers. The Government adds that the EO23 IAC, which is directly under the Office of the President, chaired by the Executive Secretary, and has already convened twice, is tasked, inter alia, with receiving inventories of cases and incidents related to freedom of association from concerned agencies, consolidating and evaluating reports from such agencies, and monitoring progress in the implementation of their action plans. The Government also informs of the recent signing of a Memorandum of Agreement (MOA) between DOLE, the Department of Trade and Industry (DTI) and the Philippine Economic Zone Authority (PEZA), which provides for the establishment of an Ecozone Tripartite Advisory Council, as well as ecozone tripartite working committees, with the aim of promoting industrial peace in ecozones. The Government adds that on 10 August 2023, a first ecozone tripartite working committee was established in the Mactan Export Processing Zone. The Committee also notes that on 20 October 2023, another MOA was concluded between DOLE and the CHR to foster cooperation on the promotion and protection of the human rights of Filipino workers, the conduct of investigations, the referral of cases, the provision of legal advice, and the conduct of trainings and activities.

The Committee notes that the ITUC and the ITF, in their joint observations, confirm that the road map is being finalized, but state that the social partners were not consulted in the drafting of Executive Order No. 23, and consider that the latter falls short in several fundamental aspects, as it does not include representation from social partners, and fails to connect the work of the EO23 IAC with that of a specialized, eminent, independent non-judicial body or provide dedicated funding. The Committee further notes that SENTRO, in its observations, similarly states that the issuance of Executive Order No. 23 occurred without any discussion with workers' organizations and that the social partners have been excluded from the EO23 IAC, the members of which are mainly elements of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC). SENTRO also affirms that DOLE, DTI and PEZA concluded their MOA without any consultation with workers' organizations. While the Committee welcomes the progress achieved with respect to the elaboration of the tripartite road map and the review of the Guidelines on the conduct of stakeholders, it also notes the concerns raised by the ITUC, the ITF and SENTRO regarding certain elements linked to the recommendations of the high-level tripartite mission, namely the lack of consultation with the social partners in the preparation of Executive Order No. 23 and the MOA between DOLE, DTI and PEZA, the lack of reference to a specialized, eminent, independent non-judicial body in Executive Order No. 23, and the composition of the EO23 IAC. ***Underlining the importance that should be attached to full and frank consultation taking place on any questions or proposed legislation affecting trade union rights, the Committee expects that the tripartite road map, with agreed timelines as requested by the high-level tripartite mission, and the Guidelines on the conduct of stakeholders will be finalized shortly and will significantly contribute to ensuring full respect for the civil liberties of trade union leaders and members. It requests the Government to transmit both documents once they are adopted. The Committee further requests the***

**Government to take the necessary measures to review Executive Order No. 23 in full consultation with the social partners, and to provide information on any progress made in this regard.**

#### Civil liberties and trade union rights

*Previous allegations.* The Committee recalls that it has received repeated allegations of serious violations of basic civil liberties in the exercise of trade union rights submitted by the ITUC in 2015, 2019, 2020 and 2021, by Education International (EI) in 2019, and jointly by EI, the Alliance of Concerned Teachers (ACT) and the National Alliance of Teachers and Office Workers (SMP-NATOW) in 2020, all of which are detailed in its previous comments. The Committee has, on numerous occasions, requested the Government to ensure that these allegations were duly investigated and perpetrators punished to effectively prevent and combat impunity.

The Committee notes that the Government indicates, with respect to the alleged killings of three union leaders reported in 2015 by the ITUC, that: (i) in the case of Florencio Romano, the investigation is still ongoing; (ii) in the case of Rolando Pango, the police are still unable to locate the only potential witness; and (iii) in the case of Victoriano Embang, the two people accused in 2015 remain at large. As regards the allegations of extra-judicial killings of eight trade unionists in the education sector submitted in 2020 by EI, ACT and SMP-NATOW, the Committee notes the Government's indication that four cases are pending before the courts, one case was dismissed by the prosecutor, and three are under investigation. The Committee observes, however, that the Government does not provide updated information on the status of investigation of the other serious allegations, which concern specific incident of killings, attempted killings, death threats, profiling, surveillance, violent strike dispersal and military and police raids on union offices. **Noting with deep regret that no concrete progress appears to have been made in the investigation of these incidents and the punishment of their perpetrators, the Committee firmly expects the Government to take the necessary steps to ensure that all allegations presented by the ITUC, EI, ACT and SMP-NATOW since 2015 are properly and fully investigated, and that the cases are reviewed by the CHR when unresolved, so that the facts are established, including any links between the violence and trade union activities, culpability determined and perpetrators brought to justice, thus contributing to the prevention and elimination of impunity. The Committee requests the Government to provide detailed information on the status of the investigations and their outcome.**

The Committee had previously noted with concern the 2022 ITUC allegations that the police entered the offices of SENTRO without justification and repeatedly inquired about union activities in November 2021, and that the police brutally repressed a strike and arrested 44 workers in a pasta-making company in December 2021. The Committee had requested the Government to ensure that the incidents were adequately addressed, that any unionists detained in relation to the legitimate exercise of trade union activities were released, and that the criminal system was not used to repress freedom of association rights. The Committee notes that according to the Government, the police visit, which was a fact-finding and validation exercise prompted by a reported labour dispute, was misinterpreted as a form of harassment. The Government adds that after a dialogue took place between representatives of the FCCU-SENTRO and the Philippines National Police (PNP) on 5 October 2022, no further incidents of surveillance have taken place. The Committee further notes that SENTRO, in its observations, states that the unannounced visit to its office followed a complaint against members of the police, and occurred within a larger context of red-tagging and harassment, including recent incidents at a plantation in Governor Generoso, at a mining company in Surigao, and at a cable company in Davao City. With respect to the alleged arrests at the pasta-making company, the Committee notes the Government's indication that complaints have been filed against 44 arrested workers for alarms and scandal, absence of permit, disobedience to authority and disregard of COVID-19 protocols, among other charges. The Government indicates that these complaints were dismissed by the prosecutor for lack of probable cause, but that an appeal was filed by the management of the above-mentioned company before the Office of the Justice Secretary on 2 March 2022. The Government informs that this

appeal is currently on hold, as it was filed during the previous administration. **Taking note of the above, the Committee requests the Government to take the necessary measures to ensure that trade unionists are able to exercise their activities in a climate free from violence, harassment and intimidation, and within the framework of a system which guarantees the effective respect of civil liberties and freedom of association rights. The Committee also requests the Government to provide its observations on the new allegations of red-tagging and harassment submitted by SENTRO.**

*New allegations.* The Committee notes that the ITUC and the ITF, in their 2023 observations, allege that Alex Dolorosa, an officer of the BPO Industry Employees Network (BIEN), was stabbed to death in April 2023. According to these organizations, 16 killings of trade unionists have been documented by Filipino trade unions since 2019. The ITUC and the ITF also affirm that two organizers of the Kilusang Mayo Uno (KMU), Alipio “Ador” Juat and Elizabeth “Loi” Magbanua, disappeared on 3 May 2022, and that in September 2022, the Court of Appeal ruled that military officers and officials were accountable for their enforced and continued disappearance. The organizations further allege that two labour organizers, Elgene “Leleng” Mungcal, and Elena “Cha” Cortez Pamposa, went missing on 3 July 2022 after having been subjected to red-tagging, that two union leaders were abducted, detained and questioned about their political activities by state security forces for six days in January 2023, and that two union leaders were arbitrarily arrested and accused of assault and robbery during a rally in June 2020 before being released on bail. The Committee further notes that SENTRO, in its 2023 observations, also denounces the murder of Alex Dolorosa. **Noting these serious allegations with deep concern, the Committee requests the Government to provide its observations thereon.**

*Measures to combat impunity. Monitoring mechanisms.* In its previous comments, the Committee strongly encouraged the Government to fully engage with the social partners in the review of the operational guidelines of the monitoring mechanisms, including in the framework of the mentioned tripartite road map, and requested it to continue to further strengthen these mechanisms, including by allocating sufficient resources, staff and security to personnel. The Committee notes the Government’s indication that DOLE has strengthened the role of the Bureau of Labor Relations (BLR) in performing overall supervision and monitoring of the Convention and related issues, and that funds have been allocated to strengthen the operation of monitoring mechanisms in the 2024 General Appropriations Act. The Government also indicates that the tripartite road map, as presently drafted, includes action points towards the strengthening of monitoring bodies, ensuring adequate budget allocation, and assignment of focal persons and support staff for tripartite activities and mechanisms. The Committee further notes that the Government provides the following information on the status of the 30 cases involving 43 killed trade unionists reported to the 2019 Conference Committee, and on the additional 12 incidents involving 22 victims reported by the ACT Teachers Partylist, the Nagkaisa Labour Coalition, and other labour groups: 12 cases were filed in court, eight are with the prosecutor’s office, one was closed due to the death of the accused, and 21 are still under investigation.

The Committee also notes that the ITUC and the ITF, in their 2023 observations, allege that the existing monitoring bodies, such as the National Tripartite Industrial Peace Council Monitoring Body (NTIPC-MB) and the Regional Tripartite Monitoring Body (RTMB), lack budget and staff to operate properly. They also affirm that the Inter-Agency Committee on Extrajudicial Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons under Administrative Order 35 (AO35 IAC) was supposed to address grave human rights violations, including labour-related killings, but that despite its resources, few cases have progressed or have been resolved. **Taking due note of the Government’s indication that funds have been attributed in the 2024 General Appropriations Act and action points have been included in the tripartite road map to strengthen the monitoring bodies, the Committee expects that these bodies will be allocated more resources and staff in the very near future, with a view to ensuring their full operationalization and, in turn, the effective and timely monitoring, investigation, and, as appropriate, referral for prosecution of all pending labour-related cases of extra-judicial killings and other violations against trade union**

**leaders and members. The Committee requests the Government to provide information on any developments in this regard, as well as updates on the progress made by the monitoring mechanisms in collecting the necessary information to bring the pending cases of violence against trade unionists to the courts.**

*Measures to combat impunity. Training and Guidelines on the conduct of stakeholders.* The Committee previously encouraged the Government to continue to promote comprehensive training activities, with a solid focus on freedom of association and collective bargaining, among government agencies, and looked forward to receiving the revised Guidelines on the conduct of stakeholders. The Committee notes the Government's indication that between June and August 2023, DOLE organized consultations and orientations with the CHR, the NTF-ELCAC and the National Intelligence Coordinating Agency (NICA) to coordinate and strengthen their programs on freedom of association. The Government adds that DOLE has conducted four area-wide dialogues to promote common understanding of the principles of freedom of association between unions, employers, law enforcement agencies and other government stakeholders, which took place in the national capital region on 2 March 2023, in Visayas on 17 March 2023, in Mindanao on 28 March 2023, and in Luzon on 26 April 2023. The Government informs that these social dialogues will be a continuing activity under the tripartite road map, which will provide for the conduct of capacity-building activities and trainers' training to ensure the effective implementation of the Guidelines on the conduct of stakeholders. The Committee further notes the Government's indication that Executive Order No. 23 requires concerned agencies to submit a comprehensive education and capacity-building program to foster common understanding among these agencies of the principles, policies, laws and regulations on freedom of association and the rights to self-organization and collective bargaining. The Government also states that it is looking at the possibility of availing itself of technical assistance from the ILO to strengthen the forensic capacity of its investigative bodies with a view to expediting fair investigation and resolution of the cases related to freedom of association. **Welcoming these initiatives, the Committee expects that the above-mentioned training activities will continue within the framework of the tripartite road map and significantly contribute to raising awareness on matters related to freedom of association and collective bargaining among State officials. Noting the Government's interest in receiving technical assistance from the Office, the Committee hopes that this assistance will be provided in the near future.**

*Measures to combat impunity. Pending legislative matters.* In its previous comments, the Committee had noted the Government's indication that Senate Bill No. 2121 (defining and penalizing the crime of red-tagging) had been filed in March 2021, and requested the Government to provide information on the progress made in its adoption. The Committee notes the Government's indication that Senate Bill No. 2121 was not refiled in the Senate of the current Congress, but that House Bills Nos 1152 and 4941, which also seek to define and criminalize red-tagging, were filed in the House of Representatives. The Government informs that these two bills have been pending with the House Committee on Justice since August and September 2022, respectively. In this regard, the Committee notes that SENTRO, in its 2023 observations, states that the proposed new legislation to help address red-tagging has yet to show any real prospect of enactment and has not been recommended by DOLE as urgent. **Taking due note of the above, the Committee encourages the Government to take concrete time-bound measures towards the adoption of House Bills Nos 1152 and 4941, and requests it to provide information on any progress made in this regard.**

The Committee had also previously noted the Government's indication that House Resolution No. 392 (calling for justice for the victims and urging the House Committee on Human Rights to investigate the state of enforced disappearances in the country) and House Resolution No. 45 (directing the Committees on Justice and Human Rights to jointly conduct an inquiry into the implementation of the Act against Enforced or Involuntary Disappearance of 2012) had been filed in Congress, and encouraged the Government to continue to support legislative efforts that could have a positive impact on the exercise of civil liberties and trade union rights. The Committee notes the Government's

indication that House Bill No. 407, which seeks to declare unlawful and criminalize wilful interference with, harassment and coercion of any worker, workers' association or trade union in the exercise of their right to self-organization, was filed in the House of Representatives and has been pending before the House Committee on Labour and Employment since July 2022. The Government adds that four other bills advocating for civil liberties and trade union rights in both the public and private sectors (House Bills Nos 1513, 1518, 550 and 7043) were filed in the House of Representatives. **Taking due note of these initiatives, the Committee requests the Government to provide information on the progress achieved in the adoption of House Resolution No. 45, House Bills Nos 407, 1513, 1518, 550 and 7043, or any other draft legislation aimed at ensuring respect for civil liberties in the exercise of trade union rights.**

*Anti-Terrorism Act.* In its previous comments, the Committee had requested the Government to take any necessary measures to ensure that the Anti-Terrorism Act, 2020 does not have the effect of restricting legitimate trade union activities. The Committee understood that following a Supreme Court judgement of December 2021 which nullified two provisions of the above-mentioned Act, terrorism as defined in section 4 does not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, and welcomed this development. The Committee notes that the Government states that the judicial process provided in the Act for declaring a group of persons, an organization or an association as terrorist includes three levels of investigation, and that with the Supreme Court's ruling, there is no leeway by which the law can be used to restrict legitimate trade union activities and related civil liberties. **The Committee expects that the Government will continue to ensure that the Anti-Terrorism Act is not implemented in a way which has the effect of restricting legitimate union activities and related civil liberties.**

### Legislative issues

*Labour Code.* The Committee had previously noted that no recent amendments had been made on the matters raised in its previous comments, even though a number of measures had been filed with the Senate and the House of Representatives over the years, and expected concrete measures to be taken to pursue the revision of the Labour Code without additional delay. The Committee notes that the Government indicates that several labour relations bills have been filed and are now pending in the Senate and the House of Representatives of the present Congress. It refers in particular to: (i) House Bills Nos 1518 and 5141, as well as Senate Bill No. 560, on union registration and membership requirements under the Labour Code; (ii) House Bills Nos 5536 and 5789, as well as Senate Bill No. 741, on the power of the Secretary of Labour and Employment under section 278 of the Labour Code; and (iii) House Bill No. 5789 on the penalty of imprisonment during a strike or lockout under article 279 of the Labour Code. **Noting with regret that despite the filing of these new bills, no concrete amendments appear to have been made in relation with the pending matters, the Committee once again reiterates all its previous comments, and firmly expects that the Government will make every effort to take the necessary measures to bring the national legislation into conformity with the Convention as soon as possible.**

The Committee also reiterates its comments contained in the 2020 request addressed directly to the Government.

## Romania

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

#### Previous comment

*Legislative reform.* The Committee recalls that it had previously requested the Government to amend certain provisions of Law No. 62/2011 (the Social Dialogue Act). It further recalls that, following the 2021 Conference Committee on the Application of Standards, which discussed the application of the

Right to Organise and Collective Bargaining Convention, 1949 (No. 98), an ILO technical assistance mission was carried out in May 2022, at the end of which the Office prepared, at the request of the Government, a technical memorandum concerning the project to reform the Social Dialogue Act. The Committee notes the adoption of Law No. 367/2022 on Social Dialogue (Social Dialogue Act – SDA), which repeals Law No. 62/2011, and notes with **satisfaction** that it addresses some of the issues previously raised by the Committee, as detailed below. The Committee also notes the adoption of Law No. 283/2022 amending the Labour Code (Law No. 53/2003) and Emergency Ordinance No. 42/2023 amending and supplementing the SDA and the Labour Code.

*Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. Threshold requirements.* The Committee had previously requested the Government 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 establish and join organizations of their own choosing. The Committee notes with **interest** that, in the SDA, the minimum threshold to form a union was lowered from 15 employees to 10 employees from the same employer or 20 employees from different employers belonging to the same bargaining sector. **The Committee requests the Government to provide information on the application of this amendment in practice and, in particular, to indicate its effect on the number of registered trade unions.**

*Non-standard forms of work.* The Committee had previously requested the Government to take measures to ensure that workers engaged in non-standard forms of work can benefit from the trade union rights enshrined in the Convention. The Committee notes with **satisfaction** the Government's indication that the scope of the SDA extends to all workers, regardless of their contractual situation, including workers with an individual employment contract, in a legal employment relationship, in a service relationship, civil servants and civil servants with special status, cooperative members and farmers, self-employed workers, as well as unemployed persons (sections 1 and 3 of the SDA).

*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) 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). The Committee observes that sections 154 and 26 of the newly adopted SDA continue to reflect the above provisions of the now repealed legislation. **Noting that no progress has been made in this respect despite a legislative reform, the Committee requests the Government to take the necessary measures so as to bring sections 26 and 154 of the Social Dialogue Act into conformity with 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: 1958)

### [Previous comment](#)

*Legislative reform.* The Committee recalls that: (i) since 2012, it has been requesting the Government to amend the Social Dialogue Act of 2011 to ensure its conformity with the Convention; (ii) the application of the Convention gave rise, in 2021, to a discussion before the Conference Committee on the Application of Standards (hereinafter the Conference Committee); (iii) at the request of the Conference Committee, a technical assistance mission was conducted in May 2022, at the end of which the Office, at the request of the Government, prepared a technical memorandum concerning the draft reform of the Social Dialogue Act.

The Committee notes with **satisfaction** that Act No. 367/2022 on social dialogue was promulgated on 19 December 2022 and that, particularly with regard to the promotion of collective bargaining in the

private sector, the Act took into consideration many comments and recommendations made by the Committee of Experts, the Conference Committee and the Committee on Freedom of Association (CFA) with respect to Case No. 3323.

*Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference.* The Committee recalls that, for several years, it has been requesting the Government to take the necessary measures to strengthen the penalties applicable in cases of anti-union discrimination and interference, to ensure that they are sufficiently dissuasive, particularly for large enterprises. The Committee notes the information provided by the Government concerning the legislative amendments made by Act No. 367/2022 and by Act No. 283/2022 which revises several provisions of the Labour Code. The Committee notes in particular that: (i) Act No. 283/2022 incorporates into sections 5 and 6 of the Labour Code provisions that protect workers, including trade union representatives, against any reprisals following actions to defend rights; fines between 4,000 Romanian New Lei (RON) and RON8,000 (equivalent to between US\$220 and US\$880) may be imposed; (ii) similarly, Act No. 367/2022 prohibits any discrimination based on trade union membership or activity, and also prohibits any anti-union acts, including dismissal, and provides for the protection of trade union representatives and elected representatives against any act intended to prevent them from exercising their representation mandate; and (iii) section 175 of Act No. 367/2022 establishes fines of between RON30,000 and RON50,000 (between US\$6,600 and US\$11,000) for anti-union acts. The Committee also notes the detailed information of the National Council for Combating Discrimination (CNCD) on its mandate, its activities, and the penalties that it is authorized to impose, including fines of between RON1,000 and RON30,000 (between US\$220 and US\$6,600) for discrimination against individuals and between RON2,000 and RON100,000 (between US\$440 and US\$22,000) for discrimination against a group of persons or a community. The CNCD adds that, between 2019 and 2022: (i) it examined 39 complaints of anti-union discrimination; (ii) in nine cases, discrimination was determined, leading to six warnings and three fines (RON2,000 (US\$440), RON4,000 (US\$660), and RON10,000 (US\$2,200), respectively); and (iii) four of the nine decisions were appealed before the courts.

The Committee notes these various elements. While welcoming the increase in the fines established by Act No. 367/2022, which revised the Social Dialogue Act of 2011 (an increase of over 50 per cent from which, however, the effects of inflation should be deducted), the Committee notes at the same time that: (i) the only information on the imposition of fines concerns small fines levied in three cases by the CNCD, and no details were provided on any decisions taken by the labour inspectorate or the courts; and (ii) the Government did not indicate, as had been requested, whether the competent authorities have the possibility to order the reinstatement of persons dismissed for their trade union activities. ***Recalling the importance of being able to apply dissuasive penalties through effective procedures for cases of acts of anti-union discrimination and interference, the Committee requests the Government to: (i) provide information on the application in practice of the penalties established by section 175 of Act No. 367/2022; (ii) specify whether reinstatement is a possible penalty in cases of dismissal based on trade union affiliation or activity; and (iii) provide full information on the number of cases of anti-union discrimination and interference brought before the various competent authorities (the labour inspectorate, the courts and the CNCD), the average duration of proceedings and the type of decisions taken.***

*Article 4. Promotion of collective bargaining at the enterprise level.* The Committee notes with **satisfaction** that, further to its previous comments, Act No. 367/2022 has: (i) strengthened the key role of trade union organizations by providing that elected staff representatives may only negotiate collective agreements in the complete absence of trade union organizations in the enterprise (sections 57, 58 and 102 of the Act); (ii) lowered from 50 per cent to 35 per cent the proportion of affiliated workers in an enterprise required in order for a trade union to be considered representative (section 54); and (iii) provided for various arrangements (section 102) to allow for bargaining with workers' organizations if no trade union reaches the aforementioned representativeness threshold in the enterprise (in



particular through the participation of representative federations or confederations at the sectoral or national level, to which the enterprise trade union would be affiliated or, in the absence of such organizations, by allowing for joint bargaining by all trade unions present in the enterprise). The Committee further notes the extension of the obligation to bargain to enterprises with between ten and 20 workers (section 97).

*Promotion of collective bargaining at the sectoral and national levels.* The Committee notes with **satisfaction** that, further to its previous comments, Act No. 367/2022 (section 54): (i) reduces from 7 per cent to 5 per cent the percentage of affiliated workers in a sector of activity required in order for a trade union federation to be considered representative; (ii) provides that, if a trade union organization does not reach this threshold in the sector concerned, a representative confederation at the national level may bargain on behalf of its members in that sector; and (iii) explicitly provides for the possibility of negotiating agreements at the national level (section 102). The Committee adds that the Act contains various additional measures aimed at promoting collective bargaining and increasing its coverage: (i) the redefinition of sectors of economic activity to facilitate collective bargaining within them; (ii) the establishment of a procedure to extend sectoral and national collective agreements beyond their signatories; and (iii) the creation of an obligation to bargain at the sectoral level.

***The Committee requests the Government to provide information on the implementation in practice of the various provisions referred to above which are aimed at promoting collective bargaining at all levels, by providing, in particular, detailed information on: (i) the number and level of collective agreements concluded, the sectors concerned and the level of coverage of collective bargaining, distinguishing the contribution of each level of negotiation; and (ii) the respective proportion of agreements concluded by trade union organizations and by elected workers' representatives at the enterprise level.***

*Articles 4 and 6. Collective bargaining with public servants not engaged in the administration of the State.* The Committee recalls the 2021 conclusions of the Conference Committee on collective bargaining in the public sector, and its 2019 comments concerning the need for wages to be included in the scope of the collective bargaining for all public servants not engaged in the administration of the State. The Committee notes the Government's indication regarding the provisions of section 105 of Act No. 367/2022 on staff paid from the state budget, according to which: (i) collective agreements cannot contain clauses regarding wage entitlements of which the granting and amount are established by the legislation in force; (ii) collective labour agreements may, nevertheless, provide for bargaining after the approval of the income and expenditure budgets of the respective units, within the limits and under the conditions established by the latter; and (iii) where wage entitlements are set in special laws between minimum and maximum limits, the concrete wage entitlements are determined by collective bargaining. ***The Committee requests the Government to specify: (i) the different categories of public sector workers covered by section 105 of Act No. 367/2022; and (ii) the content and scope of financial negotiations for employees paid by the State to which the aforementioned provision refers.***

## Russian Federation

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

#### [Previous comment](#)

The Committee recalls that it had requested the Government to reply to its previous comment as set out below, in 2023. The Committee notes with **regret** that the Government's report was submitted too late after the deadline of 1 September to ensure its translation. The Committee will examine the information provided by the Government at its next meeting.

The Committee notes the observations of the Confederation of Labour of the Russian Federation (KTR), communicated with the Government's report and referring to the issues raised by the Committee below, as well as the Government's reply thereon.

The Committee notes that the Committee on Freedom of Association (CFA) drew to its attention the legislative aspects of Case No. 3313 [see 396th Report, October 2021, paragraphs 529–595]. The Committee notes, in particular, the conclusions and recommendations of the CFA with regard to: (1) the right of trade unions to express opinions and (2) the application to trade unions of the legislative provisions regulating non-commercial organizations performing functions of a foreign agent.

*Freedom of expression.* With regard to a situation where a union's publications criticizing the State's policy were declared as being contrary to the law and the union's statutes, the CFA recalled that the right to express opinions through the press or otherwise is an essential aspect of trade union rights and the full exercise of trade union rights calls for a free flow of information, opinions and ideas within the limits of propriety and non-violence. The CFA further recalled that freedom of expression which should be enjoyed by trade unions and their leaders should also be guaranteed when they wish to criticize the government's economic and social policy. The CFA requested the Government to take all necessary measures to ensure that the right of trade unions to express opinions, including those criticizing the Government's economic and social policies is duly protected in law and in practice. **The Committee requests the Government to indicate all steps taken in this respect.**

*Foreign agents.* Furthermore, and with reference to Case No. 3313, this Committee notes that by virtue of the Law on Non-Commercial Organizations, trade unions must register as organizations performing the functions of a "foreign agent" if they receive funding from foreign sources and that such status entails certain additional obligations imposed on a trade union under sections 24 and 32 of the Law. The Committee further notes that section 32 provides for scheduled (once a year) and unscheduled inspections of non-commercial organizations performing the functions of a foreign agent. The Committee notes that the reasons for unscheduled inspections include the receipt of information from the state authorities, local self-government authorities, citizens or organizations on: (i) a violation of law or its own by-laws by a non-commercial organization performing the functions of a foreign agent; (ii) non-registration as a foreign agent; and (iii) participation in events carried out by a foreign or international non-governmental organization whose activities have been declared undesirable on the territory of the Russian Federation. If during an investigation it appears necessary to obtain documents and/or information through inter-agency information exchange, to undertake complex and/or lengthy research or special expert analyses and investigations, the time limit for carrying out the investigation may be extended to 45 working days. The Committee considers that legislation which seriously hampers activities of a trade union or an employers' organization on the grounds that they accept financial assistance from an international organization of workers or employers to which they are affiliated infringes the principles concerning the right to affiliate with international organizations. The Committee also notes that pursuant to section 32 of the Law, an authorized body can prohibit a non-commercial organization performing the functions of a foreign agent from implementing a programme (or part thereof). Failure to execute that decision entails the liquidation of the organization by a court. The Committee notes heavy penalties set out by the Code of Administrative Offences in connection to the failure to register as a non-commercial organization performing the functions of a foreign agent, and also for production or distribution of materials (including through the mass media and/or the Internet), without indicating that these materials were produced, distributed or sent by a non-commercial organization acting as a foreign agent. In light of the above, the Committee, like the CFA, considers that it is difficult to reconcile the additional bureaucratic burdens imposed on trade unions receiving financial assistance from abroad (including from an international trade union to which they are affiliated), as well as various hefty penalties that can be imposed on the organizations, their leaders and members, with the right of trade unions to organize their administration, to freely organize their activities and to formulate their programmes as well as with the right to benefit from international affiliation. The

Committee recalls that the control exercised by the public authorities over trade union finances should not normally exceed the obligation to submit periodic reports. The discretionary right of the authorities to carry out inspections and request information at any time entails a serious danger of interference in the internal administration of trade unions. **The Committee therefore urges the Government to take the necessary steps to find an appropriate solution through social dialogue in order to ensure that the regulations on non-commercial organizations performing the functions of a foreign agent are compatible with the rights of trade unions, and employers' organizations, under the Convention. The Committee requests the Government to provide information on all measures taken in this respect.**

The Committee notes with **utmost concern**, from the Kremlin website ([www.kremlin.ru](http://www.kremlin.ru)), the entry into force, on 1 December 2022, of the Law on Control of Activities of Persons Under Foreign Influence. The Committee notes that pursuant to the new legislation, foreign influence is defined as a support (financial and/or other) provided by, among others, international and foreign organizations, and that non-compliance with the requirements of the law, which are now more stringent than those described above, entails a dissolution of the organization in question. The Committee notes that while employers' organizations are explicitly excluded from its scope, trade unions are not. **The Committee urges the Government to take all necessary steps to exclude trade unions and their organizations from the scope of application of the new Law and to inform the Committee of all measures taken in this respect.**

The Committee notes, from the Official Internet Portal of Legal Information, the entry into force, on 5 December 2022, of the related legislation, the Law on Amendments to Certain Legislative Acts of the Russian Federation, which amends, among several other pieces of legislation, Federal Law No. 54-FZ of 19 June 2004 (as amended on 30 December 2020) on Meetings, Rallies, Demonstrations, Marches and Pickets. The Committee notes with **deep concern** that the amendment not only restricts areas where a public event can take place to the extent that the organization of demonstrations, marches, pickets might become virtually impossible, but also forbids the organization of such events by foreign agents. **The Committee requests the Government to provide information on these developments.**

*Article 3 of the Convention. Right of workers' organizations to organize their administration and activities.* The Committee had previously invited the Government to review, in consultation with the social partners, various categories of the State and municipal civil service with a view to identifying those that may fall outside of the narrowly interpreted category of public servants exercising authority in the name of the State. The Committee notes that the Government reiterates its explanation on the classification of civil service positions in the national legislation set out in section 9 of the Law on State Civil Servants, and indicates that all civil servants covered by that legislation exercise authority in the name of the State. The Committee notes that the KTR reiterates its opinion that far from all civil servants covered by the Law are "officials exercising authority in the name of the State". The Committee questions to what extent "support specialists" (clerical, documentation, IT, accounting, specialists etc.), for example, exercise authority in the name of the State. The Committee recalls that too broad a definition of the concept of civil servant may result in a very wide restriction or even a prohibition of the right to strike for these workers. The Committee welcomes the Government's indication that it is prepared to conduct, where necessary, consultations with social partners regarding possible improvements. **The Committee reiterates its request and expects the Government to inform it of the outcome of the review, in consultation with the social partners, of various categories of the State and municipal civil service with a view to identifying those that may fall outside of this narrowly interpreted category and whose right to strike should be guaranteed.**

With regard to its previous request to take the necessary measures to amend section 26(2) of the Law on Federal Rail Transport so as to ensure the right to strike of railway workers, the Committee notes the Government's indication that it believes there is no need to amend the legislation on the rail transport, as section 413 of the Labour Code provides that the right to strike may be restricted by federal law. The Government indicates that temporary work stoppages by certain categories of railway workers may pose a threat to the defence of the country and state security, as well as human life and health, and

it is therefore reasonable to restrict their right to strike. The Committee reiterates that railway transport does not constitute an essential service in the strict sense of the term where strikes can be prohibited and that instead, a negotiated minimum service could be established in this public service of fundamental importance. **The Committee reiterates its previous request and expects the Government to take the necessary measures, in consultation with the social partners, to amend section 26(2) of the Law on Federal Rail Transport so as to bring it into full conformity with the Convention. The Committee again requests the Government to provide information on measures taken or envisaged in this respect.**

## 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 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes with **deep concern** that the Government's report, due since 2015, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of whatever information is at its disposal. The Committee recalls that it has been raising issues concerning the observance of the Convention in an observation and a direct request, with longstanding requests for information on the application of the rights guaranteed by the Convention with respect to fire service personnel, prison staff and public servants. **Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation and direct request adopted in 2020 and urges the Government to provide a full reply thereto. To this end, the Committee recalls that the Government may avail itself of the ILO's technical assistance.**

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

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1980)

The Committee notes 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 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes with **deep concern** that the Government's report, due since 2015, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal. The Committee recalls that it has been raising questions concerning compliance with the Convention in an observation, including a longstanding request for the Government to ensure that national legislation expressly recognizes the right to collective bargaining of prison staff and fire service personnel. **Not having received any observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation adopted in 2020, and urges the Government to provide a full reply thereto. To this end, the Committee recalls that the Government can avail itself of the technical assistance of the ILO.**

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

## Sao Tome and Principe

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

(ratification: 1992)

#### Previous comment

*Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference.* In its previous comments, the Committee requested the Government to take the necessary measures to ensure that its legislation imposes sufficiently effective and dissuasive sanctions against anti-union discrimination aimed at all the workers covered by the Convention. It notes that the Government: (i) indicates that the revised Labour Code, promulgated in 2019, does not introduce any changes in this respect, but retains a number of specific provisions that give effect to *Articles 1 and 2* of the Convention; and (ii) recognizes at the same time that it is necessary to legislate against acts of anti-union discrimination and interference in order to promote collective bargaining processes in the country. Noting that the sections of the Labour Code mentioned by the Government were referenced in its previous observation, the Committee emphasizes once again that the Labour Code does not provide specific sanctions for acts of anti-union discrimination affecting workers who are not trade union representatives or candidates for the post of representative. ***The Committee therefore requests the Government once again to take appropriate steps to include sanctions in the legislation that are both effective and dissuasive against such acts of discrimination, applicable to all workers covered by the Convention. It requests the Government to provide information on any progress made in this regard in its next report.***

*Article 4. Promotion of collective bargaining. Absence of a legal framework for the exercise of the right to collective bargaining and absence of collective bargaining in practice.* In its previous comment, the Committee expressed concern at the lack of collective agreements in the country, highlighting that the absence of a legal framework could hamper the exercise of the right to collective bargaining. The Committee notes that the Government recognizes that: (i) under the First Republic, collective bargaining in the agricultural sector took place in public entities; (ii) the country is still not equipped with a legal framework for collective bargaining and there is currently no collective agreement in the country; and (iii) the Government will shortly be advancing initiatives in this area and will request ILO technical assistance accordingly. ***While taking due note of the Government's expressed intention to request ILO technical assistance, the Committee requests the Government once again, as a matter of urgency, to take all necessary measures, in law and in practice, to encourage the development and use of collective bargaining, and to provide information on progress in this regard.***

### Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 2005)

#### Previous comment

*Articles 4 and 5 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* In its previous comment, the Committee requested the Government to take the necessary measures for the adoption of legislative provisions imposing sufficiently effective and dissuasive sanctions for acts of anti-union discrimination and acts of interference against trade union organizations of public employees. The Committee notes firstly that, under section 3(1)(a) of the Preamble to Act No. 6/2019 on the Labour Code: without prejudice to special legislative provisions, the provisions of the Labour Code relating to, inter alia, equality and non-discrimination are applied *mutatis mutandis* to the legal public employment relationship conferred on the public servant or the public administration official. The Committee also notes that: (i) the Government indicates that section 362(2) and (3) specify that any form of interference in trade union associations is prohibited; and (ii) under section 363 of the Code, any act or agreement is prohibited that: (a) makes the employment of a worker subject to their membership or non-membership of a trade union association or their withdrawal from an association of which they are a member; and (b) dismisses, transfers or otherwise prejudices a worker

because of their exercise of rights relating to participation in collective representation organizations or membership of a trade union. The Committee also notes that the Code prohibits employers from engaging in any discrimination, direct or indirect, based on trade union membership (section 17), and from following discriminatory procedures in the treatment of workers because of workers' trade union membership (section 101(2)(b)). With regard to the penalties for these acts, the Committee notes the Government's indication that sections 534 and 539 of the Labour Code provide for applicable penalties in the area of anti-union discrimination and interference. The Committee notes in this regard that section 539 provides that: (i) bodies or organizations that violate the provisions of section 362(1) and (2) (acts of interference) and section 363 (anti-union discrimination) are punishable by a fine of up to 120 days (section 539(1)); and (ii) administrators, directors or managers and workers occupying managerial positions who are responsible for the acts referred to in the previous paragraph are liable to imprisonment of up to one year (section 539(2)). **Observing that section 539, unlike other similar provisions of the Labour Code, does not clearly define the unit of measurement for calculating the fine incurred (expressed in days without any other indication), the Committee requests the Government to specify what this provision corresponds to in terms of a financial penalty.** In addition, the Committee notes that section 534 does not impose any specific penalties for violations of section 17 and section 101(2)(b) of the Code. **In view of the above, the Committee requests the Government to take the necessary measures to adopt legislative provisions imposing sufficiently effective and dissuasive sanctions for acts of anti-union discrimination and for acts of interference against trade union organizations of public employees.**

*Article 8. Settlement of collective disputes.* In its previous comments, the Committee noted that section 11 of Act No. 4/92 on Strikes provides for compulsory arbitration but noted that the legislation does not establish any mechanism for mediation or conciliation in the event of a dispute between the parties. **While noting that the Acts on trade unions and on strikes are henceforth part of Act No. 6/2019 issuing the Labour Code, under the Preamble of the Code, the Committee requests the Government to provide detailed information on the settlement of collective disputes in the public administration, as well as on the mediation mechanisms that are under the responsibility of the Directorate of the Public Administration.**

## Collective Bargaining Convention, 1981 (No. 154) (ratification: 2005)

### [Previous comment](#)

*Article 5 of the Convention. Collective bargaining in the public administration.* In its previous comment, the Committee, having noted both the absence of a legal framework for collective bargaining and its application to public servants, requested the Government to take the necessary measures to remedy this situation and thus give effect to *Article 5* of the Convention. The Committee notes that the Government: (i) mentions that bargaining takes place when the National Council for Social Dialogue deems it appropriate or when the situation so justifies; and (ii) emphasizes that there are no collective agreements in the country, that there is still no legal framework for collective bargaining and that the Government is willing to work with the social partners to remedy that situation, for example during the reform of the Labour Code (Act No. 6/2019). **Recalling that under the Convention, while taking full account of the particular conditions in the public service, persons employed by the public administration must be able to bargain collectively in respect of their working conditions and terms of employment, the Committee requests the Government to: (i) give clear details on the participation of trade unions in the National Council for Social Dialogue and on the content and results of the negotiations taking place therein; and (ii) take the necessary measures, in consultation with the representative trade union organizations concerned, to establish a legal framework to promote the application of collective bargaining within the public service. The Committee requests the Government to provide information on all progress achieved on this matter and recalls that the Government may avail itself of ILO technical assistance in this regard.**

## Slovenia

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

(ratification: 1992)

#### Previous comments

*Articles 2 and 3 of the Convention. Protection against acts of interference.* In its previous comments, the Committee had urged the Government to indicate what circumstances fall within the definition of “taking over a trade union” contained in paragraph 2 of section 200 of the Criminal Code on the violation of trade union rights and to provide information on its application in practice. The Committee takes note of the indications of the Government that section 200 of the Criminal Code, which serves as a blanket legal provision, requires reference to several pieces of legislation, including the Trade Union Representativeness Act, the Employment Relations Act, the Collective Agreements Act and the Strike Act, as well as specific trade union statutes, in order to establish the existence of violations of trade union rights. In spite of the comprehensive nature of these references, the term “trade union take-over” remains undefined and will therefore require future legislative interpretation and case law in order to clarify its substantive meaning. As yet, Slovenian courts have not ruled on this specific issue, leaving a degree of uncertainty in the legal field. The Committee takes due note of these elements. The Committee considers that the difficulties in clarifying the meaning and scope of section 200(2) of the Penal Code may hamper the effectiveness of this provision. The Committee recalls that *Article 2* of the Convention requires the existence of clear and precise legislative provisions to adequately protect workers’ organizations from acts of interference, such as those aiming to place workers’ organizations under the control of employers or employers’ organizations by financial or other means. **The Committee requests the Government to consider, in consultation with the social partners, complementing its legislation regarding the prohibition of anti-union interference and to provide information of any new developments concerning the interpretation and application of section 200(2) of the Penal Code.**

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

## Somalia

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2014)

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

The Committee takes note of the Government’s first report on the application of the Convention. It notes with **interest** the Government’s indication that a draft Labour Code (the content of which is examined in the direct request accompanying this observation), was developed in collaboration with the ILO to revise the 1972 Labour Code, and that all tripartite partners were involved in the process. It further notes that this draft Labour Code and a draft Civil Service Law are currently pending approval by the Parliament. **The Committee requests the Government to inform on the adoption process of the draft Labour Code and the draft Civil Service Law and to transmit copies of the laws once adopted.**

The Committee also notes the observations of the Federation of Somali Trade Unions (FESTU), received on 1 October 2020, alleging violations of the right to organize, including the right to strike, at an airport management company, as well as pressures and threats by the police against trade union officials. **The Committee requests the Government to provide its comments in this respect.**

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

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

## South Africa

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

#### Previous comments

*Trade union rights and civil liberties. Allegations of violent repression of strike actions and arrests of striking workers.* The Committee notes with **deep regret** that the Government provides no information on the findings of the investigation into the arrest of 100 community health striking workers in July 2014 and the killing of a union steward of the Association of Mineworkers and Construction Union (AMCU) in January 2014. The Committee recalls the requirement of independent judicial investigations to be conducted rapidly in the case of allegations of violations of the rights and principles guaranteed by the Convention with a view to establishing the facts, violations and determining responsibilities, punishing the perpetrators and instigators and preventing the recurrence of such acts. In this regard, the Committee recalls that excessive delays in the procedures set in motion in response to such allegations create, in practice, a situation of impunity, which reinforces the existing climate of violence and insecurity (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 60). **The Committee once again firmly urges the Government to take all necessary measures with a view to expediting the process of investigation and requests the Government to inform it of the findings.**

In its previous observation, the Committee had requested the Government to provide detailed comments on the serious allegations of violations of trade union rights and civil liberties contained in the 2022 observations of the International Trade Union Confederation (ITUC). The Committee recalls that the ITUC alleged that strike actions in South Africa were often met with intimidation and anti-union dismissals, violence and arrests and referred in this respect to: (i) the assassination of a campaigner and organizer for the National Union of Metalworkers of South Africa (NUMSA) in August 2021; (ii) the killing of a member of the NUMSA in October 2021, during a protest march for a salary increase in the metal and engineering sector; (iii) the NUMSA allegation that some of its members have been attacked by the police and private security companies, and in some instances, have even been shot at, causing injuries; (iv) the alleged intimidation of South African Commercial Catering and Allied Workers Union (SACCAWU) members by employers during protests, in particular through the use of legal notices, unpaid leaves to self-isolate for allegedly violating COVID-19 safety rules, and text messages telling workers they had been replaced; (v) the alleged violence, such as threats, the use of rubber bullets and petrol bomb attacks against striking dairy workers, members of the General Industries Workers Union of South Africa (GIWUSA); and (vi) the alleged suspension of four members of the National Emancipated and Allied Workers Union of South Africa (NEAWUSA) following a month-long strike. The Committee notes the Government's indication that freedom of association is a fundamental right enshrined in the Constitution of South Africa, and that the laws support the right to strike when industrial action is peaceful. The Government adds that the laws do not support the use of violence and destruction of property; when the law is violated and the intervention of police is solicited, their intervention must be within the ambit of the law. The Government further indicates that in instances where the police or private security agents violate the law, the trade unions or aggrieved individuals have the right to approach the courts. The Government emphasizes that all industrial actions are required to operate within the parameters of the law for them to be protected. The Government indicates that it is important that the allegations and complaints against the Government are supported by evidence. While noting the general explanation provided by the Government, the Committee notes with **deep regret** that there appears to be no investigation conducted into the ITUC serious allegations involving a number of national trade unions. The Committee emphasizes the importance of properly investigating all alleged instances of violence against trade union members and recalls that the authorities, when informed of such matters, should systematically request information from the unions involved and carry out an immediate investigation to determine who is responsible and punish the guilty parties. **The Committee**



**urges the Government to conduct a thorough investigation into the alleged instances of violation of civil liberties and trade union rights and requests the Government to provide information on the outcome.**

The Committee further notes with **regret** that the Government did not provide detailed information on the implementation of 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 reiterates its previous request and expects the Government to transmit full particulars with its next report.**

The Committee takes note of the Accord on Collective Bargaining and Industrial Action, the Code of Good Practice on Collective Bargaining, Industrial Action and Picketing, and Picketing Regulations and the Government's indication that the Accord is the product of social dialogue and consensus between the State, Organized Business, Organized Labour and Community Constituency under the auspices of the National Economic Development and Labour Council (NEDLAC).

The Committee recalls that in its previous comments it had noted the Government's indication that the social partners have deliberated under the auspices of the NEDLAC during 2015 and 2016 and have established amendments to the Labour Relations Act (LRA) with regards to picketing, secret ballots and the establishment of an advisory arbitration panel. **The Committee once again requests the Government to indicate the status of the amendments and to provide a copy thereof once adopted.**

*Articles 2 and 3 of the Convention. Rights of vulnerable workers to be effectively represented by their organizations.* The Committee had previously requested the Government to provide a copy of the research report on the impact of the amendments of the Labour Relations Act on trade unionization of temporary employees, and information on any developments regarding the Government's interventions to address difficulties in the exercise of the right to organize by farmworkers, including on the ITUC's 2015 observations alleging difficulties for farmworkers to engage in legally protected industrial action. The Committee notes the Government's reply that it has not conducted any research, because there is nothing in the legislation that impedes trade unions from organizing in any sector irrespective of the workers' status. The Government points out that while it is its responsibility to create a conducive environment for organizations and workers to exercise their rights, it is not the Government's responsibility to organize on behalf of workers. The Committee refers to its 2019 observation wherein it took note of the Government's various initiatives aimed at addressing difficulties encountered by temporary workers and farmworkers, which included, among others, a commissioning of the above-mentioned research. **The Committee reiterates its previous requests and expects the Government to transmit full details with its next report. In particular, the Committee expects clarification as to whether the research report that was announced in the past will be produced after all, or how else the Government intends to create a framework within which vulnerable workers can engage in legally protected industrial action.**

## Sudan

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

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

The Committee welcomes the ratification by Sudan of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) on 17 March 2021. The Committee notes at the same time with **concern** the public announcement made on 28 November 2022 by the Head of the Transitional Sovereignty Council concerning: (i) the suspension of the activities of all workers' and employers' organizations; and (ii) the decision to establish a committee headed by the general registrar of work organizations aimed at forming new steering committees for trade unions and employers organizations as

well, to prepare for elections and general assemblies. **The Committee urges the Government to refrain from any interference with regard to the functioning of the workers' and employers' organizations and to guarantee the necessary civil liberties so that they can freely exercise their activities, including through free and voluntary collective bargaining. The Committee requests the Government to provide full information on the measures taken to ensure full respect for the right to organize and collective bargaining.**

*Article 4 of the Convention. Compulsory arbitration.* In its previous comments, the Committee, noting that a draft Labour Code was in the final stages of revision, requested the Government to ensure that compulsory arbitration, which is currently allowed by section 112 of the Labour Code of 1997, would only be imposed in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. The Committee notes the Government's indication that the Labour Code of 1997 was revised and submitted to the Council of Ministers in 2021, and that it is currently being assessed by a consultative committee on labour standards which includes employers and workers. **Taking due note of these developments, the Committee requests the Government to take the necessary measures, in consultation with the social partners, to ensure that the revised Labour Code is adopted shortly and only allows the imposition of compulsory arbitration in the above-mentioned cases. The Committee requests the Government to provide information on any progress achieved in this regard.**

*Collective bargaining in practice.* The Committee had previously requested the Government to provide statistical information on collective bargaining in practice. It notes with **regret** that the Government merely states that it does not have any data. **The Committee once again requests the Government to provide information, including statistics, on the number of collective agreements concluded in the country since 2017, as well as the sectors concerned and the number of workers covered by these agreements.**

*Trade union rights in export processing zones (EPZs).* In its previous comments, the Committee had requested the Government to provide information on the application of trade union rights in EPZs. **Noting that the Government does not transmit the information requested, the Committee reiterates its request that it provide specific information on the application of trade union rights in EPZs, including the number of unions and collective agreements, as well as copies of the pertinent labour inspection reports.**

*Trade Unions Act.* The Committee had previously observed that various provisions of the Trade Unions Act of 2010 are not consistent with the principles of freedom of association (for example, the imposition of trade union monopoly at federation level; the ban on joining more than one trade union organization; the need for approval from the national federation in order for federations or unions to join a local, regional or international federation; and interference in the finances of organizations) and invited the Government to bring the Act into line with such principles. **Regretting that the Government does not provide any information in this regard and highlighting the recent ratification of Convention No. 87, the Committee urges the Government to take the necessary measures, in full consultation with the social partners, to bring the Trade Unions Act of 2010 into conformity with the principles of freedom of association so as to promote the full development and utilization of collective bargaining machinery, in accordance with Article 4 of the Convention.**

**Reiterating its concern about the 28 November 2022 public announcement concerning the freezing of the activities of all workers and employers' organizations, the Committee further urges the Government to ensure that, pending the revision of the Trade Union Act, all the conditions required for the application of the Convention are fully respected in practice.**

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

## Syrian Arab Republic

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

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

The Committee notes that in its reply to the 2012 observations of the International Trade Union Confederation (ITUC) alleging the use of police and paramilitary force in dealing with protests, deaths, arrests and imprisonment of political and human rights activists, the Government indicates that: (i) the ILO has no constitutional mandate to interfere in countries' internal political affairs, rather its mandate is to examine allegations of economic nature or dealing with working conditions; (ii) the matter raised by the ITUC is being discussed by the Human Rights Council since 2011; (iii) the Government categorically refutes the use of violence against its citizens; the protests, killings and acts of vandalism were carried out by armed terrorist groups in order to destabilize the country; and (iv) the right to strike is provided for in article 44 of the Constitution (2012), which specifies that citizens have the right to assemble, to peacefully demonstrate and to strike. The Committee recalls that freedom of association is a principle with implications that go well beyond the mere framework of labour law. It further recalls that the ILO supervisory bodies have unceasingly stressed the interdependence between civil liberties and trade union rights, emphasizing that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 59). **The Committee expects the Government to ensure respect for this principle.**

*Article 2 of the Convention. Scope of application.* The Committee had previously requested the Government to indicate whether independent workers, civil servants, agricultural workers, domestic workers and similar categories, casual workers and part-time workers whose hours of work do not exceed two hours per day enjoy the rights provided for in the Convention. The Committee notes the Government's indication that by virtue of section 5(b) of the Labour Act No. 17 of 2010, domestic workers and similar categories, workers in charity associations and organizations, casual workers and part-time workers (workers whose hours of work do not exceed two hours per day) shall be subjected to the provisions of their employment contracts, which may not, under any circumstances, prescribe fewer entitlements than those prescribed by the Labour Act, including the provisions of the Law on Trade Union Organizations. The Committee considers, however, that the right to organize of the abovementioned categories of workers excluded from the scope of application of the Labour Act should be explicitly protected in law. Therefore, the Committee requests the Government to take measures, in consultation with social partners, to adopt the necessary legislative provisions so as to ensure that these categories of workers enjoy the rights provided for in the Convention. The Committee further notes that agricultural workers and agriculture work relationships, including collective bargaining, are governed by Agricultural Relations Law No. 56 of 2004, that domestic workers are governed by Law No. 201 of 2010, and that civil servants are governed by Basic Law on State Employees No. 50 of 2004. **The Committee requests the Government to indicate specific legislative provisions that regulate particular aspects of freedom of association rights of civil servants, agricultural workers, and domestic as well as independent workers, and to provide a copy thereof.**

*Trade union monopoly.* For several years, the Committee has been referring to the need for the Government to amend or repeal the legislative provisions which establish a trade union monopoly (sections 3, 4, 5 and 7 of Legislative Decree No. 84; sections 4, 6, 8, 13, 14 and 15 of Legislative Decree No. 3, amending Legislative Decree No. 84; section 2 of Legislative Decree No. 250 of 1969; and sections 26–31 of Act No. 21 of 1974). The Committee takes note of the Government's indication that workers have the right to establish independent trade unions if the union is affiliated to the General Federation of Trade Unions in Syria (GFTU). According to the Government, the application of trade union pluralism in several countries weakened trade unions and diminished workers' rights. Observing that all workers' organizations must belong to the GFTU and that any attempt to form a trade union must be subject to the consent of this Federation, the Committee considers that although it is generally to the advantage of workers and employers to avoid a proliferation of competing organizations, the right of workers to be able to establish organizations of their own choosing, as set out in Article 2 of the Convention, implies that trade union diversity must remain possible in all cases. The Committee considers that it is important for workers to be able to change trade unions or to establish a new union for reasons of independence, effectiveness or ideological choice. Consequently, trade union unity imposed directly or indirectly by law is contrary to the Convention (General Survey 2012, op. cit., paragraph 92). **The Committee reiterates its previous request and expects that all necessary measures will be taken by the Government, in full consultations with the social partners, so as to bring the national legislation into conformity with Article 2 of the Convention. It requests the Government to inform it of any progress made in this regard.**

*Article 3. Financial administration of organizations.* The Committee recalls that its previous comments related to the need to amend section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, so as to lift the power of the Minister to set the conditions and procedures for the investment of trade union funds in financial services and industrial sectors. The Committee notes the Government's indication that, in accordance with the rights afforded to them by the Constitution, the GFTU and other unions are financially independent and have the right to conclude agreements and labour contracts in accordance with section 17 of the Law on Trade Union Organizations and the right to dispose of their funds and income in accordance with their internal regulations and decisions. **Noting with regret the absence of any new development in this regard, the Committee expects the Government to undertake, as soon as possible, the revision of section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, in full consultations with the social partners. It also requests the Government to provide information on the measures taken or envisaged in this regard.**

*Right of organizations to elect their representatives in full freedom.* The Committee had previously requested the Government to provide specific information on the measures taken or contemplated to repeal or amend section 1(4) of Act No. 29 of 1986, amending Legislative Decree No. 84 which determines the composition of the GFTU Congress and its presiding officers. The Committee has stated on multiple occasions that it should be up to trade union constitutions and rules to establish the composition and presiding officers of trade union congresses. **Noting with regret the absence of any new development in this regard, the Committee expects that the Government will take the necessary measures, as soon as possible, in order to amend or repeal the above-mentioned provision in consultation with the social partners so as to ensure that organizations are able to elect their representatives in full freedom. It requests the Government to provide information on the measures taken or envisaged in this respect.**

*Right of organizations to formulate their programmes and organize their activities.* In its previous comments, the Committee had requested that the Government take the necessary measures to amend legislative provisions that restrict the right to strike by imposing heavy sanctions including imprisonment (sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949, issuing the Penal Code). The Committee had further observed that no reference was made to the possibility for workers to exercise their right to strike in the chapter on collective labour disputes of the Labour Act. The Committee notes the Government's indication that section 67 of the Labour Act provides protection against dismissals of unionized workers for taking part in trade-union activities. **Recalling that in the past, the Government had indicated that the GFTU was working to modify the Labour Act to ensure coherence with articles of the Constitution granting workers the right to strike, the Committee expects that the law will be amended so as to bring it into line with the Convention and requests the Government to provide information in this regard. While noting the Government's indication that the agricultural sector is now governed by Law No. 56 of 2004, the Committee also requests the Government to indicate whether workers of this sector enjoy the right to strike and identify the relevant legislative provisions.**

**While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.**

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

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

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

*Scope of the Convention.* The Committee had previously requested the Government to specify and provide details concerning the legislative provisions affording to the following categories of workers the rights enshrined in the Convention: independent workers, civil servants, domestic servants and similar categories, workers in charity associations and organizations, casual workers and part-time workers whose hours of work do not exceed two hours per day. The Committee notes the Government's indication that : (i) pursuant to section 5(b) of the Labour Act No. 17 of 2010, domestic workers and similar categories, workers in charity associations and organizations, casual workers and part-time workers shall be subjected to the

provisions of their employment contracts, which may not, under any circumstances, prescribe fewer entitlements than those prescribed by the Labour Act, including the provisions of the Law on Trade Union Organizations; and (ii) civil servants are governed by the Basic Law on State Employees No. 50 of 2004. **Noting that section 5(b) of the Labour Act excludes several categories of workers from its scope of application and exclusively refers to the content of their individual contracts of employment, the Committee requests the Government to specify the legislative provision recognizing the right to collective bargaining. The Committee further requests the Government to indicate legislative provisions regulating the right of collective bargaining for civil servants not engaged in the administration of the State. It further requests the Government to indicate whether independent workers enjoy the rights afforded by the Convention and to specify the relevant legislative provisions.**

*Articles 1 and 2 of the Convention. Adequate protection against acts of interference.* In its previous comments, noting that the Labour Act of 2010 does not expressly prohibit acts of interference on the part of the employers' or workers' organizations in each other's affairs, the Committee had requested the Government to take measures with a view to adopting clear and precise provisions prohibiting acts of interference, accompanied by sufficiently dissuasive sanctions. While observing that the Government does not provide specific information in this regard, the Committee recalls that under the terms of *Article 2* of the Convention, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. Acts of interference are deemed to include acts which are designed to promote the establishment of workers' organizations under the domination of an employer or an employers' organization, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers and employers' organizations (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 194). **The Committee therefore requests the Government to take the necessary measures to ensure that the legislation explicitly prohibits all of the acts covered by Article 2 of the Convention and that it provides for sufficiently dissuasive penalties in this respect.**

*Article 4. Promotion of collective bargaining.* The Committee had previously noted that section 187(c) of the Labour Act grants an excessive power to the Ministry to object and refuse to register a collective agreement on any grounds that it deems appropriate during a 30-day period after filing the collective agreement and therefore requested the Government to amend the provision in order to fully guarantee the principle of free and voluntary collective bargaining established in the Convention. Additionally, it pointed out that pursuant to section 214 of the Labour Act, if mediation fails, either party may file a request to initiate dispute settlement through arbitration and accordingly recalled that compulsory arbitration is only acceptable in relation to public servants engaged in the administration in the State, essential services in the strict sense of the term, and *acute* national crises. The Committee observes that the Government merely states that all laws and subsequent amendments on the Labour Act were adopted in full consultation with social partners, and reiterates that section 187(c) of the Labour Act aims to ensure that collective agreements are in conformity with the abovementioned Act. **The Committee once again requests the Government to take the necessary measures to ensure that sections 187(c) and 214 of the Labour Act are brought into conformity with the Convention.**

*Arbitration bodies.* The Committee previously requested the Government to take measures to amend section 215 of the Labour Act so as to ensure that the composition of the tribunal is balanced and has the confidence of the parties in the arbitration mechanism. **Noting with regret the absence of any new development in this regard, the Committee expects that the Government will undertake, as soon as possible, the amendment of the abovementioned provision.**

*Application of the Convention in practice.* In its previous comments, the Committee requested the Government to indicate the measures taken to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations. **While taking note that the Labour Act refers in its section 178 to collective bargaining and social dialogue, the Committee requests the Government to indicate, in practice, the measures taken or envisaged to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations to regulate the terms and conditions working through collective bargaining. It also requests the Government to provide information on the number of existing collective agreements, the sectors concerned and the numbers of workers covered by those.**

*While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.*

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

## Tunisia

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

#### Previous comment

The Committee notes the observations of the General Federation of Tunisian Workers (UGTT) and the International Trade Union Confederation (ITUC), received on 30 August and 1 September 2023 respectively, alleging violations of trade union rights committed by the authorities. The UGTT and the ITUC allege, in particular, that there have been arrests, accusations, criminal prosecutions and administrative measures taken against trade unionists. The Committee notes with **concern** the arrest of the secretary-general of the trade union representing officials of the Tunisian Motorway Association (Société Tunisie Autoroutes), Mr Anis Kaâbi, in the context of an organized strike on 30 and 31 January 2023 for causing “financial loss” as a result of opening up motorway lanes free of charge during the strike. According to the UGTT, Mr Kaâbi remains in detention. **The Committee requests the Government to provide its comments in response to these observations.**

In its previous comment, the Committee requested the Government to provide the judgment of the Court of Appeal concerning the extraordinary non-elective congress of the UGTT. The Committee notes the Government’s indication that the complaint against the UGTT was filed by a group of trade unionists intending to annul the extraordinary non-elective congress of the UGTT and that the executive power was not involved in this decision that led to the annulment of the congress. It is an internal issue for a trade union. The Government reports that, as of 13 October 2022, the Court of Appeal of Tunis ruled in favour of approving the non-elective congress of the UGTT, thereby annulling the decision of the Court of First Instance of November 2021.

*Articles 2 and 3 of the Convention. Legislative amendments.* In its previous comments, the Committee urged the Government to take all the necessary measures to amend the following sections of the Labour Code:

- section 242, to ensure that minors who have reached the statutory minimum age for admission to employment (16 years under section 53 of the Labour Code) are able to exercise their trade union rights without authorization from their parent or guardian;
- section 251, to allow foreign workers access to the functions of trade union leadership, at least after a reasonable period of residence in the host country; and
- sections 376bis, 376ter, 387 and 388 concerning restrictions on the exercise of the right to strike (approval of the umbrella organization before declaring a strike; compulsory indication of the duration of the strike in the strike notification; and the possibility of imposing penalties in the event of an unlawful strike).

The Committee once again notes with **deep regret** that the Government has not reported any progress in bringing the legislation into conformity with the Convention and that it only indicates that a revision of the Labour Code requires consultations with the social partners, and that no legislative amendment may be made unilaterally without the participation of the organizations concerned. **The Committee once again urges the Government to take the necessary measures, in response to its longstanding recommendations and in consultation with the social partners, to give full effect to the provisions of the Convention.**

The Committee also requested the Government to report on the adoption of the decree provided for in section 381ter of the Labour Code (determination of the list of essential services by decree). ***In the absence of information provided by the Government, the Committee urges the Government to report on the adoption of the decree and to send a copy of it once it has been adopted.***

*Right of workers' organizations to organize their activities and formulate their programmes without interference from the public authorities.* In its previous comment, the Committee noted the decree of 26 September 2018 establishing criteria for trade union representativeness at the national level and requested the Government to specify the frequency and mechanism for measuring trade union membership for the purpose of appointing members of the National Social Dialogue Council. The Committee also requested the Government to engage in inclusive consultations with all workers' and employers' organizations concerned to ensure that the determination of representative organizations at sectoral and enterprise level is also based on clear, pre-established and objective criteria. The Committee notes the Government's indication that, in accordance with section 39 of the Labour Code, in the event of a disagreement regarding the greater representativity of one or several trade union organizations, the issue is settled by order of the secretary of State for young persons, sports and social affairs further to the opinion of the National Social Dialogue Council and is not subject to any specific timeframe. The Committee notes the Government's indication that, pending consensus among the workers' and employers' organizations represented on the National Social Dialogue Council, section 39 has not yet been amended. ***The Committee once again requests the Government to indicate all measures taken to ensure that the determination of the representative organizations at sectoral and enterprise level is based on clear, pre-established and objective criteria, and it trusts that such criteria will be agreed upon in the very near future following consultations with all concerned workers' and employers' organizations.***

## Türkiye

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

#### Previous comment

The Committee notes the observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ), Public Employees Unions Confederation of Turkey (KAMU-SEN), and the Turkish Confederation of Employers' Associations (TISK) communicated with the Government's report. The Committee also notes the observations of the Confederation of Progressive Trade Unions of Turkey (DISK), the International Trade Union Confederation (ITUC), and the Confederation of Public Employees' Trade Unions (KESK), received on 30 August and 1 September 2023 and the Government's reply thereto, which concern issues examined in this comment.

*Civil liberties.* In its previous comments the Committee had requested the Government to provide its comments on several serious allegations of violations of civil liberties submitted in the observations of the KESK, the DISK and the ITUC. The Committee notes the information provided by the Government in this respect as follows.

*Arrest, detention, and prosecution of union leaders.* Concerning the allegation of arrest in Ankara of eight leaders of the Trade Union of Employees in Public Health and Social Services (SES) on unspecified charges on 25 May 2021, the Committee notes the Government's indication that an investigation was launched against these individuals under the charge of establishing or managing an armed terrorist organization (the PKK), as defined by article 314/1 of the Turkish Penal Code. Subsequently, they were released with judicial orders that imposed international travel bans and judicial controls. However, one individual, subject to an arrest warrant following the objection of the investigating prosecutor, remains a fugitive. The Committee also notes the latest observations of the KESK in this respect, stating that the

public prosecutor accuses five SES executives of leadership of an armed illegal organization (Ms Selma Atabey, co-president and former women's secretary, Ms Gonul Erden, former co-president, Ms Bedriye Yorgun, former president, Mr Fikret Calagan, former executive committee member, and Ms Belkis Yurtsever, former executive committee member); and three union officials are accused of membership in the same organization (Ms Rona Temelli, former executive of the SES Branch in Ankara, Mr Ramazan Tas, former executive of the SES Branch in Ankara and, Mr Erdal Turan, former executive of the SES Branch in Ankara). The KESK states that there is no concrete evidence upholding these accusations and affirms that as the judge decided to declare confidentiality on the file, the legal team had no access to its details until the court approved the indictment. The KESK indicates that Ms Erden was arrested on 22 September 2021 and was released on 13 March 2023, and Ms Atabey was arrested on 3 July 2022 and released on 5 June 2023. The KESK alleges that the public prosecutor uses trade union activities of the indicted union leaders to justify his accusation of their membership in the armed illegal group. The KESK indicates that these trade union activities included protesting the ISIS attacks in Syria and curfews in the south-eastern region of Türkiye. According to KESK, the accused SES leaders had organized public gatherings to ask the Government to provide health services to citizens in the curfew areas. The Committee further notes the KESK observation concerning the trial in Van of Ms Figen Colakoglu and Mr Zeki Seven, the co-presidents of the local branch of the SES, for violation of the Law on Demonstrations by participating in a press conference as part of a one-day strike of health employees organized by the Turkish Medical Association on 8 February 2022. The Government indicates in this regard that these union leaders were informed that the Governor's Office had decided to prohibit the press conference that was planned to take place in front of the Chief Physician's Office of the Training and Research Hospital, and legal action was taken against them after they did not comply with the authorities' warnings. The case is still pending. **Noting the information submitted and emphasizing the importance of the right to a fair trial for the guarantee of freedom of association, the Committee requests the Government and the KESK to continue to provide information concerning the judicial proceedings against the 10 SES leaders and their outcome. The Committee requests the Government to provide a copy of the court rulings once issued.**

*Freedom of peaceful assembly and demonstration.* The Committee notes the general indications of the Government concerning the legal framework of exercise of freedom of assembly in Türkiye, which reproduce the previous years' explanations relating to Act No. 2911. The Government indicates that meetings and demonstrations held at designated places can occur freely, provided administrative authorities are notified to facilitate necessary security measures. The primary criterion for determining these venues and routes is to ensure that citizens' daily lives are not excessively disrupted. The Government also indicates that the data covering the last three years show that for "illegal demonstrations", namely those in which demonstrators gathered in places other than those designated by authorities despite contrary warning, or did not duly notify, the authorities had tried to resolve the matter through negotiations with the demonstrators, and that consequently the rate of law enforcement intervention has decreased over this period. According to the Government, 22 million people participated in 64'993 protests or events in 2022, out of which 697 protest events were illegal. Intervention was made in 335 "illegal" protests only, which represents 0.5 per cent of the total number of protests that took place in the country. This shows a clear decline from the two per cent in 2016.

Regarding the DİSK allegation concerning the ban on May Day celebrations in Istanbul Taksim square, the Committee notes the Government's indication that demonstrations are forbidden in Taksim square not only on May Day, but around the year, as this area is not among those enumerated in the decision of the İstanbul Governor's Office published on 27 February 2023, which designates the locations where meetings and demonstrations are allowed to take place. The Government indicates that on some occasions in the past, the administration allowed a limited number of trade union representatives to hold a commemorative meeting in Taksim square on the May Day, as the applicant had cited the symbolic importance of holding the event there. The administration limited the right to



assembly and demonstration in that area, considering the security reasons against holding a meeting with large participation in Taksim Square are stronger than the disadvantage caused by banning the meeting. The Committee recalls that the issue of the ban on May Day demonstrations in Taksim was first brought to its attention in 2008 and notes that the European Court of Human Rights (ECHR) has ruled on two cases concerning the 2008 ban on the May Day demonstration in Taksim and the police intervention against the unionists who had attempted to gather despite the ban. In both cases the Court found a violation of the right to freedom of assembly, because of the disproportionate character of the police intervention in a peaceful, albeit unauthorized demonstration [see *Case of Disk and Kesk v. Türkiye* (2012), and *Case of Süleyman Çelebi and Others v. Türkiye (No. 2)* (2017)]. The Committee further notes that in the first case, the ECHR took note that in 1977, during Labour Day Celebrations in Taksim Square, 37 people had died when a clash had broken out. As a result, the Taksim Square became a symbol of that tragic event, and it was for this reason that the applicants insisted on organizing the Labour Day celebrations there. The Committee notes that pursuant to the indications of the Government and the DİSK, the ban on May Day gatherings in Taksim remains effective, and the workers who wish to celebrate May Day in Istanbul are required to gather in other locations. More generally, the Committee notes the observation of the DİSK, indicating that every year during May Day celebrations, many people are detained and injured because of violent police attacks and use of tear gas. The Committee notes the Government's indication in this respect that in 2022, legal action was initiated against 222 persons who had acted illegally in the actions or events organized at the occasion of May Day, but this should be put in the context that 337 May Day events took place throughout the country with the participation of 144,262 persons. The Committee also notes that regarding the allegation of an absolute ban on all forms of public gatherings in the city of Van, the Government indicates that in 2023 the KESK organized 16 events in Van, all of which concluded without any issues.

The Committee further notes the Government's replies to 14 specific allegations concerning events that occurred between November 2021 and August 2023, in which public meetings, demonstrations or press conferences by trade unions were not authorized, because the routes chosen by organizers were not among those designated by the authorities, or the governorate had issued a specific ban decision regarding an action. The trade unions concerned were KESK and its affiliates Eğitim-Sen, TUM BEL SEN and SES; as well as Bırselik Metal Is which is an affiliate of the DİSK, and the Private Sector Teachers' Union. The Government indicates that in those cases the organizers were warned that their action is not authorized but proceeded regardless of such warnings. The Government informs that the authorities intervened in all these demonstrations. Regarding five cases the Government indicates that the action ended peacefully after negotiations between the authorities and the organizers, notably when the groups voluntarily ceased their actions or accepted to change its location, but in 9 other instances, certain demonstrators persisted to pursue their actions and "legal action" was taken against them. The Committee notes that legal action may refer to arrests of an indeterminate number of participants. In one instance an administrative fine was imposed. In at least one case participants were indicted and are currently under trial (case of two SES leaders in Van referred to above). There were allegations of police violence, including use of tear gas and pepper spray in four cases, but the Government rejects all such allegations or does not reply to them.

The Committee notes with **concern** that according to the Government indications, in at least 14 specific cases public meetings organized by trade unions were banned, and as the participants persisted in pursuing their action the authorities intervened to stop the action and sometimes the participating union members and leaders were arrested. The Committee notes that in relation to none of these cases does the Government indicate that the public meetings were not peaceful: these meetings were "illegal" for not taking place in the designated locations or for not having respected a specific ban on demonstrations. The Committee notes in this respect that the ECHR has considered in the *Case of Disk and Kesk v. Türkiye* (paragraph 29) that it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly is not to be deprived of its

substance. The Committee wishes to stress once again the interdependence between civil liberties including freedom of assembly and trade union rights, and to emphasize 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 therefore urges the Government to ensure that the measures taken to protect public order do not deprive workers' organizations of their right to hold peaceful demonstrations and public meetings to defend their interests, and further urges the Government to refrain from arresting, detaining and prosecuting workers and trade unionists for participation in peaceful public meetings.**

*Right to an effective remedy and to a fair trial of members and leaders of the unions dissolved under the State of Emergency Decree-Laws.* The Committee recalls that in follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution), it had urged the Government to ensure that the right to an effective remedy of union members and leaders who had suffered from reprisals and retaliatory acts for their membership in the unions dissolved under the state of emergency, as well as the right to a fair trial of imprisoned leaders and members of those unions are duly respected. The Committee notes that the Government indicates that the individuals and legal entities subject to proceedings based on decree-laws have not suffered any harm. They could submit their applications to the Commission of Inquiry established for this purpose. For judges and public prosecutors, a domestic legal remedy within the Council of State was introduced in relation to decisions regarding "dismissal from profession" which allowed them to initiate new lawsuits related to prior cases brought before administrative courts, including those previously rejected. The persons concerned can present their defences before an impartial judiciary. Avenues for objection, appeal, and individual application to the Constitutional Court are also available. The Government also indicates that workers in the private sector who believe their employment has been unjustly terminated by their employer have the right to initiate legal proceedings at the labour courts without passing through the Commission of Inquiry. Regarding the imprisoned trade union members, the Government merely indicates in general terms that individuals found to be in contravention of the law are being handled in accordance with the rule of law and that the legislation contains significant safeguards to protect workers, workplace trade union representatives, and managers of workers' organizations against dismissal due to trade union related reasons.

The Committee notes with **deep regret** that once again, the Government does not indicate any specific measures taken to implement the recommendations of the tripartite committee. Concerning the Commission of Inquiry on State Emergency Measures, the Committee notes that the mandate of the Commission has ended in January 2023 after five years of operation and the persons who received negative decisions of the Commission had 60 days after notification of the decision to apply to designated administrative courts in Ankara. The Committee notes that the proceedings before the Commission of Inquiry did not present the guarantees of due process of law in terms of defence rights, and the obligation to pass through that stage delayed for a long time the access of dismissed public officials to courts. The Committee also recalls that the tripartite committee had noted in this respect that in cases brought by individuals dismissed due to their membership in a trade union associated with the FETÖ/PDY, the Inquiry Commission did not review the legality of the closure of the relevant trade union or any of the individual's own activities. Membership in a closed union was easily proven, for example, by information showing that trade union dues were deducted from an applicant's salary and considered to be sufficient ground to reject an application against the dismissal [see Report of the Committee set up to examine the representation alleging non-observance by Turkey of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), GB.341/INS/13/5, Appendix 1, paragraph 28]. **In view of the foregoing, the Committee requests the Government to: (i) take specific measures to ensure that a full, independent and impartial review is made with regard to the cases of all the persons who suffered from reprisals, retaliatory acts and dismissals for their membership in the unions dissolved under the state of emergency, regardless of whether they have**

***applied to the Commission of Inquiry and (ii) provide information on the number of imprisoned members and leaders of the same unions and the status and outcome of any judicial cases against them.***

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Senior public employees, magistrates and prison staff.* For many years the Committee has been requesting the Government to amend section 15 of Act No. 4688 which excludes senior public employees, magistrates, and prison staff from the right to organize. The Committee notes that the Government once again indicates that section 15 was designed in line with legal regulations, judicial decisions, and ILO Conventions and that the core rationale behind these limitations rests on the significance of guaranteeing the provision of public services by these public officials in an impartial and unbiased manner. The Government also refers to the exclusion of certain public servants from the scope of the Labour Relations (Public Service) Convention, 1978 (No. 151). The Committee recalls in this regard that: (i) under *Article 1(1)* of Convention No. 151, more favourable provisions in other international labour Conventions are safeguarded and Convention No. 87 guarantees the right to establish and join organizations for all workers in both the private and public sectors with the sole exception of the armed forces and the police; (ii) to bar senior public officials from the right to join trade unions which represent other workers in the public sector is not necessarily incompatible with freedom of association on the condition that they should be entitled to establish their own organizations to defend their interests; and (iii) while the exclusion of the armed forces and the police from the right to organize is not contrary to the Convention, the same cannot be said for prison staff.

*Locum workers (teachers, nurses, midwives, etc.), public servants working without a contract of employment and pensioners.* In its previous comment the Committee had noted that locum workers who temporarily fill in positions such as teachers, nurses and midwives in the public service, as well as public servants working without a contract of employment and pensioners, do not have the right to join public service unions under Act No. 4688 and had requested the Government to ensure their right to join or establish organizations. The Committee notes that the Government reiterates its previous indications in this regard that: (i) only public servants as defined in section 3 of Act No. 4688 can join trade unions established within the scope of the Act and locum workers cannot be employed under any cadre or position as specified in section three; and (ii) retired public servants cannot establish or join public servants' unions, as sections 6 and 14 of the Act restrict these rights to active public servants. According to the Government, they have, however, formed several associations that can bring the issues concerning them to the attention of the Government. Noting with **regret** the lack of progress in this respect, the Committee once again recalls that: (i) with regard to the right to establish and join organizations, the Convention does not allow any distinction based on whether the employees are engaged on a permanent or temporary basis, or with regard to their contractual status or the lack thereof; and (ii) legislation should not prevent former workers and retirees from joining trade unions, if they so wish, particularly when they have participated in the activity represented by the union.

***In light of the above, the Committee urges the Government to take necessary measures to review the legislation or to adopt specific legislation with a view to ensuring that senior public employees, magistrates and prison staff, locum workers, public servants working without a contract of employment and retirees can enjoy and exercise their right to establish and join organizations. The Committee requests the Government to provide information on steps taken to this end.***

*Article 3. Right of workers' organizations to organize their activities and formulate their programmes. Suspension and prohibition of strikes.* In its previous comment the Committee had requested the Government to ensure that section 63(1) of Act No. 6356 as well as KHK No. 678 are applied in conformity with the principle that strikes can be suspended only in essential services in the strict sense of the term, for public servants exercising authority in the name of the State or in the event of an acute national crisis. The Committee notes that the Government once again indicates that the decision of the President to postpone a strike is taken within its context and the rationale is clearly indicated in it, hence

this authority is exercised within clearly stated boundaries. Furthermore, pursuant to article 125 of the Constitution, this decision is subject to judicial review as an administrative decision. **Noting that no strike has been suspended since 2019, the Committee trusts that the Government will apply section 63(1) and KHK 678 in a manner that does not infringe the right of workers' organizations to organize their activities free from Government interference and requests the Government to provide information on any future instances of suspension of strikes by executive authority.**

*Article 4. Dissolution of trade unions.* In its previous comment the Committee had noted the conclusions of the tripartite committee referred to above about the situation of trade unions dissolved pursuant to Decree-Law No. 667. The tripartite committee noted that these unions were dissolved by the executive branch of the Government, and that while according to the Government, the representatives of these unions had failed to file applications with the Inquiry Commission mandated to examine their cases, the tripartite commission noted that they had a limited capacity to present their claims due to the imprisonment of their leaders and members and seizure of their funds pursuant to the state of emergency Decree-Laws. The tripartite committee had urged the Government to take the necessary measures to ensure that the dissolution of trade unions pursuant to Decree-Law No. 667 is reviewed through the normal judicial procedures, which should also enable those unions to be fully represented to defend their case. The Committee notes the Government's indication that Decree-Law No. 667 which dissolved Aksiyon-İş was approved by the Grand National Assembly, the legislative body, and it could not be annulled by an administrative court decision. According to the Government the proper place for the complainant to apply was the Commission of Inquiry on the State of Emergency Measures. Only after a negative decision of the Commission, which is an administrative decision, could the case be taken to an administrative court. The Government indicates that Aksiyon-İş did not choose to exhaust the domestic remedies. The Committee notes with **regret** that the Government appears to indicate that there will be no judicial remedy for the dissolved unions who have failed to apply to the Commission of Inquiry. The Committee also notes the Government's indication that 4 confederations, 19 federations and 19 trade unions were shut down after the courts found that they were affiliated with terrorist organizations. The Committee once again recalls that the dissolution and suspension of trade union organizations constitute extreme forms of interference by the authorities in the activities of organizations and should therefore be accompanied by all the necessary guarantees. This can only be ensured through a normal judicial procedure, which should also have the effect of a stay of execution (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 162). **Therefore, the Committee once again urges the Government to take all necessary measures to comply with the recommendation of the tripartite committee regarding all the trade unions dissolved pursuant to Decree-Law No. 667 whose cases are not yet reviewed by a judicial body and to provide information on the steps taken in this respect. The Committee further requests the Government to provide information on all the cases of dissolution of unions that were confirmed by courts and to provide copies of the judgments.**

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

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

(ratification: 1952)

### [Previous comment](#)

The Committee notes the observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ), Public Employees Unions Confederation of Turkey (KAMU-SEN), and the Turkish Confederation of Employers' Associations (TISK) communicated with the Government's report. The Committee also notes the observations of the Health Services Union (SAHİM-SEN) received on 4 February 2023 and the Government reply thereto, as well as the observations of the Confederation of Progressive Trade Unions of Turkey (DISK), the International Trade Union Confederation (ITUC), and the Confederation of Public

Employees' Trade Unions (KESK), received on 30 August, and 1 September 2023 which concern issues examined in this comment.

*Articles 1–6 of the Convention. The personal scope of the Convention. Prison staff.* In its previous comments, the Committee had repeatedly requested the Government to take the necessary measures to guarantee that the prison staff can be effectively represented by the organizations of their own choosing in collective bargaining. The Committee notes that the Government once again indicates in this respect that the prison staff are covered by the collective agreements concluded in the public service but are prohibited from establishing or joining unions, because of the exceptional importance of impartial and unbiased delivery of the public services they must deliver. Noting the Government's indications, the Committee **regrets** the lack of progress in this respect and recalls that under the terms of the Convention, prison staff have the right of collective bargaining, which includes the right to be represented in negotiations by the organization of their choosing. **The Committee therefore once again urges the Government to take the necessary measures, including through revising section 15 of Act No. 4688, to guarantee that the prison staff can be effectively represented by the organizations of their own choosing in collective bargaining.**

*Locum workers and public servants working without a written contract.* In its previous comment, the Committee had requested the Government to ensure that locum workers, who include teachers, nurses and midwives, as well as public servants without a written contract, can exercise the rights enshrined in the Convention. The Committee notes that the Government once again indicates that these workers cannot join the unions established under Act No. 4688, because they are not employed in any cadre or position as required by section 3 of the law. The Committee **regrets** the lack of progress in this respect and recalls that all public sector workers, except members of the armed forces and the police and public servants engaged in the administration of the State are entitled to the rights enshrined in the Convention, including the right to collective bargaining, regardless of their contractual situation. The prerequisite to this right is their ability to join or establish organizations that would have the right to negotiate with the public employer with a view to the regulation of terms and conditions of employment by means of collective agreements. The Committee notes that according to the Government there is no such possibility under the current Act No. 4688 and therefore these workers are deprived of their rights under the Convention. **Therefore, the Committee once again requests the Government to take appropriate measures to ensure that these categories of workers can exercise their right to organize and collective bargaining, either by amending the law so as to allow them to join organizations formed under Act No. 4688, or by providing a framework within which they can create their own organizations.**

*Articles 1, 2 and 3. Massive dismissals in the public sector under the state of emergency decrees.* In its previous comment, the Committee had requested the Government to provide information on how the evidence was examined and the burden of proof applied in cases concerning trade unionists before the Commission of Inquiry on the State of Emergency Measures established to assess the applications concerning dismissal from public service, annulment of the ranks of retired personnel and closure of institutions and organizations carried out pursuant to the State of Emergency Decree-Laws following the 2016 coup attempt. It had also requested detailed and specific information on the number and outcome of applications concerning trade union members and officers before the Inquiry Commission, as well as the number and outcome of appeals against negative decisions on those applications. The Committee notes the Government's indication that the Commission of Inquiry reached the end of its term of office on 22 January 2023. The Government indicates that the Commission rendered a total of 127,292 decisions (including 17,960 acceptance decisions and 109,332 rejection decisions) in respect of all the applications during the five-year period of its mandate. For each case, the Commission focused on determining whether the individuals had acted in line with the order and instructions of the FETÖ terrorist organization. The reasons for dismissal and the data gathered were assessed with due diligence having regard to the submissions in the petitions of application. The information and documents used during these examinations were obtained from the main database and following their

analysis, the results were reflected in the decisions of the Commission. The data examined to decide on applications concerned: usership of intra-organizational communication software used by the terrorist organization, account activities in the Bank Asya with a view to providing support following the instruction of the leader of the organization, membership and leadership of the trade unions associated with the terrorist organization in line with the instruction of the organization, connection with the associations, foundations and media outlets shut down for their association and connection with the terrorist organization, and financial support provided to those institutions. Information concerning the administrative and judicial investigations and prosecutions were also considered. The Government indicates that dismissals from public service within the scope of the state of emergency infringements aim to terminate the existence of terrorist organizations and other structures engaged in activities against the national security within the public institutions. In this perspective, it is sufficient to establish a link between the persons concerned and terrorist organizations, structures/entities or groups determined by the National Security Council as engaging in activities against the national security of the State. The Government indicates that the individual and reasoned decisions of the Commission of Inquiry were delivered to the institutions where the persons last served, and these institutions notified the person concerned. Where the applications were accepted, the institution or the Council on Higher Education reappointed the person. The person whose applications were rejected could file an action for annulment against the institution or organization where they had last served within 60 days of the notification of the decision. The Council of Judges and Prosecutors designated nine specialized administrative courts in Ankara as competent to examine these suits. Regarding the number and outcome of applications concerning trade union members and officers before the Inquiry Commission, as well as the number and outcome of appeals, the Committee notes the Government's indication that there is no statistical information on these numbers, but that 4 confederations, 19 federations and 19 trade unions were shut down after the courts found that they were affiliated with terrorist organizations. The Committee also notes the observations of the KESK, stating that in total, 4,267 KESK members were dismissed from all public sectors under the State Emergency Decree-Laws. According to the KESK, the dismissals were arbitrary and non-transparent, and no effective remedy was provided. Public employees were unable to see the accusations and defend themselves. The KESK alleges that the Commission of Inquiry did not provide an effective remedy against anti-union dismissals and was instead used to punish trade unionists with no due process and proper court decision. According to the KESK, before the Commission, there was no transparent mechanism allowing the public officers to challenge any of the evidence against them. The KESK finally states that now that the work of the Commission of Inquiry is completed, the dismissed KESK members and executives must apply to administrative courts, a process that may take up to 10 years to come to conclusion. The Committee notes that, according to the information submitted by the Government, the Commission of Inquiry accepted 14 per cent of the applications submitted against the massive dismissals of public officials in application of the State of Emergency Decree-Laws. The Committee notes that the Commission worked with the outlook that it is sufficient to establish a link between the individual and the organizations, structures/entities or groups determined by the National Security Council in order to validate their dismissal and proceeded to verify the existence of such a link in each case based on the information in a "main database" concerning the communications, connections and interactions with specified financial and social entities. The Committee notes that although the Government indicates that regard was given to the submissions in the petitions of application, it appears from the Government report that during the examination by the Commission of Inquiry applicants had no possibility to be informed of, let alone challenge the information concerning them in the "main database" that was used as the basis for the decisions of the Commission of Inquiry. The Committee also notes that as the Government indicates, the purpose of the dismissals was to "terminate the existence of terrorist organizations and other structures engaged in activities against the national security within the public institutions" and the Commission of Inquiry focused on determining whether the dismissals were justified in view of this purpose. The Committee

notes that it cannot be inferred from the information provided by the Government that in the work of the Commission of Inquiry, consideration was given and safeguards established to adequately examine allegations of anti-union discrimination. In this respect, it appears from the information received that the dismissed public officials had no opportunity to establish their claim that under the cover of national security reasons, their dismissal was indeed motivated by anti-union reasons. The Committee recalls that the KESK had stated in its 2022 observations that the applications of some of its dismissed members were still pending before the Commission, meaning that they had waited the decision of the Commission for five years, without being able to appeal to administrative courts in the meantime. The Committee also notes the observation of the KESK indicating that the proceedings before the courts may take many more years. 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. This general principle, which the Committee continually emphasizes, is based on *Article 3* of the Convention, which provides that “[m]achinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organize as defined in [Articles 1 and 2]” ([General Survey of 2012 on the fundamental Conventions](#), paragraph 190). Even where the law may provide adequate remedies against anti-union dismissals the slowness of procedures significantly reduces the effectiveness of protection against anti-union discrimination, as with time the circumstances change, and the available remedies may lose much of their relevance. ***In view of the foregoing, the Committee notes with deep concern, that the public officials who allege that their dismissals in application of the State of Emergency Decree-Laws were indeed motivated by anti-union reasons did not have access to an effective, rapid and fair procedure that would protect them against anti-union dismissals. Therefore, the Committee urges the Government, to take appropriate measures without further delay, to ensure the independent, expeditious and in-depth investigation of such allegations in the framework of effective and rapid procedures presenting all the guarantees of due process. The Committee requests the Government to provide information on any steps taken in this respect.***

*Continued use of state of emergency powers to dismiss union members.* In its previous comment, the Committee had requested the Government to provide its comments regarding the KESK observation, indicating that despite the expiration of the state of emergency, governors and ministries continued to use the provisional section 35 of the Emergency Decree Law No. 375, dismissing 21 teacher members of EĞİTİM SEN from Diyarbakir on 29 November 2021. The Committee notes that the Government has not provided any comment in this respect. The Committee notes that the KESK again states in its 2023 observations that the Government passed Law No. 7145 on the Amendment of some Laws and Emergency Decrees, which enables governors to exercise the state of emergency powers, including dismissals. ***In view of the noted absence of effective and rapid remedies against state of emergency dismissals, the Committee notes with concern the information regarding the perpetuation of state of emergency powers and once again requests the Government to provide its comments in this respect.***

*Article 1. Adequate protection against anti-union dismissals. Private sector.* In its previous comment the Committee had noted that pursuant to the current legislation: (i) judicial authorities could in no circumstances impose an order of reinstatement on the private sector employer; (ii) section 25(4) of Act No. 6356 (Law on Trade Unions and Collective Labour Agreements) fixed a minimum amount for “union compensation” in case of acts of anti-union discrimination other than dismissal, which is the worker’s annual wage, but in cases of anti-union dismissal, neither a minimum amount nor a cap was fixed in the law; the issue seemed to be left to the discretion of the judicial authority; and (iii) the Government did not refer to any other existent penalty or sanction for anti-union dismissals, and section 78 of Act No. 6356 containing penal provisions was silent about anti-union discrimination. The Committee notes the Government’s indication that the provisions of the Labour Law No. 4857 on unjustified dismissals are designed along the lines of Termination of Employment Convention, 1982 (No. 158), which similarly does not require that reinstatement be mandatory. The Government adds that in its verdict finding a

dismissal invalid, the court shall also designate the amount of compensation to be paid in case the worker is not reinstated, considering the worker's past work history, seniority and the nature of the alleged reason for dismissal. Regarding sanctions applicable to anti-union discrimination, the Government indicates that both sanctions for damages and administrative fines are provided for violation of sections 17, 19 and 25 of Act No. 6356 and that actions for reinstatement and damages to be brought against the employer in cases of anti-union discrimination in employment, working conditions and termination of the employment relationship are regulated in section 25 of Act No. 6356. Furthermore, section 118 of the Penal Code No. 5237 provides that whoever uses force or threat against a person to force them to join or not to join a union, to participate in the activities of the union or to leave their position in the union or union management, will be sentenced to imprisonment from six months to two years. The Government concludes that the legislation provides sufficient protection and deterrent sanctions against discriminatory acts, trade unionists are advised to have recourse to available administrative and judicial remedies. The Committee recalls that its comment concerned not all discriminatory acts, but anti-union dismissals specifically. It notes that the administrative fine provided in section 78(1)(c) of Act No. 6356 punishes forced enrolment of members in a trade union in violation of section 17 and forcing a person to remain a member or resign from a trade union in violation of section 19. Therefore, this sanction does not concern anti-union dismissals. The same consideration applies to section 118 of the Penal Code. Concerning the amount of compensation paid to a worker dismissed for anti-union reasons, the Committee notes that while the general rule on unjustified dismissals (section 21 of the Labour Law) provides that in case of the employer's refusal to re-engage the worker, the employer shall pay the dismissed worker a compensation not less than 4 months' wages and not exceeding 8 months' wages, section 25(5) of Act No. 6356 which specifically regulates anti-union dismissals merely provides that in case of "termination of contract of employment for reasons of trade union activities", "union compensation" shall be ordered, which cannot be cumulated with the compensation provided in section 21 of the Labour Law. In view of the foregoing, the Committee notes that the law does not contain any indication regarding the amount of "union compensation". The Committee further notes that: (i) the legislation does not contain any administrative or penal sanction applicable in case of anti-union dismissal; (ii) the employer can legally refuse to apply a judicial order of reinstatement, rather opting for the 4–8 months' wage compensation or "union compensation"; and (iii) the determination of the amount of "union compensation" is left to the discretion of the judge. The Committee once again recalls in this respect, that it has always considered that reinstatement should at least be included among the range of measures that can be ordered by the judicial authorities in the event of anti-union discrimination; and that the effectiveness of legal provisions prohibiting acts of anti-union discrimination depends also on the sanctions provided, which should be effective and sufficiently dissuasive; and that the purpose of compensation must be to compensate fully, both in financial and occupational terms, the prejudice suffered. The Committee further recalls the recommendations formulated in this regard by the Committee on Freedom of Association in Case No. 3410. **The Committee therefore urges the Government, in full consultation with the social partners, to take appropriate measures to adopt effective and sufficiently dissuasive sanctions against anti-union dismissals in the private sector. The Committee further requests the Government to collect and provide information regarding the judicial practice in the determination of amount of compensation awarded to workers dismissed for anti-union reasons. Finally, the Committee requests the Government to provide its comments regarding the observation of the ITUC alleging the summary dismissal of 180 workers, all members of the Turkish Wood and Paper Industry Workers' Union (AGAC-IS), after a court ordered the company to start negotiations with the union in June 2022.**

*Anti-union discrimination in the public sector.* In its previous comment, the Committee had requested the Government to indicate whether the law allows sanctioning those responsible for anti-union discrimination in the public sector and whether compensation can be awarded to victims. The Committee notes the Government's indication that section 18 of Act No. 4688 prohibits anti-union



discrimination including transfers and dismissals, furthermore, section 38/b of the same Act provides that violation of sections 8, 14, 16 and 17 of the Act shall be punished by a punitive fine. The Government also once again refers to section 118 of the Penal Code, indicating that it is applicable also to the public sector unions. Recalling that *Article 1* of the Convention requires adequate protection against acts of anti-union discrimination “in respect of employment”, the Committee notes that the fine provided in section 38/b of Act No. 4688 does not appear applicable to acts of anti-union discrimination in respect of employment, as it does not cover violations of section 18 of the Act which prohibits such acts. Furthermore, as noted above, the same consideration applies to section 118 of the Penal Code. The Committee further notes that the Government does not indicate other legal provisions allowing the awarding of compensation to public sector workers subjected to anti-union discrimination. The Committee is therefore bound to note that the legislation does not provide for compensation for victims of anti-union discrimination (including dismissals), or for any sanctions against those responsible for anti-union discrimination. **Therefore, the Committee urges the Government, in full consultation with the social partners, to take appropriate measures to ensure that the provision is made in the legislation for an adequate protection against anti-union discrimination in the public sector, by providing for full compensation of the prejudice suffered in both occupational and financial terms and by providing for effective and sufficiently dissuasive sanctions. The Committee requests the Government to provide information on any steps taken in this respect and to provide its comments regarding the observations of the KESK, alleging the anti-union transfer of 10 members of its affiliates.**

*Collection of data on anti-union discrimination in private and public sectors.* The Committee recalls that following up on the June 2013 recommendations of the Committee on the Application of Standards of the International Labour Conference, which requested the Government to establish a system for collecting data on anti-union discrimination in both private and public sectors, it has been requesting the Government to provide information on the measures taken to that end. The Committee notes the Government’s indication that considering the court processes and the duration of the cases, the difficulties in tracking and recording the necessary information are considerable. To obtain accurate and reliable data on trade union discrimination, the relevant institutions should make important arrangements in this regard in their records and databases, including through regulation, improvement and development of infrastructure and registration systems of institutional databases. For this reason, it is currently not possible to obtain reliable data on trade union discrimination. **Noting with regret that the Government does not report progress concerning this matter, the Committee once again stresses the need to take concrete steps towards establishing the system for collecting data on anti-union discrimination and expects the Government to provide in its next report information on developments and progress in this respect.**

*Article 2. Adequate protection against acts of interference. Collective agreement bonus.* The Committee notes the observations of the SAHİM-SEN and the Government reply thereto concerning the practice of providing “collective agreement bonus”. The Committee notes that SAHİM-SEN has been established in 2016 and has 990 members. The union states that pursuant to additional section 4 of the Decree-Law No. 375 as amended by section 11 of Law No. 7429 on the Amendment of the Electricity Market Law (publication: December 2022), the collective agreement bonus is only paid to the members of the public servant unions that register at least two per cent of the total number of public servants eligible to union membership in the relevant sector. The union alleges that it is losing its members because they do not receive this bonus as members of a small union. The Committee notes that the Government indicates that members of the unions whose membership reaches the 2 per cent threshold and who have union membership dues deducted from their monthly salary or wages, receive the collective agreement bonus, while the members of the other unions receive “collective agreement support”, which is a lower amount. The Government adds that the amendment aimed at contributing to the formation of a stronger public servant unionism to ensure the right of association and collective agreement, and that it has had a positive impact on unionization rate which has increased from 72.63 per cent to 74.54 per

cent after its adoption. The Committee notes the information provided. **While noting that in certain countries, trade unions may receive, in application of the relevant legislation, public funding proportionate to their level of representativeness, the Committee requests the Government to clarify the rationale behind the payment of sums directly to union members.**

*Article 4. Promotion of collective bargaining. Cross-sector bargaining.* In its previous comments, the Committee had noted that while cross-sector bargaining resulting in “public collective labour agreement framework protocols” was possible in the public sector, this was not the case in the private sector. The Committee had requested the Government to initiate a new consultation process with the social partners with a view to amending section 34 of Act No. 6356 to ensure that it did not restrict the possibility of the parties in the private sector to engage in cross-sector regional or national agreements should they so desire. The Committee notes that the Government once again indicates that the existing system is a product of a long and well-established industrial relations system in Türkiye and that it does not prevent parties wishing to enter into sectoral agreements at the regional and national levels. Sections 2, 33 and 34 of Act No. 6356 introduce workplace-level collective labour agreements, enterprise (company) level collective labour agreements, group-level (multiemployer) collective labour agreements, and framework agreements, and the social partners had reached a consensus on the protection of this system during the drafting of the law. The Committee recalls that its request to amend the law is based on the principle that collective bargaining should be possible at all levels and that legislation that unilaterally imposes a level of bargaining or makes it compulsory for bargaining to take place at a specific level raises problems of compatibility with the Convention. In practice, this issue is essentially a matter for the parties, who are in the best position to decide the most appropriate bargaining level including, if they so wish, by adopting a mixed system of framework agreements supplemented by local or enterprise level agreements ([General Survey of 2012 on the fundamental Conventions](#), paragraph 222). Accordingly, the law should not restrict the possibility of the parties to negotiate at all levels and should allow them to decide autonomously if they wish to do so. **Therefore, the Committee once again requests the Government to consider the initiation of a new consultation process with the social partners, with a view to amending section 34 of Act No. 6356, to ensure that the parties in the private sector wishing to engage in cross-sector regional or national agreements can do so. The Committee requests the Government to provide information on any developments in this respect.**

*Requirements for becoming a bargaining agent. Private sector. Determination of the most representative union and rights of minority unions.* The Committee recalls that section 41(1) of Act No. 6356 sets out the following requirement for becoming a collective bargaining agent at the enterprise level: the union should represent at least 1 per cent of the workers engaged in a given branch of activities and more than 50 per cent of workers employed in the workplace and 40 per cent of workers of the enterprise to engage in collective bargaining. In its previous comment, the Committee had noted that the lowering in 2015 of the branch representation threshold for becoming a bargaining agent at the enterprise level from 3 to 1 per cent, has had a positive impact on the unionization rate and had considered that the removal of the branch threshold would have a similarly positive impact on the rate of unionization as well as on the capacity of unions, especially independent unions who are not affiliated to large confederations, to use the collective bargaining machinery. The Committee had therefore requested the Government to take the necessary measures to initiate the consultation process with the social partners, with a view to removing the branch threshold. The Committee notes the Government’s indication that union freedoms are not limited to the right to collective bargaining. There are other tools through which unions can achieve the purpose of protecting and developing the economic and social rights and interests of employees. The Government refers to a 2015 decision of the Constitutional Court, which provides that the 1 per cent industry threshold prevents destructive competition between unions and enables strong unions to become parties to collective bargaining agreements and that this rate does not impose an excessive and extraordinary burden on employees, as having independent and

strong unions as parties to collective agreements will enable employees to benefit from union rights more effectively. The Government adds that according to the Communiqué of the Ministry of Labour and Social Security on the statistics dated 31 July 2023, there are 228 trade unions in Türkiye, 106 of which are affiliated to 7 workers' trade union confederations and 122 are independent. Sixty unions pass the 1 per cent threshold required for collective bargaining, 54 of which are unions affiliated to three major confederations, namely TÜRK-İŞ, Confederation of Turkish Real Trade Unions (HAK-İŞ) and DİSK. The Government reiterates that it is ready to consider proposals to amend sections 34 and 41/1 of Act No. 6356 if the social partners reach consensus in this respect. The Committee also notes the observations of the DİSK regarding this issue, stating that: (i) the 1 per cent sector representation threshold is unnecessary and the 40 and 50 per cent workplace level thresholds are too high, especially considering the unionization level in the country; (ii) the country-wide sectoral threshold of 1 per cent should be lifted and workplace and enterprise level thresholds of 40 per cent and 50 per cent should be reduced; (iii) in cases where no union reaches this threshold, collective bargaining rights should be granted to all unions, at least on behalf of their own members, as recommended by the Committee; and (iv) in cases where collective bargaining rights will be given exclusively to one union, the majority union should be determined by a secret ballot. The Committee notes that, according to the information submitted by the Government, in 2023, 26.3 per cent of all Turkish unions passed the 1 per cent threshold, the rate being 50.94 per cent among the affiliates of the big confederations, but only 4.09 per cent among independent unions. Therefore, the Committee observes that close to 3 quarters of the unions in the country would not qualify for becoming a bargaining agent due to the application of the 1 per cent sectoral threshold. Considering that the law does not provide solutions for collective bargaining in situations where no union meets the legal requirements for becoming an exclusive bargaining agent, the Committee notes that those 3 quarters cannot engage in collective bargaining, even in the workplaces where no union qualifying as exclusive bargaining agent is present. Therefore, the Committee notes that the combination of rules governing the recognition of organizations for the purposes of collective bargaining is not conducive to the development of collective bargaining in the country. In this respect, the Committee notes that according to ILOSTAT, 7.4 per cent of employees in Türkiye were covered by a collective agreement in 2019. ***In view of the foregoing, the Committee once again urges the Government, in full consultation with the social partners, to take the appropriate measures to: (i) amend section 41(1) of Act No. 6356 so as to ensure that more workers' organizations can engage in collective bargaining with the employers; and (ii) amend the legislation to ensure that in cases where no union meets the conditions for becoming an exclusive bargaining agent, minority trade unions are at least able to conclude a collective or direct agreement on behalf of their own members. The Committee further requests the Government to provide information on any steps taken in this respect. The Committee also requests the Government to continue providing information concerning the number of unions in the country, indicating those that pass the 1 per cent sectoral threshold, and to also provide information on the number of collective agreements concluded and in force.***

*Judicial challenges to collective bargaining agent certification.* In its previous comment, the Committee had requested the Government to provide its comments on the issues raised by the DİSK, referring to protracted court proceedings concerning employers' objections to challenge the union majority certificate, which might take up to 6–7 years, during which the bargaining process remains on hold and at the end of which the union might have already lost its majority. The Committee notes the Government's indication detailing various stages of the objection process and indicating that very short periods are envisaged for the conclusion of the objection process. These periods are 15 days for objection, 15 days for decision in the local court, one month for appeal review and one month for upper appeal review. The total period stipulated by the legislator for the finalization of the objection is three months. The reason for this limitation is that the exercise of a constitutional right should not be prevented or delayed. The Government adds however, that even though in the authorization

determination letters, the Ministry gives the address of the workplace or regional directorate to which the business is affiliated and indicates the competent court, the parties file lawsuits in labour courts that have no competence to examine the matter, thus the finalization period of the jurisdictional objection is prolonged. The Government finally indicates that the Court of Cassation has initiated the imposition of administrative fines to prevent this. **Taking due note of the information provided by the Government and stressing the potential adverse impact of lengthy proceedings on the development of collective bargaining, the Committee requests the Government to closely monitor the use of the objection proceedings, with a view to preventing and punishing abuses.**

*Articles 4 and 6. Collective bargaining rights of public servants not engaged in the administration of the State. Material scope of collective bargaining.* The Committee had noted in its previous comments that section 28 of Act No. 4688, as amended in 2012, restricted the scope of collective agreements to “social and financial rights” only, thereby excluding issues such as working time, promotion and career, as well as disciplinary sanctions and had requested the Government to remove these restrictions on the material scope of bargaining in the public sector. The Committee notes that the Government indicates that the 2012 amendment significantly broadened the material scope of collective bargaining in the public sector and enabled public servants’ unions and confederations to participate and intervene in decisions and decision-making processes that were previously taken unilaterally by the public authorities. Many increases in the financial and social rights of public servants were adopted as a result of this process. Besides, progress was also made concerning other matters such as leave rights, introduction of disciplinary amnesty, abolition of the practice of terminating the employment of those who received reprimands during the probation period, presence of union representatives in disciplinary committees and important arrangements regarding civil servants with disabilities. The Committee also notes the observations of the KESK and the KAMU-SEN in this respect, stating that the collective bargaining framework for public employees restricts the negotiations to the economic rights and does not allow to discuss other aspects of the professional life. The Committee notes that the KESK states by way of example that there is no session to discuss women public employees’ needs and demands in the professional life and at workplaces. **The Committee takes due note of the information provided and requests the Government to indicate the exact material scope of collective bargaining concerning public servants not engaged in the administration of the State, and to indicate the relevant legal provisions.**

*Collective bargaining in the public sector. Participation of most representative branch unions.* The Committee recalls that pursuant to section 29 of Act No. 4688, the Public Employers’ Delegation (PED) and the Public Servants’ Unions Delegation (PSUD) are parties to the collective agreements concluded in the public service. Even though the most representative unions in the branch are represented in the PSUD and take part in bargaining within branch-specific technical committees, their role within the PSUD is restricted in that they are not entitled to make proposals for collective agreements, in particular where their demands are qualified as general or related to more than one service branch. In its previous comment, the Committee had requested the Government to ensure that Act No. 4688 and its application in practice enable the most representative unions in each branch to make proposals for collective agreements including on issues that may concern more than one service branch, as regards public servants not engaged in the administration of the State. The Committee notes that the Government reiterates its previous indication concerning the role of the representative branch unions within the technical committee established for each branch. **The Committee requests the Government to provide information on the current role of the most representative branch unions in the Public Servants’ Unions Delegation in respect of the conclusion of collective agreements that are applicable to more than one branch of activity.**

*Public employee arbitration board.* In its previous comment, the Committee had requested 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 Committee notes that the Government merely reiterates in this regard that the chairperson of the Board is appointed from among the Presidents, Vice-Presidents or Heads of Departments of the Court of Cassation, the Council of State (Supreme Court for Administrative Courts) and the Supreme Court of Public Accounts. These high courts and their judges are not connected hierarchically to the executive power and have judicial independence. Furthermore, other Board members do not represent the relevant confederation or the public employer but decide on behalf of the whole country. The Committee also notes the observation of the KESK, stating that the 7th cycle of collective bargaining that took place in August 2023 ended with a referral to the Board, where it was decided that the Government's offer was fair, and no change was made to it in favour of the public employees. Finally, the Committee notes the observations of the KAMU-SEN stating that to date, the Board has not signed off any decision other than the proposals of the public employer party, a fact which, in the union's view, confirms the concerns about the impartiality of the chairperson. **Recalling that the President of the Republic designates not only the chair, but seven out of eleven members of the Public employee arbitration board, and that as the Government is also the employer in the public sector, it is therefore a party to the negotiations on which the Board will pronounce itself, the Committee notes with regret the lack of progress on this matter and once again urges the Government to consider reviewing, in consultation with the social partners, the method of appointment of the Board members and to provide information on the steps taken in this respect.**

**The Committee notes with deep concern the lack of action on the part of the Government to follow up on its various observations regarding protection against anti-union discrimination. In particular, the Committee regrets to note that: (i) seven years after the attempted coup d'état, the civil servants who claim that their dismissal, which was pronounced in application of the State of Emergency Decree-Laws, was motivated by anti-union reasons, have still not been able to have access to an effective, rapid and fair procedure that would adequately protect them against anti-union dismissal; (ii) the Government has not yet taken the measures requested to adopt effective and sufficiently dissuasive sanctions against anti-union dismissals both in the private and public sectors; and (iii) it continues to receive regular allegations of anti-union discrimination. The Committee underlines that it is of utmost importance to adopt, in consultation with the social partners, immediate measures to ensure full application of Article 1 of the Convention. In light of the above, the Committee considers that this case meets the criteria set out in paragraph 109 of its General Report for being invited to appear before the Conference.**

**[The Government is asked to supply full particulars to the Conference at its 112th Session and to reply in full to the present comments in 2024.]**

## Ukraine

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

#### [Previous comment](#)

The Committee notes the observations of the Confederation of Free Trade Unions (KVPU), received on 31 August 2023, referring to the matters addressed below.

The Committee also notes that the Committee on Freedom of Association (CFA) referred to it the legislative aspects of Case No. 3390 (see 403rd report, June 2023, paragraph 594). These matters are discussed below.

In its previous comments, the Committee had noted the allegation of the International Trade Union Confederation (ITUC) that draft Law No. 6420 on the Legal Regime of Property of All-Union Public Associations (Organizations) of the Former USSR and draft Law No. 6421 on Moratorium on Alienation of Property of All-Union Public Associations (Organizations) of the Former USSR were presented to

Parliament unilaterally, and requested the Government to review these draft laws in full consultation with the most representative workers' organizations with a view to finding a mutually agreeable solution. The Committee notes that the Government indicates that draft Law No. 6420 was repeatedly sent for approval to joint representative bodies of trade unions and employers at the national level, and that the relevant interested parties were also invited to a coordination meeting. It further notes the Government's indication that both Laws were adopted through resolutions dated 4 November 2022. The Government explains that the new legislation will contribute to the establishment of a legal basis for the determination of ownership rights to the relevant property. Noting that the Government does not specify whether the approval of the most representative workers' organizations was obtained with respect to draft Law No. 6420, nor does it inform of any consultation regarding draft Law No. 6421, the Committee emphasizes the importance that should be attached to full and frank consultations taking place on any questions or proposed legislation affecting trade union rights. ***The Committee requests the Government to indicate whether a mutually agreeable solution was reached with the most representative workers' organizations prior to the adoption of the above-mentioned laws.***

The Committee had also noted the allegation of the Federation of Trade Unions of Ukraine (FPU) and the KVPU that Law No. 2136-IX on Organization of Labour Relations Under Martial Law was adopted without prior consultation and restricted the exercise of the right to organize. The Committee notes the Government's indication that article 64 of the Constitution provides that in conditions of war or state of emergency, separate restrictions on rights and freedoms may be established. The Government also points out that the final provisions of Law No. 2136-IX specify that the Law loses its validity from the date of termination of martial law, except for its provisions relating to the compensation of employees and employers for monetary sums lost as a result of the armed aggression against Ukraine. The Committee further notes, that the KVPU, in its 2023 observations, alleges that a number of provisions of Law No. 2136-IX restrict the rights of workers and are not fully justified by the conditions of martial law. In this regard, the Committee recalls that the Convention contains no provisions allowing the invocation of a state of emergency to justify exemption from the obligations arising under it or any suspension of their application. This is also and especially true for restrictions on civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity and on condition that any measures affecting the application of the Convention are limited in scope and duration to what is strictly necessary to deal with the situation in question. ***The Committee expects that provisions of Law No. 2136-IX imposing restrictions on the exercise of the right to organize are limited to what is strictly necessary and will cease to apply once the martial law regime is lifted.***

The Committee had previously noted with concern the allegations of the FPU and the KVPU that the draft Law on Labour; draft Law No. 2332 on Amendments to Certain Legislative Acts Concerning the Procedure for Determining the Representativeness of Trade Union and Employer Organizations in Social Dialogue Bodies; draft Law No. 2682 on Strikes and Lockouts; draft Law No. 2681 on Amendments to Certain Legislative Acts of Ukraine (on Some Matters of the Trade Unions Activity) and, draft Law No. 7025 on Self-Regulatory Organizations, were introduced in Parliament without prior consultation and, if adopted, would violate the Convention by imposing state control over trade unions and by restricting their right to organize their administration and activities. As regards these draft laws, the Committee notes that the Government indicates that they were submitted by the people's deputies of Ukraine as legislative initiatives, but so far have not been considered by Parliament. The Committee further notes that the KVPU, in its 2023 observations, reiterates its concerns with respect to draft laws Nos 2332, 2682 and 2681.

The Committee notes that the CFA examined draft Law No. 2681, which intends to amend the Labour Code and the Law on Trade Unions and requested the Government to engage with the social partners with a view to bringing it into conformity with freedom of association (see Case No. 3390, Report No. 403, June 2023). As regards the application of the Convention, the Committee notes that the CFA requested the Government to:

- remove the proposed amendments to the Labour Code and the Law on Trade Unions providing for a mandatory establishment of monitoring commissions within trade union associations so as to ensure that workers' organizations are able to organize their administration without Government interference;
- review the amended definition of the term "primary trade union", which sets a minimum membership in such unions at ten, so as to ensure that the workers in small and microenterprises, who at present are able to exercise the right to form primary trade unions at their place of work, are able to continue to exercise their right to organize;
- review the amendment limiting the number of primary trade unions at a given enterprise/institution to two, so as to ensure that workers have the right to choose freely the union which, in their opinion, will best promote their occupational interests without interference by the authorities; and
- review the amendment imposing on the elected trade union bodies an obligation to report regularly to their trade union members on the fulfilment of their obligations and to submit an extraordinary report on its activities at the request of at least two thirds of the members of its primary trade union so as to ensure that the thresholds for any such requests by trade union members are left to the decision of the organization concerned and not set by legislation.

The Committee observes that subsequently to the draft Law No. 2681, the Ministry of Economy of Ukraine prepared a draft Law on Labour to give effect to the final and transitional provisions of the Law on the De-Sovietization of the Legislation of Ukraine on the need to replace the Labour Code of 1971. The Committee notes the Government engagement with the International Labour Office in this regard. The Committee observes that the draft Law on Labour, intended to replace the Labour Code as a whole, does not contain any of the amending provisions pertaining to the Labour Code set out by draft Law No. 2681. The Committee further notes the Government's indication to the CFA that draft Law No. 2681 is not in conformity with the Convention. The Committee notes, however, that according to the information on the official portal of the Verkhovna Rada (the parliament), draft Law No. 2681, amending the Labour Code and the Law on Trade Unions, is still awaiting consideration and is included, by Resolution No. 3369-IX of 5 September 2023, in the agenda of the 10th session of the Rada.

The Committee notes the Government's indication in its report that the draft Law on Labour does not restrict freedom of association and the right to organize and is in conformity with the Convention. The Government also informs that the Ministry of Economy is currently conducting extensive consultations with the social partners, as well as hearings with experts, with a view to finalizing the draft Law. ***Welcoming the Government's engagement with the Office, the Committee requests the Government to provide information on developments in this regard and to transmit a copy of the Law once adopted.***

***Taking note of the above and of other draft legislation pending in Parliament, the Committee once again urges the Government to engage with the social partners with a view to ensuring that any draft legislation affecting their rights and interests is fully in line with the Convention before being considered for adoption by Parliament.***

*Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations.* The Committee had previously noted that article 127 of the Constitution prevented judges from being members of trade unions and had requested the Government to ensure the right of judges to establish organizations of their own choosing to further and defend their interests. The Committee notes the Government's indication that, in accordance with article 157 of the Constitution, the Constitution cannot be modified under conditions of war or state of emergency. ***Taking due note of this information, the Committee trusts that the Government will take the necessary measures to amend article 127 of the Constitution with a view to bringing the legislation into conformity with the Convention once the state of emergency is no longer in force.***

*Article 3. Right to organize activities and formulate their programmes in full freedom.* In its previous comments, the Committee had requested the Government to amend section 19 of the Law on the procedure for settlement of collective labour disputes so as to ensure that if the national legislation required a vote before a strike can be held, account was taken only of the votes cast and the majority was fixed at a reasonable level. The Committee welcomes the Government's indication that a working group, which includes representatives of the social partners, is currently preparing a draft Law on Collective Labour Disputes and has taken the comments of the ILO into account in the drafting. **The Committee requests the Government to specify the manner in which its comments have been reflected in the draft Law on Collective Labour Disputes, and whether section 19 of the Law on the procedure for settlement of collective labour disputes will be amended or repealed after the adoption of the new legislation. The Committee also requests the Government to provide a copy of the Law on Collective Labour Disputes once adopted.**

In its previous comments, the Committee had requested the Government to clarify which categories of civil servants exercised authority in the name of the State and whether some or all civil servants were prohibited from exercising the right to strike, and to amend section 10(5) of the Law on Civil Service so as to ensure that the right to strike in the public service may be restricted or prohibited only for public servants exercising authority in the name of the State. The Committee notes that the Government indicates that the Law on Civil Service applies to public servants working in the Secretariat of the Cabinet of Ministers of Ukraine, the ministries and other central executive bodies, local state administrations, the prosecutor's office, military administration bodies, and other state bodies, who are not allowed to strike according to section 10(5). The Government informs, however, that the issues regarding the right to strike for public servants should be settled in the draft Law on Collective Labour Disputes. **Recalling once again that restrictions on the right to strike in the public sector should be limited to public servants exercising authority in the name of the State, the Committee requests the Government to ensure that this principle will be observed in the framework of the drafting of the Law on Collective Labour Disputes, and to provide information in this regard. The Committee also requests the Government to indicate whether section 10(5) of the Law on Civil Service will be amended or repealed following the adoption of the Law on Collective Labour Disputes.**

The Committee had previously requested the Government to provide information on the practical application of section 293 of the Criminal Code, which provided that organized group actions that seriously disturb public order, or significantly disrupt operations of public transport, any enterprise, institution or organization and active participation therein, were punishable by a fine of up to 50 monthly minimum wages or imprisonment for a term of up to six months, in respect of industrial actions. The Committee notes with **regret** that the Government limits itself to: (i) indicating that following an amendment to section 293, the amount of the fine is now between 1,000 and 3,000 non-taxable minimum incomes; and (ii) providing general information about pretrial investigations into offences under that provision. **The Committee reiterates its request that the Government provide information on the practical application of section 293 of the Criminal Code in respect of industrial actions.**

## United Kingdom of Great Britain and Northern Ireland

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

#### [Previous comment](#)

The Committee notes the observations made by the Trades Union Congress (TUC), received on 8 September and 20 October 2023, which refer to the issues examined by the Committee below.



## Follow up to the conclusions of the Committee on the Application of Standards (111th Session of the International Labour Conference, June 2023)

The Committee notes the discussion on the application of the Convention held in the Conference Committee on the Application of Standards in June 2023. In its conclusions, the Conference Committee noted the centrality of social dialogue to freedom of association and thus to the meaningful application of the Convention. Taking into account the discussion of the case, the Conference Committee requested the Government to provide information to and facilitate the dialogue between and with the social partners with a view to: (i) report on the results of the 2015 Undercover Policing Inquiry and the 2018 TUC allegations regarding surveillance of trade unions and trade unionists; (ii) ensure that existing and prospective legislation is in conformity with the Convention; (iii) limit and define the investigatory powers of the Certification Officer to ensure that these powers do not interfere with the autonomy and functioning of workers' and employers' organizations; (iv) facilitate electronic balloting (e-balloting); and (v) improve consultation of the social partners on legislation of relevance to them. The Conference Committee invited the Government to avail itself of technical assistance of the ILO and requested the Government to provide information on progress made on all the above issues by 1 September 2023.

The Committee also notes that the Committee on Freedom of Association (CFA) has referred to it the legislative aspects of Case No. 3432 (404th Report of the CFA, October–November 2023, paragraphs 610–651). The Committee takes due note of the CFA recommendations and trusts that, as requested, the Government will provide information on the measures aimed at addressing the matters raised in this case and the outcome achieved with its next report.

*Interim results of the 2015 Undercover Policing Inquiry.* The Committee recalls that its previous comment concerned the allegations relating to police surveillance of trade unions and trade unionists submitted by the TUC in 2018 and the Government's reply relating to the Undercover Policing Inquiry (UCPI) established in 2015. The Committee notes the Government's latest indication that the interim report of the UCPI, dealing with historic matters, was published on 29 June. **The Committee expects that a final report and any recommendations will be issued in the very near future and requests the Government to provide information in this regard.**

*Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. Electronic balloting.* The Committee recalls that it has been requesting the Government to provide information on the measures taken to facilitate electronic balloting (e-balloting) for industrial action ballots for several years now, including in respect of the pilots for e-balloting recommended in the review conducted in 2017. The Committee **regrets** to note that the Government has not provided any information on the progress made in this regard while the TUC indicates that it remains forbidden for unions to use electronic balloting in statutory ballots such as for union leadership roles or for industrial action and provides an example where this has caused a problem due to a narrowly missed 50 per cent turnout threshold required in a ballot for industrial action when the vote coincided with disruption to postal services. **Along with the Conference Committee, the Committee firmly urges the Government to take measures to facilitate electronic balloting without further delay and to provide information on the steps taken in this regard with its next report.**

*Minimum services legislation.* The Committee takes note of the detailed discussion in the Conference Committee in relation to the minimum services Bill. The Committee notes the Government's indication that the Bill was passed by Parliament and has received Royal assent (Strikes (Minimum Service Levels) Act 2023, hereinafter the Strikes Act). The Government explains that, for the remainder of this year, it will be focused on finalizing regulations setting out the detail of minimum service levels in a number of priority areas while seeking to ensure that the implementation of the legislation is in conformity with all its international obligations. The Government adds that it will fully engage with UK social partners, unions and employer groups during any review of the Trade Union Act to ensure that it takes account of any evidence they wish to bring to its attention. The Committee notes however the very

detailed views of the TUC in relation to this legislation, which in the TUC's view requires minimum service levels that are unacceptable in addition to the highly restrictive anti-strike laws already in place. In this respect, the TUC refers to the fact that the list of sectors in which minimum service can be imposed are largely the same as those created under the Trade Union Act 2016 which has already been commented upon by the Committee. In addition, the Strikes Act 2023 defines the education sector even more extensively. The TUC alleges that the Act: i) grants wide power to the Secretary of State to determine the scope of these services without any guidance from Parliament; ii) authorizes employers to issue work notices to a trade union in relation to a strike where minimum service regulations apply and; iii) imposes a duty on trade unions to take reasonable steps to ensure that union members who are identified in a work notice comply with its terms, all in a manner contrary to the Convention. The Committee notes that some of the services set out in the Act, may be considered essential services in the strict sense of the term where industrial action may be restricted or even prohibited. It recalls, however, that "education services" and "transport services", also included in the list, have been the subject of concerns it expressed in a previous Observation (2019) within the framework of the restrictions on strike ballots in the 2016 Trade Union Act.

The Committee observes that the Secretary of State is in the process of drafting the regulations for the Strikes Act adoption. According to the TUC, the consultations conducted by the Government on the introduction of minimum service levels in the ambulance service, fire service, passenger rail and border security were extremely light on detail, giving no suggestion of how the intended minimum service level would be structured or applied and the likely level of staffing required. As regards the work notices to be issued by the employer, the TUC alleges that while there is a duty to consult the trade union about the number of people to be identified and the work to be specified in the work notice, there is no obligation to seek an agreement with the trade union on minimum service levels, or to introduce a work notice only after an agreement has been secured. A draft non-statutory guide for employers, trade unions and workers issued by the government on 24 August 2023 stated clearly that the employer does not need to agree with the union on the number of workers and the work within the work notice as part of this consultation. This is particularly concerning as the Act expressly withdraws legal protection for unfair dismissal in cases of non-compliance with the work order and provides that the trade union must take "reasonable steps to ensure that all members of the union who are identified in the work notice comply with the notice". Finally, the TUC alleges that the government published its consultation paper on a draft statutory code on "reasonable steps" required from the union when a work notice has been issued, over-reaching the legislation. The TUC contends that the consultation paper seeks to place a series of additional requirements on trade unions, which could have wholly disproportionate consequences such as an injunction for the entire strike, significant damages, loss of protection against unfair dismissal for all participating workers and possible legal liability for the trade union.

The Committee notes these developments with **serious concern**. The Committee is especially concerned by the potentially wide-spread application of a series of new restrictions on workers and their organizations when considering industrial action in the transport and education sectors, accompanied by far-reaching consequences on them. While recalling that in its previous comments it had indicated that recourse might be had to negotiated minimum services for transport and education, as appropriate, the Committee must nevertheless recall that a minimum service should meet at least two requirements: (i) it must genuinely and exclusively be a minimum service, that is one which 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. Moreover, any disagreement on minimum services should be resolved, not by the government authorities, but by a joint or independent body which has

the confidence of the parties. (see the [General Survey of 2012 on the fundamental Conventions](#), paragraphs 137 and 138). The Committee observes that in its current state the Strikes Act does not assure any of these elements. ***The Committee expects that, in preparing its regulations and other guidance, including codes of practice, the Government will ensure that any minimum services imposed on industrial action in the transport and education sectors are indeed minimum, ensure the participation of the social partners in their determination, and where no agreement is reached, ensure that they are determined by an independent body which has the confidence of the parties. The Committee requests the Government to provide detailed information on all developments to ensure that the legislation is in full conformity with the Convention and on the steps taken to ensure that the social partners are fully consulted throughout the process.***

*Requirement for strike ballot.* In its previous comments the Committee had requested the Government to review section 3 of the Trade Union Act, 2016 with the social partners to ensure that the requirement of support by 40 per cent of all workers for strike ballot did not apply to the education and transport sectors. The Committee takes due note of the Government's indication that it intends to fully engage with UK social partners, unions and employer groups during any review of the Trade Union Act. As regards the centrality of social dialogue referred to by the Committee on the Application of Standards, the Government states that, while there are already regular meetings, at both Ministerial and official level, with trade unions and bodies representing employers, it accepts that there may be some benefit in putting these on a more structured footing and also ensuring that there are more opportunities for genuinely tripartite discussion. The Government states that it will discuss possible approaches with its social partners over the coming months with a view to updating the Conference Committee next year on how it is responding to the feedback in this area. ***The Committee trusts that these discussions will give rise to improved consultations with the social partners, including with respect to section 3 of the Trade Union Act. Noting that the education and transport sectors are now restricted both by this section's requirements and those to be regulated in relation to minimum services, the Committee urges the Government to take the necessary measures without delay to ensure that the support of 40 per cent of all workers is no longer required for a strike ballot in these services.***

*Blacklisting.* In its previous comment, the Committee had requested the Government to provide information on the practice of notifying the police of the identity of activists or blacklisting of individuals engaged in lawful picketing. While noting that the Government reiterates its previous information in this regard, the Committee expresses its **concern** at the additional allegations of the potential impact of the Strike Act further weakening protection against blacklisting. ***The Committee once again requests the Government to provide information on the practice of notifying the police of the identity of activists; the details of any complaints regarding the handling of this information or its impact on lawful industrial action or lawful picketing, including any complaints made in this regard, as well as any plans for improving protection.***

*The role of the Certification officer.* The Committee had further requested the Government to review the impact of sections 16-20 of the Trade Union Act with the social partners to ensure that the expansion of the role of the Certification officer does not interfere with the rights of workers' and employers' organizations under *Article 3* of the Convention. The Committee notes the Government's indication that it is committed to review the Trade Union Act 2016 and associated secondary legislation and will consider this matter more fully as part of this review. The Committee recalls the TUC's concerns that the changes to the Certification Officer's powers implemented in 2022 grant the Certification Officer undue discretion while the threshold for the exercise of the powers is extremely low. In addition, the scope of these powers is uncertain and unduly high financial penalties are allowed to be imposed for statutory breaches. While the TUC informs that the Certification Officer said she had not found any reason to use these new powers over the last year, the TUC maintains that they remain a threat to trade union rights. ***The Committee therefore once again requests the Government to provide a detailed reply to the TUC***

**observations and provide information on any use by the Certification Officer of its new investigatory powers and financial penalties imposed.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Jersey

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

#### Previous comment

*Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes.* The Committee recalls that since 2008 it has been requesting the Government to review the provisions of the Employment Relations Law (ERL) and its codes of practice regulating the exercise of the right to strike (right to secondary action and social and economic protests – see section 20(3) of the ERL and Code 2; picketing – Code 2; compulsory arbitration – sections 22 and 24 of the ERL and Code 3; essential services – Code 2; and conditions for protected industrial action and the application by the courts of sections 3 and 20(2) of the ERL and Code 3). The Committee **regrets** to note that the Government merely reiterates the information it had previously provided, and in particular, that a review of the ERL will be undertaken when resources allow, subject to the position of the Minister for Social Security, appointed in 2022, and that any such review will take into account the Committee's previous comments. The Government once again expresses the hope that it will be able to report on progress in its next report. The Committee notes with **regret** the continuing absence of measures to address the issues raised for over a decade by the Committee. **In these circumstances, the Committee reiterates its request and expects that the ERL and its codes of practice will be amended in consultation with the social partners without further delay. The Committee requests the Government to provide information on all progress made in this respect.**

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

#### Previous comment

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comments, the Committee had requested the Government to enter into dialogue with the social partners to ensure that in cases of anti-union dismissals, workers reinstated by order of a judicial decision may be granted full compensation for loss of pay. The Committee had previously noted that sections 77B and 77C of the Employment (Amendment No. 4) (Jersey) Law, 2009 does not provide the ability to compensate a worker for financial losses such as arrears of pay for the period between the dismissal and the order for reinstatement. The Government had previously reported that public consultation with the Independent Employment Forum in 2008 had led the Forum to conclude that the Employment Law should not be amended. The Government reported that changes to available compensation would have ramifications for the Tribunal system, which thus far had not had to deal with complaints of unfair dismissal since the Employment Law came into force in 2005. The Committee reiterates that in cases of reinstatement following an anti-union dismissal, remedies should also include compensation for loss of wages for the period that elapses between the dismissal and the reinstatement, as well as compensation for the prejudice suffered, with a view to ensuring that all of these measures taken together constitute a sufficiently dissuasive sanction, as "adequate protection" under *Article 1(1)* of the Convention. The Committee recalls that sanctions against acts of anti-union discrimination must be to compensate fully, both in financial and in occupational terms, the prejudice suffered ([General Survey of 2012 on the fundamental Conventions](#), paragraph 193). **The Committee emphasizes the importance of amending sections 77B and 77C of the Employment Law, and requests once again the Government to enter into dialogue with the social partners in order to ensure that in**

**cases of anti-union dismissals, workers reinstated by order of a judicial decision may be granted full compensation for loss of pay and to provide information on any developments in this regard.**

*Article 2. Adequate protection against acts of interference.* In its previous comments, the Committee had requested the Government to take the necessary measures to introduce provisions prohibiting acts of interference by employers, as well as provisions ensuring rapid procedures and sufficiently dissuasive sanctions against such acts. The Government previously noted its intention to review Code 1 – The Recognition of Trade Unions of the Codes of Practice Employment Relations (Jersey) Law 2007 to include a provision to prohibit employer inducement. The Committee notes that although the Government has made great strides to protect against discrimination through the Discrimination (Jersey) Law 2013, it also notes with **concern** that there is nothing that deals specifically with acts of interference by employers. The Committee recalls the importance of adopting sufficiently dissuasive sanctions against acts of interference, but also enforcing said actions through efficient procedures in practice. **The Committee is therefore bound to request the Government once again to take the necessary measures to introduce provisions prohibiting acts of interference by employers or their organizations in the establishment, functioning or administration of workers' organizations and vice versa, as well as provisions ensuring rapid procedures and sufficiently dissuasive sanctions against such acts, and this after consulting the social partners. The Committee requests the Government to provide information on any developments in this regard.**

*Article 4. Promotion of collective bargaining. Legislative matters.* The Committee had previously requested the Government to take, after consulting the social partners, the necessary measures to ensure that, if no union reaches the required threshold to be recognized as a bargaining agent, unions should be given the possibility to negotiate, jointly or separately, at least on behalf of their own members, and to provide information on any development in this regard. As there is no information from the Government, the Committee is bound to repeat its previous request. **Recalling that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements applicable to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice, the Committee requests the Government to take, after consulting the social partners, the necessary measures to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions should be given the possibility to negotiate, jointly or separately, at least on behalf of their own members. The Committee requests the Government to provide information on any developments in this regard.**

*Promotion of collective bargaining in practice.* The Committee notes with **regret** that the Government has not provided 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 therefore urges the Government to provide this information in the next report.**

**The Committee notes with regret that no specific action has been taken to address the different issues raised in its previous comments and hopes that the Government will soon be able to report on progress made in this respect. The Committee recalls that the Government can avail itself of the technical assistance of the Office in this regard.**

## Uzbekistan

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2016)

#### [Previous comment](#)

The Committee notes with **regret** that the Government's report does not address any of the issues raised by the Committee in its previous comments.

The Committee had requested the Government to provide its comments on the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) alleging imprisonment of two activists attempting to form an independent trade union, and the death of Mr Nuriddin Jumaniyazov, one of the imprisoned activists, while in detention. **The Committee once again requests the Government to provide its comments on these serious allegations.**

*Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. Distinction based on nationality.* The Committee had previously noted that sections 4 and 7 of the Law on Trade Unions (LTU) granted the right to organize only to citizens. The Committee had noted the Government's indication that all workers in its territory enjoyed this right due to the broad definition of "citizens" contained in section 16 of the Civil Code, and requested it to consider amending the LTU so as to avoid any possible ambiguity or conflict in its interpretation. The Committee notes that the Government does not provide any information in this regard. **Highlighting the importance of ensuring that all workers residing in the territory of a State benefit from the trade union rights provided by the Convention without any distinction based on nationality, the Committee reiterates its previous request.**

*Police and armed forces.* The Committee had noted that section 2 of the LTU provided that specific dispositions could be established for the application of this law in the armed forces, internal affairs offices, the National Security Service, the National Guard and other military forces. The Committee had noted the Government's indication that there were no obstacles to freedom of association for civilians working in internal affairs agencies and the National Guard, where trade union organizations had been established, and requested the Government to indicate if that was also the case in the armed forces and the National Security Services. **Noting that no information has been provided in this respect, the Committee once again requests the Government to indicate whether civilians working in the armed forces and the National Security Services benefit from the trade union rights afforded by the Convention, and whether trade union organizations have been established in these services.**

*Right of workers and employers to establish organizations of their own choosing. Minimum membership requirement.* The Committee notes that section 13(e) of the Regulations on the Procedure for State Registration of Non-Governmental Non-Commercial Organizations provides that at least 3,000 participants are required to register a non-governmental non-commercial organization in the form of a trade union. It also notes that, according to section 6 of the Law on Public Associations (LPA), republican trade unions (whose activities and chartered goals are distributed over the entire territory of the republic) must have no less than 3,000 members. In this regard, the Committee recalls that, while the establishment of a minimum membership requirement in itself is not incompatible with the Convention, 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 [General Survey of 2012 on the fundamental Conventions](#), paragraph 89). **The Committee requests the Government, in full consultation with the social partners, to review the minimum membership requirement established in the above-mentioned provisions with a view to ensuring that it does not hinder the right of workers to form and join the organizations of their own choosing. The Committee requests the Government to provide information on all progress achieved in this regard.**

*Article 3. Right of organizations to organize their administration and activities and to formulate their programmes. Financial management.* In its previous comments, the Committee had noted that the LPA provided that financial agencies carried out monitoring of the sources of finances and income of public associations, the quantity of the contributions they received and their payment of taxes (section 20). The Committee had noted the Government's indication that this provision did not apply to trade unions on the basis of section 9 of the LTU and section 18 of the Act on Regulatory Legal Acts, and had requested

the Government to indicate how section 20 of the LPA applied to employers' organizations. The Committee also notes that, according to section 8 of the Law on Non-Governmental Non-Commercial Organizations, these organizations are obliged to: (i) ensure accessibility to information about the use of their property and funds; (ii) coordinate with the registration authority the holding of events, as well as the receipt of funds and property from foreign states, international and foreign organizations, or citizens of foreign states; (iii) inform the registration authority about the visits of their representatives to foreign countries; and (iv) submit reports on their activities to the registration authority, state tax service authorities and state statistics authorities. **Recalling once again that the supervision of the financial management of organizations should not go beyond the obligation to submit annual financial reports, the Committee requests the Government to indicate how the monitoring set out in section 20 of the LPA applies to employers' organizations, and whether the obligations contained in section 8 of the Law on Non-Governmental Non-Commercial Organizations are applicable to trade unions and employers' organizations.**

*Internal administration.* The Committee had also requested the Government to amend section 20 of the LPA, which allowed the Ministry of Justice and its agencies to demand from the governing body of a public association an accounting of the decisions taken, to send its representatives to participate in the activities carried out by the public association, and to receive explanations from members of the public association and other citizens concerning compliance with the public association's charter. **In the absence of information provided by the Government, the Committee reiterates its request that the Government amend the legislation with a view to ensuring that public authorities are not allowed to interfere in the internal administration of trade unions and employers' organizations. The Committee requests the Government to provide information on any measures taken in this respect.**

*Right to strike.* The Committee had previously noted that the procedure for resolving collective labour disputes under section 281 of the Labour Code did not explicitly provide for the right to strike, and that the IUF alleged that most strikes were prohibited and punishable under section 218 of the Criminal Code and section 201 of the Administrative Code. The Committee had requested the Government to take the necessary measures to amend its legislation to ensure full recognition of the right to strike. The Committee notes with **regret** that sections 570 to 578 of the new Labour Code, which contain the procedure for the resolution of collective labour disputes, do not refer to the right to strike. **Recalling the importance of the right to strike as one of the essential means available to workers and their organizations for the promotion and protection of their economic and social interests, the Committee once again requests the Government to take the necessary measures, in full consultation with the social partners, to modify its legislation with a view to ensuring full recognition of the right to strike. The Committee requests the Government to provide information on any progress made in this regard.**

*Article 4. Use made of the assets of dissolved organizations.* In its previous comments, the Committee had noted that according to section 36 of the Law on Non-Governmental Non-Commercial Organizations, the property of a public association which had been liquidated by a court decision could not be distributed among its members. The Committee had noted the Government's indication that section 20 of the LTU provided that the charters of trade unions needed to contain a procedure for the management of their assets, and requested the Government to indicate how the assets of employers' organizations were distributed in the event of dissolution. **Noting that the Government does not provide the information requested, the Committee requests it once again to indicate the manner in which the assets of employers' organizations are distributed in case of dissolution.**

*Application of the Convention in practice.* The Committee had previously requested the Government to provide its comments on the allegation of the IUF that it was impossible to establish independent trade unions in the country outside the traditional structure of the Federation of Trade Unions of Uzbekistan (FPU), which was controlled by the State. **Noting that the Government does not reply to this allegation, the Committee requests it once again to provide its comments in this regard. The**

**Committee also renews its request that the Government provide information on the number of employers' organizations registered in the country, the sectors concerned and the number of workers they employ.**

**[The Government is asked to reply in full to the present comments in 2024.]**

## Yemen

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

The Committee had previously requested the Government to provide comments on the 2012 observations made by the International Trade Union Confederation (ITUC) alleging that striking teachers were dismissed, striking sanitation workers were injured, and that the offices of the Yemeni Journalists' Syndicate were attacked. **Noting with regret that the Government provides no reply to these observations, the Committee reiterates its previous request.**

The Law on Trade Unions (2002)

**Articles 2 and 5 of the Convention.** The Committee had previously requested the Government to indicate whether employees of high-level public authorities and Cabinets of Ministers, excluded by virtue of its section 4 from the Law on Trade Unions (LTU) enjoy the right to establish and join trade unions. **While taking due note of the Government's indication that since 2011 union committees have been established in all ministerial offices, the Committee requests the Government to clarify if senior public officials also have the right to establish and join their own organizations.**

The Committee had also requested the Government to take the necessary measures to amend sections 2, 20 and 21 of the LTU so as to repeal specific reference to the General Federation of Trade Unions of Yemen (GFTUY) and thereby to allow workers and their organizations to establish and join the federation of their own choosing. The Committee notes the Government's reiteration that it imposes no restrictions on trade union activity and that there are many unions representing workers' interests that do not operate within the framework of the GFTUY (for example, Trade Union of Doctors, Trade Union of Pharmacists, Trade Union of Engineers, and Lawyers' Trade Union). **Noting that the specific reference to the GFTUY remains in the legislation, and that it could result in making it impossible to establish a second federation to represent workers' interests, the Committee once again requests that the Government take necessary measures to amend the LTU so as to delete this specific reference.**

**Article 3.** The Committee had previously requested the Government to clarify whether section 40(b) of the LTU required an authorization from the higher level trade union for a strike to be organized, and if this was the case, to take the necessary measures to amend the legislation to bring it into conformity with the Convention. In this regard, the Committee notes the Government's indication that by virtue of section 40(b) of the LTU there is a requirement to coordinate with the higher union body to organize a partial or general strike and that the Committee's previous comment on this legislative issue is being considered for the amendment of the Act. **The Committee trusts that the Government will take the necessary measures to amend the LTU so as to ensure the right of workers' organizations to organize their activities and formulate their programmes. The Committee requests the Government to provide information on any development in this regard.**

**The draft Labour Code.** The Committee recalls that in its previous comments it had expressed the hope that the draft Labour Code would be adopted in the near future and that the Government would take into account the Committee's comments to further amend or revise some of the provisions in the draft. The Committee notes the Government's indication that due to the armed conflict affecting the country since 2011 it has been unable to complete the amendments of the labour legislation. The Committee further notes the Government's indication that the draft Labour Code is not applicable to domestic workers, members of the judiciary, and diplomatic and consular staff, but that their rights are guaranteed by law. **Recalling that the only authorized exceptions from the scope of application of the Convention are members of the police and the armed forces, the Committee requests the Government to indicate all legislative provisions that afford**



***domestic workers, members of the judiciary, and diplomatic and consular staff, the right to establish and join workers' organizations of their own choosing and without previous authorization.***

The Committee further notes the Government's indication that the draft Labour Code contains no provisions denying the right of workers' organizations to affiliate with international labour organizations. The Committee recalls that it had also requested the Government to:

- revise section 173(2) of the draft Labour Code so as to ensure that minors between the ages of 16 and 18 years may join trade unions without parental authorization;
- provide a list of essential services referred to in section 219(3) of the draft Code, which empowers the Minister to submit disputes to compulsory arbitration, which will be issued by the Council of Ministers once the Labour Code is promulgated;
- amend section 211 of the draft Labour Code which provides that strike notice must include an indication of the duration of a strike to ensure that a trade union can call a strike for an indeterminate period of time.

***While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the current legislative reform will bring the national legislation into full conformity with the Convention and requests the Government to indicate any developments in this regard.***

***The Committee 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: 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 2 and 3 of the Convention. Protection against anti-union interference.*** The Committee recalls that, for a number of years, it has been requesting the Government to ensure that effective and sufficiently dissuasive sanctions that guarantee the protection of workers' organizations against acts of interference by employers or their organizations in trade union activities are expressly provided for in the national legislation. The Committee notes that the Government indicates once again that protection against interference for trade union activities is provided under the Labour Code and that it will seek to provide further legal protection when amending the Act on Trade Unions (ATU) in accordance with the Convention. ***The Committee once again requests the Government to indicate the progress made in this respect, and to provide copies of the amended legislative texts aimed at ensuring full respect for the rights enshrined in the Convention, as soon as they have been adopted.***

***Article 4. Refusal to register a collective agreement on the basis of consideration of "economic interests of the country".*** The Committee recalls that it had previously requested the Government to take the necessary measures to amend sections 32(6) and 34(2) of the Labour Code so as to ensure that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation, and not on the basis of consideration of "the economic interests of the country". While the Committee had previously noted that the Government had adopted the Committee's proposal with regard to the amendment of the abovementioned section of the Labour Code, the Committee notes the Government's new indication that it will study the Committee's views in this respect. ***The Committee requests once again the Government to take the necessary measures to bring sections 32(6) and 34(2) of the Labour Code into conformity with the Convention.***

***Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State.*** ***The Committee once again requests the Government to indicate the legal provisions which guarantee the right to collective bargaining of public servants not engaged in the administration of the State.***

***While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.***

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

## Zambia

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

#### Previous comments

The Committee notes the observation of the Federation of Free Trade Unions in Zambia (FFTUZ), submitted with the Government's report, alleging that the minimum requirement of having at least 25 employees in an institution before the workers can join a union of their choice has greatly disenfranchised employees from institutions with less than 25 employees, as these workers cannot belong to a union due to the aforementioned minimum legal requirement. ***The Committee requests the Government to provide its comments thereon.***

*Articles 2 and 3 of the Convention. Revision of the Industrial and Labour Relations Act.* In its previous comment, the Committee had urged the Government to take all necessary measures to amend sections 2(e), 5 (b), 7(3), 9(3), 18(1)(b), 21(5) and (6), 43(1)(a), 78(4), and 107 of the Industrial and Labour Relations Act (ILRA) which pertain to the right of workers, without distinction whatsoever, to establish and join organizations, the right of organizations of workers and employers to elect their representatives, and the right of workers' organizations to freely organize their activities and to formulate their programmes. The Committee notes the Government's stated commitment to adhere to ratified Conventions and its indication that the ILRA will be undergoing review and that the concerns raised by the Committee will be tabled for debate during consultative meetings. Regarding section 5(b) of the ILRA, the Committee notes, however, the Government's indication that the legislation does not prohibit employees from joining unions provided they are within the same sectors, due to differing skills bases and remuneration packages in various sectors. In this respect, the Committee once again recalls that such conditions may be applied to first-level organizations, on condition that these organizations are free to establish inter-professional organizations and to join federations and confederations in the form and manner deemed most appropriate by the workers concerned. ***The Committee firmly expects that the ILRA will be amended in the very near future, in consultation with the social partners, so as to bring it into full conformity with the Convention. The Committee requests the Government to provide information on all developments in this regard, and to provide a copy of the amended legislation.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 11** Cook Islands, Finland **Convention No. 87** Angola, Antigua and Barbuda, Australia, Azerbaijan, Barbados, Belgium, Bosnia and Herzegovina, Bulgaria, Burundi, Cabo Verde, Canada, Central African Republic, Chile, Colombia, Comoros, Congo, Costa Rica, Croatia, Czechia, Côte d'Ivoire, Denmark, Djibouti, Ecuador, Eritrea, Eswatini, Ethiopia, Finland, France, Gabon, Guatemala, Iraq, Papua New Guinea, Peru, Republic of Korea, Romania, Samoa, Sao Tome and Principe, Somalia, Tajikistan, Timor-Leste, Türkiye, United Kingdom of Great Britain and Northern Ireland, Vanuatu **Convention No. 98** Angola, Argentina, Australia, Austria, Barbados, Belgium, Benin, Bosnia and Herzegovina, Brazil, Burkina Faso, Cabo Verde, Canada, Central African Republic, Chile, Colombia, Comoros, Congo, Croatia, Cuba, Cyprus, Czechia, Côte d'Ivoire, Dominican Republic, Estonia, Eswatini, Finland, Gabon, Republic of Korea, Samoa, Slovenia, Somalia, South Sudan, Tajikistan, Timor-Leste, Ukraine, United Kingdom of Great Britain and Northern Ireland (Guernsey), Vanuatu **Convention No. 135** Antigua and Barbuda, Czechia, Democratic Republic of the Congo, Dominica, Finland, France, Gabon, Romania **Convention No. 141** Afghanistan, Finland, North Macedonia

**Convention No. 151** *Belize, Brazil, Chile, China - Hong Kong Special Administrative Region, Colombia, Gabon, Guyana, Slovenia* **Convention No. 154** *Colombia, Czechia, Romania, Slovenia*.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 135** *Cyprus, Sao Tome and Principe* **Convention No. 154** *Cyprus*.

## Forced labour

### General observation on the application of the Abolition of Forced Labour Convention, 1957 (No. 105)

The Abolition of Forced Labour Convention, 1957 (No. 105), constitutes one of the ILO fundamental conventions. Its purpose is to supplement the Forced Labour Convention, 1930 (No. 29), by requiring States to suppress the imposition of any form of forced or compulsory labour in five situations specified in its *Article 1*:

- as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- as a method of mobilizing, and using labour for purposes of economic development;
- as a means of labour discipline;
- as a punishment for having participated in strikes;
- as a means of racial, social, national or religious discrimination.

#### Background context

The Convention was inspired by the work of the ILO–UN Ad-Hoc Committee on Forced Labour, which was established in 1951 to conduct an impartial inquiry into the existence of systems of forced labour. The report issued by the Ad-Hoc Committee in 1953 revealed the existence of two principal systems of forced labour imposed by the State that seriously threaten human rights in contravention with the United Nations Charter. The first was the use of forced labour as a means of political coercion or punishment for holding or expressing political views. The second was the use of forced labour for important economic purposes.<sup>1</sup> The negotiation and further adoption of the Convention reflected the determination of the ILO to continue and intensify its efforts to abolish such practices that were so far not explicitly covered by Convention No. 29.

More than 65 years have passed since the adoption of Convention No. 105. Nevertheless, there are still a considerable number of cases that have been examined by the Committee where compulsory labour continues to be imposed by the State in the different situations prohibited by the Convention. This is particularly the case when compulsory labour is used for economic development purposes or as a punishment for the exercise of civil and political liberties, particularly freedom of expression and assembly. Given the considerable number of situations raised by the Committee with regard to the latter, the Committee considers that it is timely and appropriate to recall the nature and scope of the prohibitions established under *Article 1(a)* and *(d)* of the Convention, as well as the Committee's requests addressed to governments in this regard. These prohibitions refer to the use of compulsory labour as "a means of political coercion or education, or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system" (paragraph (a)); and "as a punishment for having participated in strikes" (paragraph (d)).<sup>2</sup> It must be noted that in these

<sup>1</sup> United Nations and International Labour Office, *Report of the Ad-Hoc Committee on Forced Labour*, Geneva, 1953, para. 548.

<sup>2</sup> For this purpose, the Committee is taking into consideration the preparatory work of the Convention as well as the five subsequent General Surveys on forced labour instruments that have been adopted since 1962: ILO, *Report III (Part IV/3), Reports of the Committee of Experts on the Application of Conventions and Recommendations*, general conclusions on the reports relating to International Labour Conventions and Recommendations dealing with forced labour and compulsion to labour, ILC, 46th Session, 1962; *Report III (Part 3), General Survey on the Reports concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)*, ILC, 52nd Session, 1968; *Report III (Part 4B), General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)*, ILC, 65th Session, 1979; *Report*

two cases, forced labour usually takes the form of compulsory labour imposed in the context of a penal sanction pronounced for acts that relate to the exercise of civil liberties, including the right to freedom of expression and the right to freedom of peaceful assembly and association, both of which are recognized in the ILO Declaration of Philadelphia (1944) and the Universal Declaration of Human Rights (1948).

The Committee wishes to recall from the outset that the Convention does not constitute a revision of Convention No. 29 and was adopted to reinforce and complement the protection offered by Convention No. 29. At the same time, these instruments are independent of each other, so that countries which have ratified both must ensure their cumulative application. This is particularly true for the exceptions laid down in *Article 2(2)* of Convention No. 29, which do not automatically apply in the five specific situations covered by Convention No. 105.<sup>3</sup> Accordingly, while under Convention No. 29 work exacted as a consequence of a conviction in a court of law is an exception and does not constitute forced labour,<sup>4</sup> Convention No. 105 prohibits the imposition of any form of compulsory labour in the situations mentioned under its *Article 1*, even if the work is imposed as a result of a conviction by a court of law.<sup>5</sup>

The Committee also considers necessary to clarify that, in the context of Convention No. 105, compulsory labour can take place either in the form of a sanction of imprisonment involving an obligation to work (compulsory prison labour) or as a specific sanction of community, public or correctional work to which the person has not given his or her consent. In this respect, one of the main questions analysed by the Committee when assessing compliance with the Convention by the country under examination is whether any of these forms of compulsory labour is contained in the national legislation.<sup>6</sup>

**Exaction of forced or compulsory labour as punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system (*Article 1(a)*)**

#### *Scope of Article 1(a)*

The Committee has pointed out that the underlying rationale of *Article 1(a)* is to protect persons who, in the exercise of freedom of expression or other related civil liberties, express political views or views ideologically opposed to the established political, social or economic system, by establishing that they cannot be punished by sanctions involving an obligation to work. This is the paramount principle that has guided the work of the Committee while bearing in mind that the Convention was not conceived as an instrument to regulate freedom of expression, as such. The Committee also recalls that the Ad-Hoc Committee on Forced Labour emphasized in relation to the use of compulsory labour as a means of political coercion that “apart from the physical suffering and hardship involved, what makes the system most dangerous to human freedoms and dignity is that it trespasses on the inner convictions

*III (Part 1B), General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)*, ILC, 96th Session, 2007; *Report III (Part 1B), General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008*, ILC, 101st Session, 2012.

<sup>3</sup> As indicated above, the survey of the UN–ILO Ad Hoc Committee found that one of the most common forms of forced labour was forced labour as a means of political coercion and many of the cases from which the Ad Hoc Committee drew this conclusion related to labour resulting from penal legislations involving convictions by a court of law. At its 127th Session (Rome, November 1954), the Governing Body accordingly decided to include an item on forced labour in the agenda of the Conference and expressed the view that any subsequent instrument adopted by the Conference should deal with the practices which are specifically excluded from the scope of the 1930 Convention.

<sup>4</sup> According to *Article 2(2)(c)* of Convention No. 29, labour imposed on convicted prisoners does not constitute forced labour provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations.

<sup>5</sup> *Report III (Part IV/3)*, para. 11.

<sup>6</sup> ILO, *Forced Labour*, *Report VI (I)*, 39th Session, Geneva, 1956, 17.

and ideas of persons to the extent of forcing them to change their opinions, convictions and even mental attitudes to the satisfaction of the State".<sup>7</sup>

In the context of the supervision of the application of *Article 1(a)*, the Committee has examined a wide range of legislation, including provisions of national constitutions, criminal codes, laws relating to defamation and seditious acts, electoral laws, laws regulating the use of communication and social media, press laws, among others. It notes that, nowadays, the expression of political or ideological views or views opposed to the established system can take place orally or through the press or other type of publications or communication media, including social media platforms. This is also closely linked to the exercise of collective rights such as the right to organize or take part in peaceful assembly, including online assemblies, the right to freedom of association, through which persons seek to secure dissemination and acceptance of their views.<sup>8</sup> Thus, the Committee has carefully examined the scope of legal restrictions to these rights when they could lead to the imposition of sanctions involving compulsory labour. In this regard, it has pointed to situations in which restrictions are justified and do not fall within the purview of *Article 1(a)*, for example, restrictions to protect public order, the security of the State, or to guarantee respect for the rights and freedoms of others. Moreover, situations where the expression of views opposed to the established system take place through recourse to violence or incitement to violence are outside the scope of the protection granted by the Convention.<sup>9</sup> It is also important to recall that, as recognized by universal and regional human rights bodies, any restriction to the rights of freedom of expression and assembly should meet the requirements of legality, necessity, and proportionality.<sup>10</sup>

#### *Examples of legislative provisions that may have a bearing on the application of Article 1(a)*

The Committee has identified different types of legislative provisions that have a bearing on the application of *Article 1(a)* of the Convention.

First, provisions establishing offences punishable with penalties involving compulsory labour which by their own wording are clearly contrary to the Convention, for example provisions *banning* and punishing all type of publications or participation in meetings or political parties advocating views contrary to the political system in place.

Secondly, provisions aimed at establishing legitimate restrictions to the right to freedom of expression or assembly, but which are *worded in terms broad enough* to lend themselves to an interpretation and application that could be incompatible with the Convention. This is the case of provisions aimed at protecting public order by prohibiting the publication and dissemination of "fake news" or information that is "likely" to prejudice national interests or disturb the constitutional order, as well as provisions prohibiting acts of subversion or engagement in agitation or propaganda with a view to "weakening" the authority of the State. In these cases, the Committee requests the Governments concerned to review the wording of the provisions to limit their scope to effective and concrete threats to public order, or the use or threatened use of violence.

The Committee has also noted that in a number of countries, *defamation* (including in the form of libel or slander) still constitutes a penal offence punishable with sanctions involving the obligation to perform work. The Committee observes that United Nations Human Rights Committee as well as other regional institutions have also warned against the excessive use of defamation provisions to restrict the exercise of freedom of expression, particularly by journalists and human rights defenders. In doing so

<sup>7</sup> United Nations and International Labour Office, *Report of the Ad-Hoc Committee on Forced Labour* (Geneva 1953), para. 549.

<sup>8</sup> ILO, General Survey, 1979, para. 133; and General Survey, 2012, para. 152.

<sup>9</sup> ILO, General Survey, 2012, para. 303.

<sup>10</sup> United Nations Human Rights Committee, General Comment No. 34 on article 19 adopted in 2011, and General Comment No. 37 on the right of peaceful assembly (article 21), adopted in 2020, para. 36.

they have called upon States to ensure that defamation laws are crafted with care so that they do not unnecessarily interfere with freedom of expression and that penalties against defamation are not excessive and disproportionate.<sup>11</sup> Over the years, the Committee has examined provisions penalizing defamation or press offences when the corresponding sanction involves an obligation to undertake work. In these situations, the Committee has emphasized the importance of amending the defamation provisions, so that they do not constitute penal offences punishable with sanctions involving compulsory labour.

Furthermore, the Committee has observed that the incompatibility of the imposition of compulsory labour with *Article 1(a)* of the Convention may also result indirectly when publications are subject to prior authorization granted by governmental authorities at their discretion, violations being subject to sanctions involving compulsory labour.<sup>12</sup> Likewise, restrictions in respect of taking part in political activities or constituting associations of a political character other than a specified movement or party, in so far as they are enforced by penalties involving an obligation to perform work,<sup>13</sup> also fall within the scope of *Article 1(a)* of the Convention.

### *Practical application of such provisions*

Information on the practical application of legal provisions that have a bearing on the implementation of *Article 1(a)* of the Convention is crucial as it is not always possible for the Committee to appreciate their scope simply by reading them. It is only by carefully studying the way in which legislative texts are interpreted and implemented in practice that the Committee determines that the standards laid down by the Convention are being observed.<sup>14</sup> In other words, the Committee must be certain that the legal provisions in question are not used to punish persons, who express political views or in a peaceful manner oppose the established order, with penalties involving compulsory labour. For this reason, the Committee has systematically requested governments for information on judicial decisions that illustrate how such provisions are applied by the judiciary, and in which context. In addition, when conducting its assessment, the Committee takes due account of the conclusions and recommendations of United Nations human rights treaty bodies, particularly under the International Covenant on Civil and Political Rights, judgments of regional human rights courts and information from national human rights institutions. Moreover, social partners' observations help provide essential information regarding the national landscape in which the law is applied.

### **Exaction of forced or compulsory labour as punishment for participation in strikes (*Article 1(d)*)**

The prohibition of the exaction of forced or compulsory labour as punishment for participation in strikes was extensively discussed during the negotiations of the Convention at the International Labour Conference. The workers' members who proposed the inclusion of this prohibition under *Article 1* emphasized that "the question at issue was not the right to strike and agreed that strikes could be

---

<sup>11</sup> United Nations Human Rights Committee, General Comment No. 34, article 19: Freedom of Opinion and Expression (CCPR/C/GC/34, para. 47); European Commission Recommendation 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings, para. 23; Community Court of Justice of the Economic Community of West African States, Suit No. ECW/CCJ/APP/36/15; Judgment No. ECW/CCJ/JUD/04/18, pages 40 and 47; Inter-American Court of Human Rights, Judgment of July 2, 2004. Series C, No. 107; Judgment of May 2, 2008, Series C, No. 177; African Court on Human and Peoples' Rights, Application No. 002/2013, Judgment of December 5, 2014.

<sup>12</sup> ILO, General Survey, 1962, para. 108.

<sup>13</sup> ILO, General Survey, 1962, para. 113.

<sup>14</sup> ILO, General Survey, 1962, para. 15.

declared illegal in certain circumstances”;<sup>15</sup> however, they considered that the penalty for having participated in strikes should not be forced labour.

In examining the conformity of the national legislation with *Article 1(d)* of the Convention, the Committee undertakes a review of labour as well as criminal legislation to determine whether participation in strikes regardless of their legality is punishable by sanctions involving compulsory labour. In this regard, the Committee has requested governments to review legal provisions which expressly prohibit organization and participation in strikes when that prohibition is enforced with sanctions involving compulsory labour. It has also drawn attention to provisions which provide for disciplinary sanctions, involving compulsory labour, for civil servants for abandoning their functions or refusing to exercise any of their duties with the intention of obstructing the pursuit of business, when these provisions could be applied for participation in strikes. The Committee attaches great importance to the practical application of such type of provisions with a view to better assessing their conformity with the Convention.

Situations where participation in strikes implies recourse or incitement to violence fall outside the scope of the Convention.<sup>16</sup> When it comes to determining the scope and ascertaining the restrictions to the organization or participation in strikes for the purpose of *Article 1(d)*, the Committee has generally followed the principles developed in the area of freedom of association.

The Committee wishes to recall that the Convention is not an instrument that was designed to regulate strikes, as such, and it applies solely to the exaction of compulsory labour, including prison labour, community work or correctional work, imposed as a sanction for having organized or participated in strikes. In this regard, the Committee has continually emphasized that no penal sanctions should be imposed against a worker for having peacefully carried out a strike and thus for merely exercising an essential right, and therefore that 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 penal law have been committed and can be imposed exclusively pursuant to legislation punishing such acts, such as the Penal Code. Moreover, the concerns of the Committee that prison sanctions be imposed on strikers have also been shared by the treaty bodies of the United Nations, particularly the Committee on Economic, Social and Cultural Rights.

Therefore, the Committee reiterates that authorities should not have recourse to penal sanctions involving compulsory labour (either in the form of compulsory prison labour or community work) for those who organize a strike or participate in it peacefully.<sup>17</sup>

### Conclusions and challenges ahead

As indicated above the main purpose of the Convention is to abolish any form of forced or compulsory labour imposed in the five specific circumstances mentioned in its *Article 1*. Through this protection the Convention is an instrument that has also contributed to guaranteeing respect of other human rights, particularly freedom of expression, the right to peaceful assembly and participation in demonstrations and strikes. Despite being in force since 1957, the implementation of the Convention continues to face a number of challenges as new types of restrictions to fundamental freedoms, including freedom of expression and freedom of association, enforceable with sanctions involving compulsory labour continue to emerge and national legal frameworks contemplate compulsory prison labour or sanctions involving compulsory labour. At the same time, the emergence of new information

<sup>15</sup> ILO, *Record of Proceedings*, 1956, Appendix IX, 723.

<sup>16</sup> ILO, *General Survey*, 2012, para. 313.

<sup>17</sup> The Committee on Freedom of Association has stressed in this respect that: “Penal sanctions should only be imposed if, in the framework of a strike, violence against persons and property or other serious violations of the ordinary criminal law are committed, and this, on the basis of the laws and regulations punishing such acts” (Principle 955 of the 2018 Compilation of Decisions of the Committee on Freedom of Association).



technologies poses new threats to State's institutions and national security that come into discussion with the national and global public order debate. Against this background, when assessing compliance with the Convention, the Committee is called upon to examine considerations related to the protection of fundamental freedoms, on the one hand, and considerations of national interest, security and public order, on the other hand. While the Committee has considered that a balance needs to be struck between these two considerations, it has emphasized that sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of expression of views or peaceful opposition to the established political, social or economic system.<sup>18</sup>

The Committee also wishes to highlight the key role of national courts in ensuring compliance with the Convention, as they are those who are called first to ensure that limitations to the exercise of fundamental rights stay within the limits of legality, proportionality, and necessity.

Furthermore, the Committee would like to stress once again the key role of social partners in the supervision of the application of the Convention. This is not only because they can provide first-hand information on the scope and practical implementation of a wide range of legislation that the Committee needs to assess, as described above, but also because the guarantees offered by the Convention are essential for their very existence and the continued exercise of their activities.

Finally, as an instrument contributing to the protection of fundamental human rights, the ILO Committee of Experts must within its mandate continue to engage in dialogue with the UN treaty bodies and other mechanisms, to ensure that the provisions of the Convention are applied in such a way to strengthen the full realization of civil, political, economic, social, and cultural rights to all without discrimination, as mentioned in the 2023 [Joint statement by the ILO Committee of Experts on the Application of Conventions and Recommendations and UN Human Rights Treaty Bodies Chairpersons](#).

## Bahamas

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1976)

#### Previous comment

*Article 1(c) of the Convention. Disciplinary measures applicable to seafarers.* For many years, the Committee has been requesting the Government to amend certain provisions of the 1976 Merchant Shipping Act under which: (i) breaches of labour discipline, such as disobedience to lawful command (section 129(b) and (c)), desertion and absence without leave (section 131(a) and (b)) are punishable with imprisonment (involving an obligation to work, under section 10 of the Prisons Act and rules 76 and 95 of the Prison Rules); and (ii) deserting seafarers from ships registered in another country may be forcibly conveyed on board the ship (section 135).

The Committee notes the Government's information in its report that a new Merchant Shipping Bill has been drafted and passed in the Parliament in December 2021. The Committee notes with **satisfaction** that the provisions under section 129(b) and (c), section 131(a) and (b) and section 135 have not been retained under the Merchant Shipping Act of 2021.

*Article 1(d). Punishment for participation in strikes.* Over a number of years, the Committee has been requesting the Government to amend certain sections of the Industrial Relations Act, with a view to ensuring compliance with the Convention. It referred to sections 73 and 76(1) of the Industrial Relations Act, under which the prohibition on the recourse to strike action when a dispute in non-essential services is referred to the tribunal for settlement (section 73) and the failure to discontinue the participation in a strike which, in the opinion of the Minister, affects or threatens the public interest, are punishable under sections 74(3), 77(2)(a) and 76(2)(b) respectively, with penalties of imprisonment (involving an

---

<sup>18</sup> ILO, General Survey, 2012, para. 303.

obligation to perform labour, under section 10 of the Prisons Act and rules 76 and 95 of the Prison Rules).

The Committee notes that the Government reiterates its previous statement that the Industrial Relations Act is currently being reviewed by the National Tripartite Council. **The Committee, referring also to its [comments made in 2022 under the Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#), expresses the firm hope that the Government will take the necessary measures to amend sections 73, 74(3), 77(2)(a), 76(1) and 76(2)(b) of the Industrial Relations Act, so as to ensure that persons organizing or peacefully participating in a strike are not liable to sanctions of imprisonment involving an obligation to work.**

## Plurinational State of Bolivia

### Forced Labour Convention, 1930 (No. 29) (ratification: 2005)

#### [Previous comment](#)

*Articles 1(1), 2(1) and 25 of the Convention. 1. Trafficking in persons. (a) Institutional framework.* The Committee previously asked the Government to provide information on the results of the implementation of the Plurinational Policy against trafficking and smuggling of persons for 2013–17 and the related National Action Plan. The Committee notes the Government's reference in its report to various training measures for public servants, and prevention and awareness-raising activities on trafficking in persons carried out in various cities in the country by the Plurinational Council against Trafficking in Persons (established by the Comprehensive Act against Trafficking in Persons (No. 263) of 2012). The Committee welcomes the preparation by the Council of annual reports on the management of the Plurinational Policy against trafficking. In this regard, it observes that the management report for 2020 referred to the low level of coordination among member institutions of the Council and others involved in this field, and also with the autonomous territorial entities. According to the 2021 management report, the level of compliance of the measures contemplated in that year in the area of prevention was 96.15 per cent, in the area of care provision it was 62.5 per cent, for prosecutions and criminal penalties it was 67.22 per cent, for international cooperation 84.37 per cent, for national cooperation 73 per cent, and for institutional management 84.09 per cent.

The Committee notes the adoption of a new Plurinational Policy against trafficking in persons, illicit trafficking of immigrants and related offences for 2021–25 (according to a press release of 30 July 2022 from the Ministry of Justice and Institutional Transparency). The policy was formulated by the Plurinational Council against Trafficking in Persons after the systematization of inputs from departmental councils, autonomous departmental and municipal governments, the Ombuds Office, the Public Prosecutor's Office, the Bolivian police force and the judiciary. The objectives of the policy are to monitor the current situation regarding trafficking in persons and define institutional actions and responsibilities at the central, departmental and territorial levels in the context of the fight against trafficking. Moreover, it provides for the revision of the Comprehensive Act against Trafficking in Persons (No. 263), of 2012 in order to adapt it to new ways in which victims are captured for trafficking.

**The Committee encourages the Government to continue its efforts to combat trafficking in persons, including through reinforcing inter-institutional coordination among the various entities involved at the central, departmental and territorial levels. It requests the Government to provide detailed information on the measures taken as part of the implementation of the Plurinational Policy against trafficking in persons, illicit trafficking of immigrants and related offences for 2021–25, including information on the results of the evaluations undertaken in this regard by the Plurinational Council against Trafficking in Persons.**

(b) *Effective application of the law.* The Committee previously noted with concern the low number of convictions related to trafficking in persons despite the substantial number of cases brought to court,

and urged the Government to intensify its efforts to ensure that the perpetrators of trafficking in persons are prosecuted and penalties are duly imposed.

The Committee notes that, in order to reinforce the capacities of the bodies responsible for the application of the legislation against trafficking in persons, the Government has provided training in relation to investigating and prosecuting the crime of trafficking. Prevention and awareness-raising workshops on social and labour standards focusing on trafficking in persons have been held, coordinated by the Ministry of Labour, Employment and Social Security in the cities of Santa Cruz, Oruro, Potosí, La Paz and Cochabamba (a total of 2,757 persons were trained between 2019 and 2022). Bilateral cooperation agreements relating to the investigation of trafficking cases have also been signed with Peru, Paraguay and Argentina.

The Committee notes that, according to the statistics supplied by the Government, between 2019 and 2021 the police recorded a total of 1,115 complaints for trafficking in persons. A total of 1,306 proceedings for trafficking in persons were initiated, of which 154 yielded convictions and 98 resulted in rulings following summary proceedings. The Committee observes that, between 2021 and the first half of 2022, the Ombuds Office received 72 complaints relating to trafficking in persons. In this regard, the Ombuds Office underlined the lack of inter-institutional coordination among the entities responsible for the prevention of trafficking in persons, and also noted the complaints against those institutions, including the police. Furthermore, a total of 33 complaints were received against the police for not activating search operations in line with the regulations in force (press release of 30 June 2022 from the Ombuds Office). The Ombuds Office emphasized that the number of complaints received by it increased by eight per cent between 2021 and 2022, the biggest increases being recorded in the departments of La Paz and Cochabamba (press release of 23 September 2022 from the Ombuds Office).

The Committee notes with **concern** the information on the lack of coordination among the bodies responsible for enforcement of the legislation against trafficking and the inaction on the part of some of them as well as the low number of convictions relating to trafficking in persons.

***The Committee therefore once again urges the Government to take all necessary steps to reinforce the capacities of the competent bodies, including the police, the Public Prosecutor's Office and other justice operators, in order to undertake systematic investigations to enable the perpetrators of trafficking to be prosecuted and punished. In this regard, the Committee requests the Government to continue providing information on the number of complaints recorded, investigations conducted, criminal proceedings initiated, rulings handed down and penalties imposed on the basis of Act No. 263 against trafficking in persons.***

(c) *Protection of victims.* In its previous comments, the Committee noted that Bolivia is primarily a country of origin for trafficking in persons, especially for the purposes of labour exploitation in agriculture, the textiles industry and domestic work in neighbouring countries, and requested the Government to provide information on the number of victims who have been identified and provided with assistance.

The Committee notes the Government's indication that the Department of Employment, through the Employment Assistance Programme II, provides support to improve the employability of persons who have been victims of trafficking. The Government reports the existence of a MERCOSUR coordination mechanism catering for women in situations of international trafficking, and a bilateral agreement with Argentina for the prevention of trafficking and for the provision of assistance and protection to victims.

The Committee observes that the Government has not supplied any information on the number of trafficking victims who have been identified or on the protection measures granted. Nor do the management reports of the Plurinational Council against Trafficking in Persons contain any information on protection measures for victims.

***The Committee requests the Government to send detailed information on the measures taken in the context of bilateral and multilateral cooperation agreements with other countries to provide assistance and protection to Bolivian victims of the trafficking of persons abroad, and to facilitate their voluntary repatriation and reintegration. Furthermore, it requests the Government to provide information on the measures taken to make citizens aware of the risks of migration and their rights as migrants. The Committee once again requests the Government to provide up-to-date statistical information on the number of victims of trafficking for both labour and sexual exploitation who have been identified and assisted, indicating the type of assistance given.***

2. *Forced labour of indigenous persons in the Chaco, Bolivian Amazon and Norte Integrado de Santa Cruz regions.* (a) *Action programmes and labour inspection.* The Committee previously noted the existence of forced labour involving indigenous Quechua and Guaraní workers, including bonded labour, in agricultural and livestock areas. It noted specific programmes implemented to combat forced labour in the Chaco, Bolivian Amazon and Norte Integrado de Santa Cruz regions, and also measures taken to reinforce labour inspection.

In response to the Committee's request regarding the results of the programme entitled Progressive elimination of forced and similar kinds of labour by indigenous families in the Chaco, Bolivian Amazon and Norte Integrado de Santa Cruz regions, the Government indicates that in 2014 and 2015 training was provided on labour rights to over 2,500 indigenous workers and 230 employers, and the labour rights of 161 workers were restored. The Government also highlights the institutionalization of labour inspectorates in Monteagudo-Chiquisaca, Trinidad-Beni and Guayamerín; the implementation of integrated mobile labour offices; and the extension of the project to the provinces of Federico Román, Nicolás Suarez and Madre de Dios in the department of Pando. The Committee welcomes the fact that although the programme no longer has external funding, it has been institutionalized with funding from the State. During implementation of the programme in 2022, workshops to publicize social and labour standards with indigenous leaders were held, as were hearings for the restitution of rights with the presence of employers and workers. The Government also indicates that the Fundamental Rights Unit at the Ministry of Labour initiated a process for revising the forced labour mobile inspection protocol in order to adapt it to identified needs. Between 2018 and the first half of 2022, a total of 1,579 mobile inspections were carried out with departmental and regional labour authorities, including on livestock and agricultural ranches, mainly in the Chaco, Bolivian Amazon and Norte Integrado de Santa Cruz regions. ***The Committee requests the Government to continue sending information on the implementation of measures to prevent and eliminate forced labour involving indigenous persons in the Chaco, Bolivian Amazon and Norte Integrado de Santa Cruz regions, and on the results achieved. The Committee requests the Government to continue providing information on the mobile inspection of forced labour, the number of inspections carried out and the number of cases of forced labour which have been detected by labour inspectors, and on coordination with the Public Prosecutor's Office in this regard.***

(b) *Strict application of criminal penalties.* With regard to the application of section 291 of the Penal Code, which provides for imprisonment for the crime of subjecting a person to slavery or a similar condition, the Committee notes the Government's indication that in 2018 a case was referred to the Public Prosecutor's Office for a violation of section 291 of the Penal Code but that the case was dropped because of the withdrawal of the worker following the payment of outstanding labour benefits. It also notes that in 2022 the National Institute for Agrarian Reform (INRA) opened proceedings for the reversion of land in relation to the case of Guaraní families who had been subjected to bonded labour for generations and which was denounced to INRA by the Ministry of Labour in 2015. Moreover, the Committee notes with **concern** the Government's indication that employers who have imposed practices akin to forced labour are referred on the basis of a decision by the workers themselves to administrative mechanisms for the restitution of rights and are not the subject of a complaint to the competent judicial authorities for the offences committed. In this regard, the Committee recalls that, in accordance with

Article 25 of the Convention, the imposition of any form of forced labour must be the subject of effective and sufficient criminal penalties.

**The Committee therefore urges the Government to take the necessary steps to ensure that all cases of forced labour which are identified, whether through action by the police or labour inspectorate or through complaints, are the subject of investigation and criminal proceedings, irrespective of the participation of victims, so that the perpetrators are duly prosecuted and punished. The Committee also requests the Government to take the necessary steps to: (i) increase awareness of section 291 of the Penal Code by the authorities in order to ensure the effective application thereof; and (ii) inform victims of their rights, facilitate their access to the justice system, and protect them from possible reprisals. Lastly, the Committee requests the Government to continue providing information on the application of section 291 of the Penal Code (number of complaints, judicial proceedings initiated and rulings handed down).**

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

## Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1990)

### Previous comment

*Article 1(a) of the Convention. Imposition of forced labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* In previous comments, the Committee requested the Government to provide information on the effect given in practice to the following provisions of the Penal Code, under which sentences of imprisonment may be imposed involving compulsory labour (in accordance with section 48 of the Penal Code) in circumstances which may fall within the scope of application of *Article 1(a)* of the Convention:

- section 123 (sedition), under which persons who take up positions publicly and in open hostility with a view to undermining or disturbing public order in any way shall be liable to a sentence of imprisonment of from one to three years;
- section 126 (conspiracy), under which any person who engages in a conspiracy involving three or more person with a view to committing crimes of sedition shall be liable to half of the penalty for that crime;
- section 134 (public disorder and disturbances), which provides that any persons who for the purpose of preventing or disturbing a public meeting cause riotous behaviour, disturbances or other disorders shall be liable to a sentence of the performance of work for between one month and one year.

The Government indicates in its report that it does not have data on the numbers of persons given a prison sentence as a consequence of expressing political views or under the provisions indicated above. In response to the Committee's request for information on the judicial action taken against journalists, the Government indicates that there have been no cases of prison sentences imposed in the context of judicial procedures against journalists on the basis of political opinions.

The Committee notes that, in his 2021 annual report, the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights indicates that in 2021, he received reports of attacks on the press by police officers and complaints about illegitimate detentions of journalists during coverage in an alleged context of violence against the press. The Special Rapporteur also refers to criminal prosecutions initiated against journalists in various media for alleged defamation offences. Moreover, in its 2022 concluding observations, the United Nations Human Rights Committee expressed concern at allegations of harassment and intimidation of human rights defenders and journalists, including the arbitrary detention of some journalists who were covering protests between 2019 and 2021 (CCPR/C/BOL/CO/4).

The Committee notes this information, which indicates the existence of a context of intimidation and detention of persons engaged in journalism on the basis of the offence of defamation. In this

regard, the Committee observes that, although the offence of defamation against public servants set out in section 162 of the Penal Code was found to be unconstitutional in 2021 and was therefore repealed, section 282 of the Penal Code provides that any person who in public, in a biased manner and repeatedly reveals or divulges a fact, a quality or conduct liable to prejudice the reputation of an individual or group, shall be liable to a sentence of performing compulsory labour of from one month to one year or a fine. In this regard, the Committee observes that, under the terms of section 28 of the Penal Code, a sentence of compulsory labour cannot be imposed without the consent of the convicted person. However, the same provision provides that in the event that the convicted person does not give his or her consent, the penalty shall be converted into a sentence of imprisonment (which, under section 48 of the Penal Code, involves the obligation to work).

The Committee recalls in this respect that the Convention protects persons who express political views or views ideologically opposed to the established political, social or economic system by providing that they cannot be punished for these activities by penalties which involve the obligation to work. ***The Committee therefore requests the Government to take the necessary measures to ensure, in both law and practice, that persons who express political views or views ideologically opposed to the established political, social or economic system, including through their work in journalism, cannot be subjected to penal sanctions involving compulsory labour and, in this context, to revise the provisions of section 282 of the Penal Code. In the meantime, the Committee also requests the Government to provide information on the number of legal actions initiated under this provision, and on the penalties imposed and the acts that gave rise to the convictions.***

*Article 1(d). Penalties for having participated in strikes.* For a number of years, the Committee has been observing that section 2 of Legislative Decree No. 2565 of 6 June 1951 establishes penalties of imprisonment which involve the obligation to work for participation in general and sympathy strikes and acts of solidarity. Recalling that *Article 1(d)* of the Convention prohibits the imposition of sentences involving compulsory labour as a punishment for having participated in strikes, the Committee has requested the Government to take the necessary measures to amend or repeal this legal provision in the light of this principle.

The Committee notes the Government's reiterated indication that section 2 of the Legislative Decree is not applied in practice and that the Constitution guarantees the right to strike. ***Taking into account the Government's indication, and with reference to its [comments on the Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#), the Committee once again requests the Government to take the necessary measures to bring the national legislation into conformity with the Convention and the practice indicated, by explicitly amending or repealing section 2 of Legislative Decree No. 2565 of 6 June 1951, and to provide information on any progress achieved in this regard.***

## Cambodia

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

#### [Previous comment](#)

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2023. It also notes the observations of the International Trade Union Confederation (ITUC), received on 27 September 2023. ***The Committee requests the Government to provide its reply to these observations.***

### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the [detailed discussion](#) that was held by the Committee on the Application of Standards (Conference Committee) at the 111th Session of the International Labour Conference (June 2023), regarding the application of the Convention by Cambodia.

The Committee notes that the Conference Committee deeply deplored the continued use of the provisions of the national legislation, including the Penal Code, to prosecute and convict persons who express their political views or views ideologically opposed to the established political, social or economic system, or to punish those who participate in strikes, leading to the imposition of penalties of imprisonment involving compulsory prison labour. The Conference Committee also noted with deep concern the arrest and imprisonment of trade unionists and others for exercising their civil liberties and expressing different political views from that of the Government. The Conference Committee urged the Government to take measures to immediately and unconditionally release, quash convictions and drop all charges brought against individuals for having expressed political views or views ideologically opposed to the established political, social or economic system, and against individuals who were punished for having participated in strikes.

*Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system.* The Committee recalls that penalties of imprisonment, which involve an obligation to work pursuant to section 68 of the Act on Prisons of 2011, might be imposed under various provisions of national legislation in circumstances falling within *Article 1(a)* of the Convention, including:

- section 42 of the Act on Political Parties, as amended in 2017, according to which various offences related to the administration or management of a political party which has been dissolved, or whose activities have been suspended by a court, or whose registration has been refused, are punishable with sanctions of imprisonment for a term of up to one year;
- sections 494 and 495 on incitement to disturb public security by speech, writing, picture or any audio-visual communication in public or to the public, section 522 on publication of commentaries intended to unlawfully coerce judicial authorities, and section 523 on discrediting judicial decisions of the Penal Code;
- sections 445 and 437 bis of the Penal Code, introduced in 2018, relating to insult and criticism of the King.

The Committee notes that, in line with the Committee's previous requests, the Conference Committee urged the Government to take effective and time-bound measures to: (i) ensure that the right to hold or express political views or views ideologically opposed to the established political, social or economic system without the threat of penalties involving compulsory labour is fully respected; and to (ii) repeal or amend relevant provisions of the Penal Code and the Act on Political Parties providing for and leading to penalties of compulsory labour, in consultation with the social partners, in order to bring them into conformity with the Convention.

The Committee notes that the Government once again indicates, in its report, that Cambodian citizens are granted fundamental freedoms, including the right to express their opinions peacefully and to engage in political activities, which are enshrined in the Constitution. It adds that there are no punitive measures for individuals who peacefully express their political views, including opposition members, human rights defenders or journalists, provided that their activities remain within the legal framework and do not infringe the rights of others. The Government indicates that the legal actions taken against activists were not predicated on their exercise of human rights and social rights or their status as activists, but for having contravened specific laws, including those related to denouncement, dissemination of fake news, incitement with a view to causing civil unrest to social security, and treason, among others. All individuals subjected to legal actions are assured of due process. It adds that the

legislative provisions are fundamentally designed to uphold the order, security, safety and interests and rights of all citizens. The Government further states that the Labour Law proscribes forced or compulsory labour and that prison labour is primarily a rehabilitative process aimed at facilitating the reintegration of prisoners into society, and is not assigned based on political opposition, human rights advocacy or journalistic activity.

The Committee notes that in its observations, the ITUC deplors the current and long-standing climate of repression in Cambodia, which is not conducive to the exercise of public freedoms, including freedom of association and freedom of collective action, particularly in view of the arrests and prosecutions of opposition party members, representatives of non-governmental organizations, trade unionists and human rights defenders. It states that the above-mentioned legal provisions are used to imprison and convict political dissidents, journalists, bloggers and trade unionists, who may be subject to an obligation to work. The ITUC stresses that a thorough review of these legal provisions and of the practices of the country in the field of the enforcement of criminal law is essential.

The Committee also notes that, in its observations, the IOE reiterates the statements of the Employer members during the Conference Committee discussion and expresses the hope that progress would be made in the application of the Convention in line with the Conference Committee's conclusions and in close consultation with the most representative employer organization in Cambodia.

The Committee further notes that, in its report of 20 July 2023, the United Nations Special Rapporteur on the situation of human rights in Cambodia indicates that he has continually received reports of attacks, unjustified arrests and prosecutions of human rights defenders, journalists and media personnel, political dissidents and others seen as being opponents of the authorities. He states that at the beginning of 2023, dozens of human rights defenders and environmentalists were estimated to be in detention, and that there was a rise in those numbers as compared with the previous year. The Special Rapporteur also refers to four mass trials between March 2021 and December 2022, mainly against members of the former Cambodia National Rescue Party (CNRP), under charges including incitement (sections 494 and 495 of the Penal Code), plotting (section 453), and conspiracy with a foreign power (section 443), resulting in a number of penalties of imprisonment (A/HRC/54/75, 20 July 2023).

The Committee therefore once again **deeply deplors** the continued use of various provisions of the national legislation to prosecute and convict opposition members, human rights defenders and journalists as a result of their work, leading to the imposition of sentences of imprisonment that entail compulsory prison labour. ***The Committee strongly urges the Government to take immediate and effective measures, both in law and practice, to put an end to any violation of the Convention, by ensuring that no one who expresses political opinions or views ideologically opposed to the established political, social or economic system, including opposition members, human rights defenders and journalists can be sentenced to imprisonment, under the terms of which compulsory labour is imposed. The Committee once again urges the Government to amend section 42 of the Act on Political Parties and sections 437 bis, 445, 494, 495, 522 and 523 of the Penal Code by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour (compulsory prison labour). Lastly, the Committee urges the Government to ensure the immediate release of any person convicted to a prison sentence entailing compulsory prison labour, for peacefully expressing political views or opposing the established political, social or economic system.***

Concerning the Cybercrime Bill, the Committee notes the Government's statement in the written information provided to the Conference Committee that a dedicated working group has convened a review meeting and that a collaborative process has facilitated the advancement of this initiative. The Cybercrime Bill is under deliberation with all relevant stakeholders, with a concerted effort being made to integrate and harmonize input from all parties to ensure the law effectiveness, efficiency, pertinence, and coherence. ***The Committee expresses the firm hope that the Cybercrime Bill will comply with the***



***Convention, without leaving any room for interpretation in its application that could lead to the imposition of a penalty involving compulsory work on persons who express political views or views ideologically opposed to the established political, social or economic system.***

*Article 1(d). Punishment for participation in strikes.* The Committee previously noted: (i) the sentencing to imprisonment for misdemeanour and malicious defamation under sections 311 and 312 of the Penal Code of two members of the Cambodian Labour Confederation (CLC), after taking part in a protest following the dismissal of union members and after filing a complaint against two workers for violence; (ii) the arrest and prosecution of four leaders of the Workers Friendship Union Federation for having organized an illegal strike, blocking traffic and disturbing public order; and (iii) the arrest and detention of at least 29 casino union leaders and activists during a strike, nine of whom had been charged with incitement to commit a felony, under sections 494 and 495 of the Penal Code.

The Committee notes that the Government indicates that peaceful assembly, when conducted in cooperation with the authorities and in compliance with security, safety and public health measures, constitutes the exercise of rights guaranteed by the Constitution. However, unannounced assemblies or other actions that constitute a violation of the law compel the authorities to intervene. The Government states that arrests have been necessary as a result of breaches of security, safety and public health measures, as well as instances of incitement to violence and social unrest that jeopardize public order, security, and the rights of freedom of others.

The Committee further notes the Government's statement, in its written information provided to the Conference Committee, that the two members of the CLC sentenced to imprisonment referred to above are currently in employment. During the discussion of the case by the Conference Committee, the Government added that their cases were currently under appeal, and the Worker members of Cambodia specified that they had been given suspended sentences of imprisonment of six months at first instance.

As to the arrest of the Naga World casino's union leaders, the Government states, in its written information provided to the Conference Committee, that the strike led by the union leaders in question breached the legal prerequisites for the exercise of the right to strike. It points out that despite the ruling of December 2021 indicating that the collective labour dispute at Naga World had to be submitted to the Arbitration Council's procedure and mechanism, and that any new demands which had not been submitted to the Arbitration Council's procedure could not constitute a valid cause for a strike, the dismissed workers initiated their strike outside Naga World. They were held accountable for their actions and charged under sections 494 and 495 of the Penal Code, as their participation in the strike, deemed illegal, had created substantial disturbances to public order and safety. The Government adds that additional arrests of these strikers had taken place following their violation of COVID-19 preventative measures during the strike. In total, the transgressions led to the arrest of 11 strikers. In March 2022, the court ordered the bail release of these former workers. In this regard, the Committee notes that during the Conference Committee discussion, a number of delegates reported that in May 2023, nine members of the Labour Rights Supported Union (LRSU) were convicted for incitement to commit a felony under sections 494 and 495 of the Penal Code after engaging in peaceful strikes at the casino, and sentenced for up to two years of imprisonment.

The Committee notes that in its observations, the ITUC also refers to the prison sentences handed down to the leaders of the LRSU on the basis of provisions of the Penal Code, which are contrary to the Convention. The ITUC adds that it appears that trade unionists have suffered criminal convictions as a result of their participation in peaceful collective actions.

The Committee has continually emphasized 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, such as the Penal Code (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 158). **The Committee therefore urges the Government to take the necessary measures to ensure that no provision of the legislation is used to sentence a person who organizes or peacefully participates in a strike to a term of imprisonment, under which compulsory labour is imposed. It requests the Government to provide a copy of the court decisions referred to above. Lastly, the Committee urges the Government to ensure the immediate release of any person convicted to a prison sentence entailing compulsory prison labour for exercising peacefully their right to strike.**

## Germany

### Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

#### [Previous comment](#)

The Committee notes the observations sent by the Confederation of German Employers' Associations (BDA) received on 22 September 2022.

*Article 2(2)(c) of the Convention. Compulsory prison labour for private entities.* The Committee previously noted that compulsory labour of convicted prisoners is provided for in the regulations for the execution of penal sanctions of the states (*Länder*) of Baden-Württemberg, Bavaria, Berlin, Bremen, Hamburg, Hesse, Mecklenburg-Vorpommern, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt, Schleswig-Holstein and Thuringia. It also noted that in those *Länder* (except for Hamburg) inmates can be assigned to work in workshops run by private enterprises under the supervision of the penal authority. Except for Bremen, the state prison regulations did not specifically provide for the requirement to obtain the free, formal and informed consent of the inmates to work for private enterprises. In this respect, the Committee requested the Government to ensure that, both in law and in practice, the work performed by prisoners for private undertakings is based on their free, formal and informed consent and subject to conditions of work approximating a free labour relationship.

The Committee notes the detailed information provided by the Government on the situation of prison labour in the different *Länder*, which includes updated statistical data. It notes that, in general, the prison regulations of the *Länder* regulate the working time, holidays, occupational safety and health and remuneration of inmates who perform work. As regards the work of prisoners for private entities, the Government indicates that the legislation does not give private enterprises the exclusive authority to direct inmates, and that the supervision of prisoners and all decisions regarding their treatment must remain with prison staff. It adds that, in contractual agreements with private entities, the prison authority must ensure that prisoners are not fully integrated into the operations of the private enterprise. However, the Committee observes that the Government does not indicate how it is ensured that the free and informed consent of prisoners is formally obtained as a condition for their work for private enterprises in Baden-Württemberg, Bavaria, Berlin, Hesse, Mecklenburg-Vorpommern, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt, Schleswig-Holstein and Thuringia. The Committee further notes that as of 2021, the number of prisoners working for private undertakings in such *Länder* was: 1,489 in Baden-Württemberg; 1,722 in Bavaria; 511 in Hesse; 24 in Mecklenburg-Vorpommern; 1,094 in Lower Saxony; 1,255 in North Rhine-Westphalia; 122 in Saxony-Anhalt; and 36 in Schleswig-Holstein. In Thuringia, 477 prisoners were assigned to work for municipal undertakings or private entities.

The Committee notes a decision of the German Constitutional Court adopted on 20 June 2023 in which the Court held that the remuneration fixed for inmates in Bavaria and North Rhine-Westphalia (which was equivalent to nine per cent of the average salary of all insured persons of the German pension insurance in the previous calendar year) was against the constitutional principle of resocialization which requires that work in the prison system receive appropriate recognition. The Court considered that the level of remuneration in the two *Länder* did not fit the purpose of prison labour

which is to show the importance of gainful employment in society. While the Court recognized that, in fixing the remuneration for prisoners, consideration shall be made to prison costs, prisoners should be left with an appropriate amount of remuneration that gives them a tangible advantage compared to prisoners who do not work. The Court hence decided that the legislature of the two *Länder* must strive for a legal framework which ensures that the low remuneration is not perceived as part of the sentence to be served.

The Committee further notes that in its observations, the BDA indicates that the compulsory work of prisoners is imposed as a means of resocialization, and that prison authorities retain responsibility for prisoners and cannot transfer their custody to private entities. The BDA further indicates that, in practice, inmates cannot be sensibly employed by the State, so their employment in the private sector should be permissible provided that: (i) public authorities specify the conditions and intervene when infringements occur; and (ii) working conditions are not exploitative even though they could not attain the level of normal employment.

The Committee recalls once again that, by virtue of *Article 2(2)* of the Convention, the compulsory labour of convicted persons is not considered as forced labour when: (1) it is carried out under the supervision and control of a public authority; and (2) prisoners are not hired to or placed at the disposal of private individuals, companies or associations (this is not limited to work outside penitentiary establishments, but applies equally to workshops which may be operated by private undertakings inside prison premises). If either of the two conditions is not observed, the situation would fall within the scope of the Convention. At the same time, the Committee has considered that work by prisoners for private enterprises could be held to be compatible with the Convention when: (i) the prisoners concerned offer themselves voluntarily, by giving their free, formal (in writing) and informed consent to work for private enterprises; and (ii) when the conditions of work of prisoners approximate those of a free labour relationship.

***Therefore, the Committee urges the Government to take the necessary measures to ensure that, both in law and practice, the work undertaken by prisoners for private enterprises (in Baden-Württemberg, Bavaria, Berlin, Hesse, Mecklenburg-Vorpommern, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt, Schleswig-Holstein and Thuringia), including within prison premises, only takes place voluntarily on the basis of the free, formal and informed consent of the prisoners concerned, and under conditions approximating a free labour relationship. It also requests the Government to provide information on the impact of the decision of the Constitutional Court of 20 June 2023 in Bavaria and North Rhine-Westphalia as regards the remuneration of prisoners working for private entities. The Committee further requests the Government to provide information on the impact of the decision in the other Länder.***

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

## Guinea

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

#### Previous comment

*Article 1(a) of the Convention. Imposition of prison sentences involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously referred to several provisions of national legislation providing for prison sentences involving compulsory labour – under Decree No. 247/72/PREG of 20 September 1972 concerning the establishment and structure of the prison administration and Decree No. 624/PRG/81 of 13 November 1981 supplementing Decree No. 247/72/PRG, and the 2016 Criminal Code – for certain activities within the scope of application of *Article 1(a)* of the Convention. It noted the Government's indications that some of these provisions were applied in practice, and requested the

Government to ensure that no sanctions involving compulsory labour may be imposed, under the application of the following provisions, on persons who peacefully express views ideologically opposed to the established political, social or economic system:

- sections 363–366 of the Criminal Code, concerning defamation and abuse;
- sections 629, 630(1) and (2), 632(1), 634, 636(1) and (2) and 637 of the Criminal Code concerning organizing or participating in an undeclared or unauthorized demonstration or in an unarmed gathering of persons, for organizing a meeting on a public thoroughfare, and for any other related peaceful activities;
- sections 658–660, 662–665 and 739(1) of the Criminal Code, concerning insulting behaviour towards the Head of State and officers of the law, and towards the national anthem or the national or a foreign flag;
- sections 689–703 of the Criminal Code concerning breaches of public order caused by religious ministers in the performance of their ministry;
- sections 30 and 31 of Organic Act No. 91/02/CTRN of 23 December 1991 establishing a charter of political parties, concerning the act of founding, directing or administering a political party in violation of the law, or directing or administering a dissolved political party by maintaining or reconstituting it.

The Government indicates in its report that no prosecutions have been brought and therefore no convictions handed down on the basis of the above provisions. It states that, although no measure has been envisaged to limit the scope of application of these provisions, the Government will undertake a substantive reform to this end, within the framework of the restructuring of the State. The Government also indicates that no press-related offences have been punished by compulsory prison labour. It adds that awareness-raising campaigns are regularly organized by press associations as part of the dissemination of Organic Act No. L/2010/02/CNT of 22 June 2010 on freedom of the press, through interactive broadcasts and debates via radio and television channels. A significant number of judges and magistrates have participated in training in this regard.

The Committee also notes that, by decision of 13 May 2022, the transitional government prohibited any demonstration on public thoroughfares likely to compromise the social peace and the proper development of the activities in its calendar, specifying that any breach of this order would entail legal consequences against the perpetrator(s). In this regard, the Committee notes that in a letter addressed to the President of the Republic on 15 August 2022, the United Nations High Commissioner for Human Rights expressed his deep concern at recent developments in the human rights situation in the country, referring to a large number of arrests of demonstrators, including members of the political opposition and civil society. The High Commissioner also referred to a decision of the Government of 9 August 2022 aimed at dissolving the National Front for the Defence of the Constitution (FNDC), a collective of opposition political parties, trade unions and civil society organizations, which had initiated demonstrations.

***The Committee requests the Government to take the necessary measures to ensure that no punishments involving compulsory labour, including as part of a prison sentence, may be imposed on persons who express certain political opinions or who peacefully express views ideologically opposed to the established system, including in the context of peaceful public demonstrations. The Committee hopes that, within the framework of the reform undertaken by the Government, the above provisions of the Criminal Code and of the Act of 23 December 1991 establishing a charter of political parties will be reviewed taking account of the requirements of the Convention, either by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing penalties involving compulsory labour. In the meantime, the Committee requests the Government to provide information on any convictions handed down under the above-mentioned provisions, and on the acts giving rise to the convictions. The Committee also requests the Government***

**to specify the penalties imposed on persons who violate the prohibition on demonstrations on public thoroughfares.**

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

## India

### Forced Labour Convention, 1930 (No. 29) (ratification: 1954)

#### Previous comments

*Articles 1(1), 2(1) and 25 of the Convention.* 1. *Bonded labour. Monitoring mechanisms and effective implementation of the legislative framework.* The Committee notes the Government's indication, in its report, that regular awareness-raising programmes with field level officers, such as district magistrates, superintendents of the police and Labour Department officials at district and state levels, have been held on bonded labour by the National Human Rights Commission (NHRC) and the state human rights commissions. The Government adds that a total of 296,000 bonded labourers have been identified and released in the country, so far. As regards states, since 2019, 700 bonded labourers have been identified in Uttar Pradesh and 29 in Andhra Pradesh, as well as 158 bonded labourers in Tamil Nadu, between 2021 and 2022. The Committee notes the Government's statement that all of these victims benefited from financial assistance under the Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016. In that regard, the Committee observes that the Central Sector Scheme was revised in 2021. The Government adds that, since 2019, in Uttar Pradesh, 158 employers have been convicted for bonded labour with penalties of imprisonment and a fine. The Committee notes that, according to the Crimes in India report from the National Crime Records Bureau (NCRB), 592 cases of bonded labour under the Bonded Labour System (Abolition) Act, 1976 (BLSA) were registered in 2021, which represented a decrease from the 1,232 cases registered in 2020. Furthermore, in 2021, 564 persons were arrested under the BLSA and 40 persons were convicted in 38 cases. While welcoming the various measures taken by the Government to eliminate bonded labour, the Committee notes the absence of information on: (i) the functioning and effectiveness of the vigilance committees established by state governments at the district and subdivisional level in order, inter alia, to assist the courts in monitoring and ensuring the proper implementation of the BLSA; and (ii) the penalties effectively applied to perpetrators of bonded labour. ***The Committee accordingly once again requests the Government to provide information on the measures taken to ensure the proper functioning and effectiveness of the vigilance committees established by all state governments, and the results achieved in terms of the number of bonded labourers identified, withdrawn and rehabilitated, including through the Central Sector Scheme for Rehabilitation of Bonded Labourers, 2021. The Committee requests the Government to continue to take the necessary measures to ensure that the provisions of the Bonded Labour System (Abolition) Act, are strictly and effectively enforced so as to enable the imposition of dissuasive penalties on persons who involve others in bonded labour. It requests the Government to continue to provide information on the number of prosecutions and convictions regarding bonded labour. It further requests the Government to provide information on the specific penalties applied to perpetrators.***

*Magnitude of the problem.* The Committee recalls that it has been repeatedly referring to the urgent need for a comprehensive, large-scale national survey on bonded labour, in order to ascertain the scope and order of magnitude of the practice. In relation to state-level surveys to be conducted to collect data on the magnitude of the problem of bonded labour in the country, the Committee notes that, according to the Crimes in India report from the NCRB, 22 out of the 36 states and union territories (UTs) did not report identifying any bonded labour victim or filing any case under the BLSA in 2021. In that regard, the Committee notes that the NHRC, in its advisory issued in December 2021, recommended to undertake periodic surveys for the identification of bonded labour. It further notes that, in the context of the 2022 universal periodic review, the United Nations country team indicated that, decades after the enactment of the BLSA, forced labour and bonded labour continued to be

prevalent in India and disaggregated government statistics on bonded labour and forced labour are not available (A/HRC/WG.6/41/IND/2, 19 August 2022). **The Committee therefore urges the Government to take all necessary measures to ensure that statistical information on the nature and trends of bonded labour is made available through compiling any relevant data collected at the state and union territory level. The Committee expresses the firm hope that the Government will provide information without delay on the magnitude of the issue of bonded labour in the country.**

2. *Culturally sanctioned practice involving forced labour.* In relation to lower castes and tribes often engaged, as a result of their social origin and under coercion, in manual scavenging, the Committee notes the Government's indication that under the Scheme for the Rehabilitation of Manual Scavengers (SRMS): (i) 58,098 manual scavengers have been identified and released from manual scavenging with cash assistance; (ii) 18,800 manual scavengers benefited from various skill development programmes with monthly stipend; and (iii) 2,090 manual scavengers benefited from a capital subsidy for self-employment projects. The Government adds that a National Action Plan for Mechanized Sanitation Ecosystem (NAMASTE) has also been developed with a view to eliminating manual cleaning of sewers and septic tanks, and regular workshops are being organized in municipalities on safe cleaning practices. Furthermore, manual scavengers are eligible to receive a capital subsidy for the procurement of mechanized instruments and vehicles for cleaning sewers and septic tanks. The Committee notes the Government's indication that a mobile application called *Swacchata Abhiyaan* was launched in December 2020 to capture data on existing insanitary latrines and manual scavengers associated with their cleaning. The Government states that the data is now being verified by the concerned district administration. The Committee however notes that, in 2021, the NHRC issued recommendations on manual scavenging, while highlighting that periodic comprehensive surveys should be conducted, as a result of several anomalies found in existing surveys on manual scavenging. The NHRC also expressed serious concern over widespread continuance of manual scavenging and hazardous cleaning, despite existing laws and guidelines prohibiting this practice. In that regard, the Committee notes that, on 22 February 2023, the Supreme Court directed the Government to place on record, within six weeks, the steps taken to implement the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, including the steps towards rehabilitation of manual scavengers (Order W.P.(C) No. 324/2020). It further observes that, in March 2023, the Government informed the Parliamentary Standing Committee on Social Justice and Empowerment that a total number of 1,035 sanitation workers died while cleaning sewers and septic tanks. In 74 of these cases, compensation remains to be paid. In that regard, the Committee notes that as many as 347 manual scavengers died over the past five years, mainly in Tamil Nadu, Gujarat, Uttar Pradesh and Delhi states. While noting the measures taken by the Government to eliminate manual scavenging and the prohibition of such practices established in the national legislation, the Committee expresses its **concern** over the persistence of this practice, in situations that could amount to forced labour. **The Committee requests the Government to continue to take the necessary measures to ensure that the provisions of the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance (No. 1) of 2014 (SCST Act of 2014) are strictly and effectively enforced, and the effective rehabilitation of manual scavengers is ensured. The Committee also requests the Government to provide information on the findings of any survey on manual scavenging, including the number, age group and gender of persons who are still working as manual scavengers.**

3. *Culturally sanctioned practices involving sexual exploitation.* The Committee previously referred to the prevalence of the *devadasi* system, a culturally sanctioned practice in certain states of India, under which lower caste girls are dedicated without their consent to local "deities" or objects of worship and once initiated as *devadasi* are sexually exploited by followers of the "deity" within the local community as they grew up. The Committee notes the Government's general statement that several laws have been adopted by the central and state governments to completely prohibit this practice, the legal framework

being actively implemented in order to prevent and punish any such incidence. The Committee however notes that, on 14 October 2022, the NHRC sent notices to the central and state Governments of Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Telangana and Maharashtra over the continued menace of the *devadasi* system in spite of laws criminalizing this practice. On that occasion, the NHRC indicated that more than 70,000 women were identified as *devadasis* in Karnataka, as well as 80,000 women in Telangana and Andhra Pradesh, most of whom are from scheduled castes and scheduled tribes. ***The Committee again urges the Government to take the necessary measures to bring an end to the devadasi system in practice, including through effective enforcement of the legislation adopted in the different states. It requests the Government to provide information on the concrete measures taken in this regard and the results achieved in terms of the number of women and girls who have been withdrawn and rehabilitated. Lastly, the Committee requests the Government to provide information on the number of investigations, prosecutions and convictions relating to the practice of devadasi, as well as the specific penalties imposed.***

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

## Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

### Previous comment

*Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for the expression of political views or views ideologically opposed to the established system.* The Committee recalls that, for a number of years, it has been referring to several provisions of the Penal Code, under which penalties of imprisonment (which may involve compulsory prison labour under section 53 of the Penal Code, if an offender is sentenced to “rigorous imprisonment” at the discretion of the court exercised under section 60 of the Penal Code) could be imposed in circumstances falling within the scope of the Convention. It previously noted the Government’s statement that, while sections 295-A and 298 of the Penal Code on acts intended to outrage religious feelings explicitly provide for the imposition of punishment of either “simple imprisonment” or “rigorous imprisonment”, sections 124-A (sedition), 153-A (promoting enmity between different groups) and 153-B (imputations and assertions prejudicial to national integration) of the Penal Code merely refers to “imprisonment” which should be interpreted as “simple imprisonment” that does not involve an obligation to perform labour.

The Committee notes that the Government refers, in its report, to the 2021 Crime in India report from the National Crime Records Bureau (NCRB), which makes a general reference to sections 295 to 297 of the Penal Code, under which 1,475 new cases were registered in 2021. Recalling that section 124-A of the Penal Code, which criminalizes sedition, establishes penalties of imprisonment, including imprisonment for life, which may involve an obligation to perform labour pursuant to section 55 of the Penal Code, the Committee notes that, according to the NCRB, in 2021, 76 cases of sedition were registered, while 189 cases were pending investigation from previous years and 86 persons were arrested under sedition charges. Since 2019, a total of 312 sedition cases have been registered according to NCRB’s data. In that regard, the Committee observes that, according to the NCRB, in 2021, 814 cases of violation of the Unlawful Activities (Prevention) Act were registered, while 4,013 cases were pending investigation from previous years and 1,621 persons were arrested under the Act. In that regard, the Committee notes that, as a result of a petition made before the Supreme Court on February 2021 to challenge the constitutionality of section 124-A of the Penal Code (*S.G. Vombatkere v. Union of India* [(2022) 7 SCC 433]), on 11 May 2022, the Supreme Court issued an order that suspended pending trials, appeals and proceedings related to sedition charges. It notes that, on that occasion, the Government indicated that it had decided to “re-examine and reconsider” section 124-A of the Penal Code. The Committee notes that, in its report published in April 2023 (report No. 279), the Law Commission of India recommended to retain section 124-A of the Penal Code while introducing certain amendments. In that regard, the Committee takes note of the Bharatiya Nyaya Sanhita Bill, 2023 introduced to the Lok Sabha in August 2023 (lower house of Parliament), with the aim to repeal and

replace the existing Penal Code. It notes more particularly that section 150 of the Bill criminalizes “acts endangering the sovereignty, unity and integrity of India” and establishes penalties of imprisonment for life or imprisonment and a fine. The Bill also introduces a new offence regarding “terrorist acts” (section 111 of the Bill).

In this regard, the Committee notes that several United Nations experts have repeatedly highlighted grave concerns regarding the Unlawful Activities (Prevention) Act, 1967, which is applied as a means of coercion against civil society, the media, and human rights defenders in Jammu and Kashmir states. The Committee further notes that, in the context of the Universal Periodic Review, similar concerns were expressed by the High Commissioner for Human Rights who urged the Government to release people who had been charged under the Unlawful Activities (Prevention) Act for simply exercising basic human rights (A/HRC/WG.6/41/IND/2, 19 August 2022).

***The Committee requests the Government to take the necessary measures, including in the context of the ongoing legislative process for the revision of the Penal Code, to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views opposed to the established system, for example by clearly restricting the scope of sections 124-A, 295-A and 298 of the Penal Code and of the Unlawful Activities (Prevention) Act, 1967 to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee again requests the Government to provide information on the application of these provisions in practice, including copies of any court decisions defining or illustrating their scope.***

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

## Indonesia

### Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

#### Previous comment

*Articles 1(1), 2(1) and 25 of the Convention. 1. Trafficking in persons. (a) National action plan; prosecution.* The Committee previously requested the Government to strengthen law enforcement action regarding trafficking in persons cases. It notes the Government’s indication in its report that the handling of cases related to the illegal placement of migrant workers abroad is conducted under Act No. 21 of 2007 on Trafficking in Persons, in conjunction with Act No. 18 of 2017 on the Protection of Indonesian Migrant Workers, which provides for maximum penalties for punishment of officials involved. The Government indicates that between 2017 and 2021, the National Police handled 402 trafficking in persons cases throughout Indonesia and that no cases involving government officials were reported. The Committee also notes that the Ministry of Women Empowerment and Child Protection (MoWECP) provided training on trafficking for 140 law enforcement and human resources officials from 34 provinces in Indonesia in 2021. Moreover, the National Police Education and Training Institute organized special training every year, for investigators at the central and regional levels, to enhance their capacity in the handling of trafficking in persons cases. It further notes that currently the Anti-trafficking in Persons Task Force has been established in 32 provinces and 245 districts/cities with separate specialized Sub-Task Force for prevention and handling of trafficking in persons cases; law enforcement; coordination and cooperation; social and health rehabilitation, repatriation and social reintegration; and legal norm development.

The Committee also notes from the Government’s report of September 2022 to the United Nations Human Rights Council that several achievements have been made through the Bali Process Working Group on Trafficking in Persons, such as the publication of three Policy Guides pertaining to Criminalizing Trafficking in Persons, Identifying and Protecting Victims of Trafficking in Persons, and Following the Money on Trafficking in Persons cases. According to this report, the Government is in the process of drafting the National Action Plan on Combating Trafficking in Persons



(A/HRC/WG.6/41/IDN/1). The Committee further notes the information provided by the Government in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that according to the data on trafficking in persons compiled by the Online Information System for the Protection of Women and Children in June 2022, the number of trafficking in persons cases has increased steadily and considerably. There were 226 cases in 2019, 422 cases in 2020; and 683 cases in 2021 with majority of victims being women.

***The Committee requests the Government to strengthen its efforts to combat trafficking in persons and provide detailed information on the activities undertaken to this end, in particular by the Anti-Trafficking Task Force. The Committee hopes that the Government will take the necessary measures for the effective implementation of the National Action Plan on Combating Trafficking in Persons and requests it to provide a copy of the Plan as well as information on any assessment undertaken in this regard. It also requests the Government to continue to strengthen the capacity of law enforcement bodies to ensure proper identification and investigation of cases of trafficking so that perpetrators can be prosecuted and dissuasive penalties can be imposed on them. The Committee further requests the Government to indicate the number of investigations, prosecutions and convictions, as well as the specific penalties imposed under Law No. 21/2007.***

(b) *Protection of victims.* The Committee notes the Government's information that the MoWECP issued the Women Empowerment and Child Protection Ministerial Regulation No. 8 of 2021 concerning the Standard Operating Procedure for Integrated Services for Witnesses and/or Victims of trafficking. The scope of this regulation includes complaints mechanism, health rehabilitation, legal assistance, social rehabilitation, repatriation and social reintegration. The Government indicates that from 2015 to 2019, the Sub-Task Force for the Social Rehabilitation, Repatriation and Social Reintegration repatriated and rehabilitated 1,975 victims of trafficking from abroad; provided social assistance to 3,710 Indonesian migrant victims of trafficking; and provided protection for 1,165 witnesses of trafficking. The Trauma Center Protection House (RPTC) assisted and provided social rehabilitation for 2,437 victims of trafficking from 2017 to 2020. Moreover, between 2017 and 2018, 350 victims of trafficking received assistance for Productive Economic Businesses, and 2,570 victims of trafficking received the Social Reintegration Social Guidance Programme in 2020. Currently, 16 RPTCs owned by local governments and 31 Technical Service Units located in 18 provinces which provide social rehabilitation services for victims of trafficking are operating in the country. The Committee also notes that the United Nations Committee on the Elimination of Discrimination against Women, in its concluding observations of November 2021 expressed concern at the absence of a standardized early identification and referral system, remedies and reintegration assistance for trafficking victims as well as the lack of understanding among police and other law enforcement officers about gender-sensitive procedures for dealing with victims of trafficking (CEDAW/C/IDN/CO/8).

***The Committee requests the Government to continue taking measures to provide appropriate protection and assistance to victims of trafficking, including measures to ensure early identification and referral of women and girls who are victims of trafficking as well as gender-sensitive procedures when providing assistance to such victims. It requests the Government to indicate the measures taken in this regard, in particular pursuant to the Ministerial Regulation No. 8 of 2021 concerning the Standard Operating Procedure for Integrated Services for Witnesses and/or Victims of trafficking. The Committee further requests the Government to continue to provide information on the number of victims of trafficking who are benefiting from the services of the Sub-Task Force, the Trauma Center Protection House, Productive Economic Businesses and the Social Reintegration Social Guidance Programme.***

2. *Vulnerable situation of migrant workers and risk of forced labour.* (a) *Law enforcement.* The Committee previously noted Act No. 18 of 2017 concerning the protection of Indonesian migrant workers, which provides for heavier punishment for non-respect of procedural requirements regarding the placement of Indonesian migrant workers. The Committee also noted that undocumented migrants

working in Indonesia are frequently subjected to labour and sexual exploitation, including forced labour, particularly in the fisheries, construction, agriculture, mining, manufacturing, tourism and domestic work sectors.

The Committee notes the Government's information that it continues to strengthen the protection of Indonesian migrant workers from forced labour conditions and the prevention of such practices and has taken the following measures in this regard: (i) launching of the Training of Trainers programme for regional government institutions that deal with women migrant workers, as well as Mental Strengthening Training for Indonesian migrant women workers; (ii) establishment of the Indonesian Migrant Workers Family Development (BK-PMI) in 14 provinces, 67 districts/cities, 95 sub-districts, and 104 villages/sub-districts, as well as 117 working groups to assist the Indonesian migrant workers and their families; and (iii) establishment of the Indonesia Migrant Workers Protection Board (BP2MI) which provides pre-departure briefing on the duties and obligations of the Indonesian migrant workers under the employment agreement. The BP2MI signed cooperation agreements with more than 80 local governments, aimed at synergizing efforts in eradicating the illegal placement of migrant workers. Moreover, the Ministry of Manpower undertook the following measures to prevent the placement of Indonesian migrant workers outside appropriate procedures : (i) socialization on the placement and protection of Indonesian migrant workers through online and offline media; (ii) encouraging and providing assistance in the establishment of the One-Stop Integrated Services; (iii) establishment and strengthening of the Task Forces for Protection of Indonesian Migrant Workers both at the center and in regions located at 25 embarkation/debarkation locations/areas of origin of Indonesian migrant workers; (iv) establishment of productive migrant villages which provide capacity-building, financial literacy training and entrepreneurship workshops for returned migrant workers; and (v) conclusion of multi-stakeholder cooperation in the Safe and Fair migration programme with the ILO, UN-Women and several NGOs. The Committee further notes the Government's information that in 2021 and 2022, a total of 21 Indonesian migrant workers placement companies were sentenced to temporary suspension of activities pursuant to Act No. 18 of 2017 and Government Regulation No. 59 of 2021 concerning the implementation of protection of Indonesian migrant workers. Furthermore, information from the ILO indicates that the Ministry of Manpower, jointly with the ILO-UN-Women Safe and Fair programme has piloted and developed the Gender-Responsive Migrant Worker Resources Center and the One-Roof Integrated Services in four districts known as the origin districts of Indonesian migrant workers so as to improve the protection of women migrant workers and their families at every stage of migration, from their hometown to returning. ***The Committee encourages the Government to continue its efforts to protect migrant workers from abusive practices and ensure that they are not placed in a position of accrued vulnerability to forced labour, including through the implementation of the various measures initiated by the Government and the Indonesia Migrant Workers Protection Board for the protection of migrant workers as well as within the framework of the Safe and Fair programme. It further requests the Government to indicate the results achieved in this respect. The Committee also requests the Government to continue to take the necessary measures to ensure the effective application of Act No. 18 of 2017 and Regulation No. 59 of 2021, and to provide information on the number of violations detected and the specific penalties imposed.***

(b) *International cooperation.* Following its previous comments, the Committee notes the Government's information that Indonesia signed a memorandum of understanding with Malaysia on the placement and protection of Indonesian migrant workers in the domestic sector in April 2022. According to the memorandum of understanding, the Government of Indonesia shall comply with the requirement that persons selected for work in the domestic sector: (i) are between 21 and 45 years of age; (ii) have sufficient knowledge of the law, culture and social practice in Malaysia; (iii) have the ability to communicate in Bahasa Malaysia; (iv) comply with Malaysian immigration procedures; (v) have competency certification and meet the health requirements for work in the domestic sector; and (vi) are registered in the social security programme in Indonesia. The Government also indicates that the BP2MI

is making efforts to expand similar cooperation to other targeted destination countries with a focus on the placement of professional and skilled workers. **The Committee requests the Government to continue providing information on its international cooperation efforts undertaken to protect and support migrant workers in transit and destination countries. It also requests the Government to provide information on the implementation of the memorandum of understanding with Malaysia and the results achieved in terms of enhancing the protection of migrant workers in the domestic sector.**

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)**

#### Previous comment

*Article 1(a) of the Convention. Imposition of penalties involving compulsory labour as a punishment for expressing views opposed to the established political, social or economic system. 1. Penal Code.* In its previous comments, the Committee noted that sections 154 and 155 of the Criminal Code establish a penalty of imprisonment (involving compulsory labour) for up to seven years and four-and-a-half years, respectively, for a person who publicly gives expression to feelings of hostility, hatred or contempt against the Government (section 154) or who disseminates, openly demonstrates or puts up a writing containing such feelings, with the intent to give publicity to the contents or to enhance the publicity thereof (section 155). It also noted that the Constitutional Court, in its ruling on Case No. 6/PUU-V/2007, found sections 154 and 155 of the Criminal Code to be contrary to the Constitution of 1945. The Committee further noted that, in ruling No. 013-022/PUU-IV/2006, the Constitutional Court found that it was inappropriate for Indonesia to maintain sections 134, 136 bis and 137 of the Criminal Code (respecting deliberate insults against the President or the Vice-President), since they negate the principle of equality before the law, diminish freedom of expression and opinion, freedom of information and the principle of legal certainty. The Constitutional Court stated that the new draft text of the Criminal Code must not include similar provisions. Noting that the amendments to the Criminal Code were ongoing, the Committee urged the Government to take the necessary measures to ensure the adoption of the Criminal Code in the near future, taking into account the rulings of the Constitutional Court.

The Committee notes the Government's information in its report that the draft Bill on the Criminal Code is still being discussed in the House of Representatives of the Republic of Indonesia. The Committee notes that according to the draft Bill on Criminal Code, acts of publicly attacking the honour or dignity of the President, or Vice-President and broadcasting or disseminating any pictures or writings in this regard (section 218); and insulting, degrading or damaging the honour or image of the government or state institutions (section 240), or national flag (section 234) or state symbol (section 236) are punishable with imprisonment ranging from one year and six months to four years. In this regard, the Committee notes the Government's information that compulsory social work sanctions that may be carried out in hospitals, orphanages, elderly homes, schools or other social institutions, may be imposed: (i) for crimes punishable with imprisonment of less than five years; or (ii) where the judge imposes a maximum imprisonment of six months or a maximum fine of category II; or (iii) as an alternative to short-term imprisonment and light fines.

The Committee points out that the Convention prohibits the use of "any form of forced or compulsory labour" as a sanction, as a means of coercion, education or discipline in circumstances falling within its scope. It also recalls that the Convention does not prohibit punishment by penalties involving compulsory prison labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence; but sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of the expression of views or of opposition to the established political, social or economic system, whether such prohibition is imposed by law or by a discretionary administrative decision (see [General Survey of 2012 on fundamental Conventions](#), paragraph 303). **The Committee therefore urges the Government to take the necessary measures to ensure that both in law and practice, no one who, in a peaceful manner, expresses political views or**

***opposes the established political, social or economic system can be sentenced to sanctions under which compulsory prison or compulsory social work is imposed. It accordingly requests the Government to review the provisions of sections 218, 234, 236 and 240 of the Criminal Code Bill to ensure compliance with the Convention by limiting the application of criminal sanctions to situations connected with the use of violence or incitement to violence or by repealing sanctions involving compulsory prison or compulsory social work. The Committee also requests the Government to provide a copy of the revised Criminal Code in English, once it has been adopted.***

2. *Law No. 27 of 1999 on the Revision of the Criminal Code.* In its earlier comments, the Committee noted that under section 107(a), (d) and (e) of Law No. 27 of 1999 on the Revision of the Criminal Code (in relation to crimes against state security), sentences of imprisonment may be imposed upon any person who disseminates or develops the teachings of “Communism/Marxism-Leninism” orally, in writing or through any media, or establishes an organization based on such teachings, or establishes relations with such an organization, with a view to replacing *Pancasila* as the State’s foundation. It noted the Government’s statement that Law No. 27 of 1999 cannot be amended due to the mandate stated in Law No. I/MPR/2003 on the status of legislative provisions. Section 2 of Law No. I/MPR/2003 states that Decree No. XXV/MPRS/1966 (which relates to the dissolution and prohibition of the Communist Party of Indonesia and the prohibition of activities to disseminate and develop a Communist/Marxist-Leninist ideology or doctrine) shall remain valid, and shall be enforced with fairness and respect for the law. The Committee pointed out that, pursuant to sections 14 and 19 of the Criminal Code and sections 57(1) and 59(2) of the Prisons Regulations, persons sentenced to imprisonment shall perform work imposed on them, which constitutes compulsory prison labour. Recalling that *Article 1(a)* prohibits all recourse to 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, the Committee urged the Government to take the necessary measures to bring section 107(a), (d) and (e) of Law No. 27 of 1999 into conformity with the Convention.

The Committee notes the Government’s information that the substance of sections 14 and 19 are no longer regulated in the Criminal Code Bill. The Government, referring to Law No. 12 of 1995 concerning correctional institutions, states that the correctional system serves to prepare correctional inmates to integrate in a healthy manner into the community and to become free and responsible members of the society.

The Committee also notes that Law No. 27 of 1999 shall be revoked and declared invalid following the promulgation of the Criminal Code Bill (section 622(1) of the Criminal Code Bill). The Committee, however, notes that the provisions under section 107(a)(d) and (e) of Law No. 27 of 1999 appear to be retained under sections 188 and 189 of the Criminal Code Bill, with punishment of imprisonment for a maximum of ten years. Moreover, under section 190, anyone who seeks to replace *Pancasila* as the state ideology will be sentenced up to five years of imprisonment. The Committee once again recalls the Government that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence, but sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of the expression of views or of opposition to the established political, social or economic system. In this regard, the Committee emphasizes that, while convict labour exacted from common offenders, such as offenders of robbery, kidnapping, bombing or other acts of violence, is intended to reform or rehabilitate them, the same need does not arise in the case of persons convicted for their opinions (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 300 and 303). ***The Committee therefore urges the Government to take the necessary measures to bring sections 188, 189 and 190 of the Criminal Code Bill into conformity with the Convention, by clearly restricting the scope of these provisions to situations connected with the use of violence, or incitement to violence, or by repealing sanctions involving compulsory prison or compulsory social work thereby ensuring that persons who peacefully express political or ideological views opposed to the established political,***

***social or economic system cannot be sentenced to a term of imprisonment which includes the obligation to work.***

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

## Italy

### Forced Labour Convention, 1930 (No. 29) (ratification: 1934)

#### Previous comment

The Committee notes the observations of the Italian Union of Labour (UIL), the Italian Confederation of Workers' Trade Unions (CISL) and the Italian General Confederation of Labour (CGIL), communicated with the Government's report.

*Articles 1(1) and 2(1) of the Convention. Exploitation of foreign workers in an irregular situation.* The Committee previously acknowledged the difficult situation faced by Italy in relation to the increase in irregular immigration flows. The Committee also recognized the Government's efforts to combat gangmastering and the labour exploitation of migrants through the implementation of various projects and initiatives and requested the Government to pursue its efforts in this regard.

The Committee notes the Government's indication in its report concerning the adoption of a three-year Plan to Combat Labour Exploitation in Agriculture and Gangmastering for 2020–22. The Government indicates that the Plan was elaborated in consultation with the competent national and local institutions, workers' and employers' representatives in the food and agricultural sector and leading associations in the tertiary sector. The Committee observes that the Plan provides for priority actions in four strategic areas, including prevention; enforcement; protection and assistance; and labour and social reintegration. The Government further indicates that more than €700 million has been allocated for the implementation of the Plan. In addition, the Ministry of the Interior, the Ministry of Labour and Social Policy, the Ministry of Agriculture, Food and Forestry, and the National Association of Italian Municipalities signed a protocol of understanding to ensure the coordinated implementation of the actions set out in the Plan. As envisaged in the Plan, the National guidelines on the identification, protection and assistance of victims of labour exploitation in agriculture were adopted on 7 October 2021.

The Government further refers to the P.I.U.-Su.Pr.Eme (Individualized Exit Paths from Exploitation) project, co-financed by the Ministry of Labour and Social Policy and the European Union, which aims at providing legal, administrative, social and health assistance to third-country nationals who are victims or potential victims of labour exploitation in the southern regions of Italy. Within the framework of the Su.Pr.Eme. Italia and A.L.T. Caporalato! projects, in 2020, 758 inspections were carried out which covered 4,767 foreign workers and identified various violations of the labour legislation in relation to 1,069 workers, including 205 potential victims of labour exploitation. Furthermore, according to the Protocol signed in 2021 with the International Organization for Migration (IOM), IOM cultural mediators with expertise in different languages participated in labour inspections with a view to facilitating the exchange of information with foreign workers. As regards the application in practice of section 603bis (unlawful intermediation and labour exploitation) of the Criminal Code, according to the data from the Ministry of Justice, in 2021, there were 572 registered cases against 1,170 persons; 233 cases of prosecution against 523 persons; and 93 convictions, involving 150 persons, handed down by first instance courts.

The Committee notes the observations of the UIL, the CISL and the CGIL indicating the need to decriminalize the offence of illegal immigration established by section 10bis of Legislative Decree No. 286 of 1998 (Consolidated text of provisions governing immigration and rules on the status of foreigners). The UIL, the CISL and the CGIL point out that foreign workers in an irregular situation who are victims of labour exploitation may be reluctant to cooperate with the inspection authorities due to

the risk of deportation. In this respect, the Committee notes the Government's reply that inspection authorities are obliged to report identified workers without residence permits to the law enforcement bodies. The Government further indicates that inspectors may request the competent authority to facilitate the issuance of a residence permit to a victim of labour exploitation. According to the Government, for the period from January to June 2022, a total of 313 residence permits were provided to foreign victims of violence and exploitation.

The Committee further notes that in its 2022 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights noted a rise in the number of irregular migrants and increased risk of their exploitation (E/C.12/ITA/CO/6). The 2022 report of the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises refers to the cases of labour exploitation of migrant workers, particularly through the *caporalato* system, which is an illegal form of outsourcing the hiring and exploitation of manpower through intermediaries (A/HRC/50/40/Add.2).

The Committee also observes that in its [2023 conclusions](#) on the application of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), by Italy, the Committee on the Application of Standards noted with concern several issues regarding compliance with the Conventions, in essence related to labour inspection with respect to the employment of migrant workers in an irregular situation. In this regard, the Committee recalls its [comments](#) under the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), in which the Committee emphasized the need to address migration in abusive conditions and irregular migration with full respect for migrant workers' human rights.

***While taking due note of the measures taken and the complexity of the situation on the ground, the Committee requests the Government to continue its efforts to prevent migrant workers from being caught in abusive practices and conditions of work that could amount to forced labour and to ensure the effective and adequate protection of migrant workers who are victims of forced labour, irrespective of their legal status in the country; this protection should include access to information about their rights, as well as effective procedures to seek redress and obtain compensation. The Committee requests the Government to provide information on the measures taken in this respect, particularly as regards the sectors where migrant workers are predominantly employed, such as the agricultural and garment sectors. The Committee also requests the Government to provide information on any assessment of the results achieved through the implementation of the Plan to Combat Labour Exploitation in Agriculture and Gangmastering for 2020-22. The Committee also requests the Government to continue to strengthen the capacity of law enforcement bodies to identify and investigate cases of labour exploitation as defined and criminalized under section 603bis of the Criminal Code in order to ensure the imposition of sufficiently dissuasive penalties on perpetrators.***

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

## Jamaica

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

#### [Previous comment](#)

*Article 1(c) and (d) of the Convention. Disciplinary measures applicable to seafarers.* For a number of years, the Committee has been requesting the Government to amend 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));

- section 179(a) and (b), which punishes, with similar penalties, the offences of desertion and absence without leave.

The Committee notes the Government's information in its report that the Ministry of Transport and Mining, in consultation with the Maritime Authority of Jamaica, is in the process of reviewing sections 178 and 179 of the Shipping Act. The Government states that the necessary steps will be taken to ensure that the provisions of the above-mentioned Act are in compliance with the Convention. In this regard, 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. Therefore, the punishment of breaches of labour discipline, such as desertion, absence without leave or disobedience, with sanctions of imprisonment involving an obligation to perform labour is incompatible with the Convention. **Noting that the Government has been referring to the revision of the above-mentioned provisions of the Shipping Act for a number of years and that it has indicated that they were not applied in practice, the Committee expects the Government to 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 in line with the Convention. It requests the Government to provide information on the progress made in this regard.**

## Japan

### Forced Labour Convention, 1930 (No. 29) (ratification: 1932)

#### [Previous comment](#)

The Committee notes the joint observations of the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) received on 20 September 2019; the observations of the Labour Union of Migrant Workers (LUM) received on 28 September 2021 and 28 September 2022, as well as the Government replies to these observations. It also notes the observations of the Japan Business Federation (NIPPON KEIDANREN) and the Japanese Trade Union Confederation (JTUC-RENGO) communicated by the Government with its reports.

*Articles 1(1), 2(1) and 25 of the Convention. 1. Technical Intern Training Programme.* The Committee previously noted that labour rights violations amounting to forced labour were found within the Technical Intern Training Programme, under which foreign nationals could enter Japan as "interns" for one year and remain for another two years as "technical interns".

The Committee notes that, in its observations, the LUM indicates that the number of technical intern trainees in Japan was estimated at 276,123 as at the end of 2021, which represents a decrease of 100,000 trainees from previous years due to the immigration restrictions enforced during the pandemic. The Committee notes that, in their respective observations, the LUM and the JTUC-RENGO highlight that, in 2021, violations of labour law provisions were still found in 70 per cent of enterprises participating in the Technical Intern Training Programme inspected, mainly as a result of non-compliance with safety standards, long working hours and unpaid wages, a percentage that remains almost unchanged since 2015. The LUM adds that, in 2022, 1,974 cases of non-compliance with safety standards were detected, out of which only 0.5 per cent were sent to prosecutors. The LUM highlights that, according to a report from the Ministry of Justice, there were 199 deaths of trainees between 2018 and 2021, of which 33 per cent were caused by disease, 35 per cent by accident and 13 per cent by suicide. In its observations, the JTUC-RENGO further indicates that approximately 20 per cent of cases of unknown whereabouts or deaths of technical trainees that occurred between April and September of 2019 had not resulted in an on-site inspection being performed within six months of the occurrence of the event, with a risk of the dissipation of objective materials leading to the event. The JTUC-RENGO recommends increasing the frequency of on-site inspections and strengthening initial responses in case of violations, such as by the

suspension of licences for supervising organizations and the revocation of accreditation of technical intern training plans for implementing organizations.

The Committee notes that the Government acknowledges, in its report, the persistence of several issues in relation to the implementation of the Technical Intern Training Programme. The Government indicates that several measures have been implemented in order to ensure appropriate working conditions and the safety and health of trainees, such as: (i) the review in February 2022 of the Operational Guidelines for the Technical Intern Training Programme, which sets out the necessary measures to be taken by supervising organizations and implementing organizations in order to ensure the proper and smooth operation of the programme; (ii) the handing of the Technical Intern Trainee Handbook containing information on relevant regulations and support services to all trainees at the time of their entry to Japan; (iii) the establishment of consultation services in trainees' native languages and, since April 2021, of a Technical Intern Training SOS/Urgent Consultation Counter to respond to particularly urgent cases, such as assault and intimidation, and quickly identify cases of human rights violations; (iv) support for changing training sites in case of human rights violations, and the provision of appropriate protection to interns with temporary accommodation; (v) the strengthening of the human resources of the Organization for Technical Intern Training (OTIT) with 587 staff members as of 31 March 2020; and (vi) the conclusion of memoranda of cooperation with 14 countries of origin, as of 31 March 2021.

The Committee further notes the Government's indication that the OTIT regularly conducts on-site inspections of implementing and supervising organizations based on the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees, 2016, and, also, upon the occurrence of fatal accidents with a view to preserving materials related to the cause of death. The Government states that, from April 2020 to March 2021, 20,671 on-site inspections were carried out by the OTIT and violations were observed in 63.4 per cent of the inspections, mainly regarding poor accommodation facilities, inappropriate payment of remuneration, inadequate notifications and reports and inadequate preparation and keeping of books and documents. The Government adds that, in 2021, the Labour Standards Inspectorate provided supervision guidance to 9,036 workplaces where violations of labour laws were initially identified, issued corrective recommendations to 6,556 workplaces where violations were confirmed, and referred 25 cases to the Public Prosecutor's Office. The Government adds that, in 2021, the prefectural labour offices, the Labour Standards Inspectorate and the OTIT jointly conducted inspections and investigations in 37 implementing organizations suspected, inter alia, of forced labour under the Technical Intern Training Programme, and corrective recommendations were issued in 30 cases.

Moreover, the Committee notes the Government's indication that the Advisory Panel of Experts for the Ideal Form of the Technical Intern Training Programme and Specified Skilled Worker System was set up under the auspices of the Ministerial Conference on Acceptance of and Coexistence with Foreign Nationals to review the implementation of the programme, identify issues and discuss ways to properly accept foreign workers. The Advisory Panel submitted an interim report to the Minister of Justice in May 2023, which suggests abolishing the current Technical Intern Training Programme and establishing a new programme because of the discrepancy between the current programme's objective and the reality. The Advisory Panel pointed out that the guidance, supervision and support provided by supervising organizations and the OTIT are currently insufficient in several aspects. In that regard, the Government states that it will consider constructively dissolving the current Technical Intern Training Programme and establishing a new programme based on the Advisory Panel's further discussions in the future. More particularly, several measures are currently under consideration, such as: (i) allowing trainees to change employers while keeping some restrictions; (ii) providing assistance to foreign workers so that they can acquire the necessary language skills before they start working in Japan; (iii) raising the capability level of supervising organizations and supporting recipient companies and trainees by making eligibility requirements for supervising organizations stricter from the perspective



of preventing and eliminating human rights abuses; and (iv) reorganizing the operating structure of the OTIT.

The Committee takes due note of this information. The Committee notes that in their observations, the NIPPON KEIDANREN and the JTUC-RENGO highlight that any new system should not be merely a name change, but a fundamental reform of the current system in order to adequately protect migrant workers' rights. As regards the Special Skilled Worker visa programme, established in 2018, the JTUC-RENGO indicates that it has received several inquiries regarding the programme, similar to those received regarding the Technical Intern Training Programme, in particular relating to wages, working hours and harassment. The JTUC-RENGO therefore also recommends undertaking an effective review of the Special Skilled Worker visa programme, together with the establishment of a new system for technical interns, in order to avoid creating the same vulnerabilities to labour abuses. In the view of the JTUC-RENGO, the Government should also foster a multicultural environment, including through a national debate on the acceptance of migrant workers.

The Committee takes due note of the efforts made by the Government but notes with **concern** the persistence of labour rights violations and abusive working conditions of technical training interns that could amount to forced labour. **The Committee urges the Government to continue to take all necessary measures to ensure that technical training interns are adequately protected, including through capacity-building activities for law enforcement officers, effective inspection activities at receiving entities and accessible channels to report abusive situations, as well as prompt responses to such reports. The Committee requests the Government to provide information on the recommendations made in that regard by the Advisory Panel of Experts for the Ideal Form of the Technical Intern Training Programme and Specified Skilled Worker System in its final report, as well as on any follow-up actions implemented by the Government. The Committee further requests the Government to continue to provide information on the number and nature of the violations of the rights of technical training interns reported, the number of cases that have led to prosecutions and convictions, with an indication of the situations that gave rise to these convictions.**

2. *Wartime sexual slavery and industrial forced labour.* The Committee recalls that it has been examining the issue of sexual slavery (so called "comfort women") and industrial forced labour during the Second World War since 1995. It notes that, in their joint observations, the FKTU and the KCTU refer to a decision handed down on 30 October 2018 by the Supreme Court of the Republic of Korea that required two Japanese companies to pay compensation to Korean victims subjected to forced labour during the Japanese occupation of Korea (Case No. 2013 Da 61381). The FKTU and the KCTU add that it is estimated that at least 800,000 Koreans were mobilized into forced labour and conscription at that time, and that there is an urgent need for the Government of Japan and involved companies to provide a comprehensive range of measures to respect and restore the victims' rights, whose number continues to decline with the passing years. The Committee notes the Government's statement that, in its view, the decision from the Supreme Court clearly violates the 1965 Agreement concluded between Japan and the Republic of Korea which settled such issues.

In this regard, the Committee notes that, in March 2023, the Government of the Republic of Korea proposed a third-party compensation scheme for South Korean victims of forced labour during the Japanese occupation of Korea to be funded by voluntary contributions from the private sector of South Korea. The Japanese Government states that it officially welcomed the announced measures.

As regards the issue of "comfort women", the Committee notes the Government's repeated statement that it has no intention of denying or trivializing the issue. The Government adds that it dealt sincerely with issues of reparations, property and claims pertaining to the Second World War, including the "comfort women" issue, under the San Francisco Peace Treaty and other bilateral instruments, such as the 1965 and 2015 Agreements concluded with the Republic of Korea. In that context, the Government indicates that it cooperated to establish the Asian Women's Fund (AWF), dissolved in 2007,

which gave atonement money from private sector donations to 285 women, and contributed to the Reconciliation and Healing Foundation established by the Republic of Korea which provided financial support to 35 of the 47 former “comfort women” who were alive at the time of the 2015 Agreement, and to the bereaved families of 64 of the 199 former “comfort women” who were deceased at the time. It adds that, in 2018, the Republic of Korea unilaterally announced the dissolution of the Foundation. The Government indicates that, since 2018, Japanese courts have not dealt with any new case relating to “comfort women” or former civilian workers from the Republic of Korea.

Recalling that several wartime victims refused to accept the arrangements under the 2015 Agreement, the Committee notes with **concern** that no concrete measures have been taken since 2018 by the Government to resolve the issues of “comfort women” and industrial forced labour during the Second World War. It further notes that, in its 2022 concluding observations, the United Nations Human Rights Committee also regretted that the Government had made no progress and continued to deny its obligation to address the continuing violations of the victims’ human rights and the lack of effective remedies and full reparation to all victims of past human rights violations (CCPR/C/JPN/CO/7, 30 November 2022). ***Given the seriousness and long-standing nature of the case, the Committee urges the Government to make every effort to achieve reconciliation with the surviving victims, in particular those who have refused to accept the 2015 Agreement, and to ensure that adequate measures are taken, without further delay, to respond to the expectations and achieve resolution of the claims made by the aged surviving victims of wartime industrial forced labour and military sexual slavery, the number of whom is continuing to decline with the passing years.***

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

## Jordan

### Forced Labour Convention, 1930 (No. 29) (ratification: 1966)

#### Previous comment

*Articles 1(1), 3(1) and 25 of the Convention. 1. Vulnerable situation of domestic workers to forced labour.* Following its previous comments, the Committee takes note of the Government’s information, in its report, regarding the measures it has continued to take to protect migrant domestic workers from abusive practices and conditions of employment that could amount to forced labour.

*(a) New legislation.* The Committee takes due note of the adoption of Regulation No. 63 of 2020 governing agencies for the recruitment of non-Jordanian domestic workers, which provides for a number of measures aimed at ensuring better conditions of recruitment for these workers. These include:

- Sections 3(a) and 8(a)(i), allowing the recruitment of non-Jordanian domestic workers only through licensed recruitment agencies that operate in accordance with the provisions of the Regulation, and prohibiting agencies from recruiting workers other than through a licensed entity in a country of origin that has signed agreements or memoranda with the Kingdom of Jordan.
- Sections 8(b)(vii) and 9(e), requiring these recruitment agencies to secure private accommodations for domestic workers and prohibiting agencies and homeowners from charging worker fees or deducting any part of their wages to cover recruitment costs.
- Section 12, empowering the Ministry of Labour (MoL) to inspect the agencies at any time to ascertain and verify the extent of their compliance with the law, and allowing the head of the Directorate of Domestic Workers to take action and issue sanctions against a violating agency, including suspension, and the MoL to impose harsher sanctions, such as fines or permanent closure of the agency’s license if the violation constitutes a serious breach of human rights or

of the legislation in force (exploitation or employment of domestic workers as daily labourers, seizing of their wages, physical or sexual assault, mistreatment).

In addition, the MoL has issued instructions for agencies operating the recruitment of non-Jordanian domestic workers pursuant to Regulation No. 63 of 2020, which provide additional protection for non-Jordanian domestic workers through the regulation of their conditions of employment. For example, under section 13, the MoL may refuse to grant or renew a work permit if it is found that the homeowner or whoever resides with the worker has violated any of his or her corporal rights; found to have sexually assaulted him or her; delayed payment of wages; or mistreated him or her in any way. The Committee also notes that Regulation No. 90/2009 regarding domestic workers, cooks, gardeners and similar categories, as amended in 2020, specifically regulates the working conditions of these workers, without distinction of whether or not they are Jordanian, and sets the responsibilities of the homeowners/employers in this regard, as well as the domestic workers' rights.

*(b) Procedure to change employers.* The Committee takes note of the Government's detailed information relating to the procedure to transfer to another employer in case of a complaint for violation of the Labour Act and/or the Regulation on domestic workers, as well as in cases of sexual or physical assault.

In the former case, a procedure is in place which entails the possibility of an amicable settlement or, otherwise, a report against the violating homeowner and a judicial procedure during which he or she is forbidden to recruit or arrange the transfer of a worker to work for him for a period determined by the Minister (section 11(d) of Regulation No. 90/2009). In the latter case, the workers are entitled to leave the employment and claim their rights. If the domestic worker wishes to work for another homeowner, the agency may transfer the worker to another homeowner without the current homeowner's consent. If the worker refuses to work for another homeowner and wishes to return to the home country, the homeowner will then be denied the right to renew the worker's work permit; to recruit another domestic worker or to have another domestic worker transferred to him/her for the period determined by the Minister of Labour; or to replace the domestic worker within a 90 day period from the date of the worker's entry into the country or within a 30 day period from the date on which the homeowner receives the worker. The Government indicates that, in 2021, there occurred 8 153 transfers from one homeowner to another, although the nature of and reasons for these transfers have yet to be classified.

*(c) Complaints.* The Committee notes the Government's information and statistics regarding the complaints received by the Directorate of Domestic Workers of the MoL, both in cases directed against homeowners and the recruitment agencies. The Government also refers to the electronic platform "Hemayah" ("Protection"), launched in Arabic and English in 2020 and being translated into ten different languages, which is being developed to allow complaints to be filed electronically. The form includes questions related to forced labour indicators; if more than one indicator is signalled, the complaint is referred to the Anti-Human Trafficking Unit (AHTU). The Government indicates that, in 2021, four complaints concerning suspected cases of trafficking in persons falling within the remit of the Ministry of Labour were received by the AHTU. In addition, 18 complaints were received in the framework of which action was taken against recruitment agencies (i.e., warning or suspension), and there were 92 complaints relating to the withholding of female domestic workers' travel documents, all of which were resolved.

***The Committee encourages the Government to continue its efforts to protect migrant domestic workers from abusive practices and conditions of work that could in certain cases amount to forced labour. In this regard, it requests the Government to provide information on the application of the new regulations in place, in particular on the number and nature of: (i) inspections and controls conducted of recruitment agencies and households; (ii) violations identified and penalties imposed on both recruitment agencies and employers/homeowners; and (iii) complaints made by domestic workers. The***

**Committee also encourages the Government to compile and classify the nature, reasons and circumstances of the cases leading to a transfer of employers, and to provide more information in this regard. Finally, the Committee requests the Government to provide specific information on cases in which indicators of forced labour have been identified and the cases have been referred to the AHTU, as well as on the penal action initiated as a result.**

2. *Trafficking in persons.* Following its previous comments, the Committee takes note of the various measures adopted by the Government to strengthen the action to combat trafficking in persons for both sexual and labour exploitation. In particular, it notes the following:

- (i) *Legislative and institutional framework to combat trafficking in persons.* The Committee notes with **interest** the Government's information that the Anti-Human Trafficking Act No. 9 of 2009 was amended by Act No. 10 of 2021, which amongst others, increases the penalties under section 9 of the Act; provides that victims receive appropriate assistance and care, including for their rehabilitation and reintegration; provides for the establishment of the Human Trafficking Victims Assistance Fund to grant the requisite assistance to victims and those affected by human trafficking crimes (section 14). Furthermore, under section 17 of the Act, a number of public prosecutors or specialized judges will be designated in each court of first instance to hear cases of human trafficking. The Committee also takes note of the adoption of the National Strategy and Action Plan to Prevent Human Trafficking (2019-2022), which includes several dimensions such as awareness-raising, including among refugees; ensuring the prompt identification of potential victims; providing full and adequate protection and assistance to victims; and broadening the scope of partnership with civil society organizations.
- (j) *Identification and protection of victims.* The Committee notes that the MoL continues to hold training courses for labour inspectors throughout the country, including a training that enabled twelve labour inspectors to become trainers in dealing with trafficking in persons cases. The labour inspectors who took part in the course for trainers have conducted seven training courses for 75 labour inspectors, covering how to identify victims of trafficking and to refer them to service providers and the competent authorities. In addition, the Committee notes the Government's indication that a draft National Referral Mechanism and Standard Operating Procedures for dealing with and protecting victims of trafficking (NRM SOPs) has been prepared which lays down a set of indicators for identifying victims and sets out the subsequent procedure for sheltering, protecting and assisting victims.
- (k) *Investigations and prosecutions.* The Committee takes note of the statistics provided by the Government regarding the number of cases of trafficking in persons: in 2021, there were 35 cases (12 for sexual exploitation, 19 for forced domestic labour, and 4 for forced labour); between 1 January and 30 April 2022, there were 11 cases (4 for sexual exploitation, 6 for forced domestic labour, and 1 for forced labour).

**The Committee requests the Government to provide information on the measures taken for the effective implementation of the different dimensions of the National Strategy and Action Plan to Prevent Human Trafficking, as well as on any assessment of the results achieved, the difficulties encountered and the measures taken thereon. The Committee also encourages the Government to further strengthen the capacity of law enforcement bodies to identify and prosecute cases of trafficking in persons, for both labour and sexual exploitation, and to provide information on the cases referred to the public prosecutors or specialized judges and on the penalties applied to the perpetrators. Finally, the Committee requests the Government to indicate the progress made in relation to the adoption of the NRM SOPs and the number of victims of trafficking identified and provided with assistance, either through these procedures or through the Human Trafficking Victims Assistance Fund.**

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

## Kazakhstan

### Forced Labour Convention, 1930 (No. 29) (ratification: 2001)

#### Previous comments

The Committee notes the observations of the Trade Union of Workers in the Fuel and Energy Complex, received on 31 August 2022.

*Articles 1(1), 2(1) and 25 of the Convention.* 1. *Forced labour of migrant workers.* The Committee previously referred to the situation of migrant workers who were victims of abuse and exploitation that could amount to forced labour and requested the Government to take the necessary measures to protect them. It notes with **regret** that the Government's report does not contain specific information in this regard. The Committee nevertheless notes from the International Organization for Migration (IOM) website the launch of a project, entitled Labour Migration Programme–Central Asia, covering Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, in 2022. The project aims at contributing to improved management of labour migration and harnessing human mobility for development in both countries of origin and destination. The Committee further notes that according to the Concept of Migration Policy for 2023–27 adopted by Government Decree No. 961 of 30 November 2022, deficiencies in the monitoring system for migrant workers and the growth of illegal labour migration are among the main issues in the field of labour migration.

The Committee further notes that, in its observations, the Trade Union of Workers in the Fuel and Energy Complex indicates that migrant workers are at risk of exploitation and often subject to abusive employer practices such as retention of passports, physical abuse and non-payment of wages. These observations refer to several cases of forced labour exacted from foreigners from the Russian Federation, Tajikistan and Uzbekistan. The Trade Union of Workers in the Fuel and Energy Complex also points to complicity and corruption among law enforcement officials involved in forced labour cases.

The Committee also observes that, in its 2022 concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed concern over reports that migrant workers face abuse and recommended increasing measures to prevent and fight exploitation of migrant workers, including by increasing labour inspections (CERD/C/KAZ/CO/8–10). The Committee also notes that in its 2019 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights expressed concern at reports of forced and bonded labour of some migrant workers in the tobacco, cotton and construction industries, as well as of some female domestic workers subjected to domestic servitude (E/C.12/KAZ/CO/2).

***The Committee strongly urges the Government to take the necessary measures to ensure that all migrant workers, regardless of their legal status, are fully protected from abusive practices and conditions of work that could amount to forced labour. In this respect, the Committee requests the Government to provide information on the measures taken to ensure that migrant workers have access to information about their rights, effective procedures to seek redress and obtain compensation, as well as adequate protection and assistance. It further requests the Government to provide information on the number of inspections and investigations carried out in economic sectors in which migrant workers are mostly occupied, including in the tobacco, cotton and construction industries and domestic work, and the results of such inspections.***

2. *Trafficking in persons.* In relation to the action taken to ensure the protection of victims of trafficking and the prosecution of perpetrators, the Committee notes the information provided by the Government on: (i) the adoption of the new Action Plan to Prevent and Combat Crimes Related to Trafficking in Persons (Action Plan) for 2021–23; (ii) the establishment of the Interdepartmental Commission to Combat Trafficking in Persons; (iii) the elaboration of a bill on combating trafficking in

persons which adopts an integrated approach to prevention and the protection of victims as well as the investigation and suppression of trafficking in persons; (iv) the adoption in 2020 and 2021 of amendments to the Supreme Court Decree No. 7 of 29 December 2012 on the enforcement of the legislation establishing liability for trafficking in persons to clarify the elements of the offence of trafficking in persons and the elements which differentiate it from other offences related to trafficking in persons. The Committee also notes the Government's indication that, under section 128 (Trafficking in persons) of the Criminal Code, in 2021, five cases of trafficking in persons offences were investigated and eight persons were convicted, of whom six were sentenced to imprisonment.

The Committee notes that in its 2022 concluding observations, the CERD expressed concern that despite the efforts to fight trafficking in persons, the number of persons subjected to forced labour and sexual exploitation continued to grow in Kazakhstan. It further expressed concern over reports of complicity among some law enforcement officers in trafficking in persons (CERD/C/KAZ/CO/8-10).

***The Committee urges the Government to step up its efforts to prevent, suppress and combat trafficking in persons for both labour and sexual exploitation. The Committee hopes that measures will be taken for the adoption of the bill on combating trafficking in persons which would assist with the adoption of a coordinated and systematic approach to combating trafficking in persons and requests the Government to indicate any progress made in this regard. It also requests the Government to take measures to effectively implement the Action Plan for 2021–23 and provide information on any assessment of its implementation. The Committee requests the Government to provide information on investigations, prosecutions and convictions as well as the specific penalties applied under section 128 of the Criminal Code.***

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

## **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2001)**

### **Previous comment**

The Committee notes the observations of the Trade Union of Workers in the Fuel and Energy Complex, received on 31 August 2022.

*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.* Referring to its previous comments, the Committee notes the Government's indication in its report that under section 174 (incitement of social, national, tribal, racial, class or religious hatred) of the Criminal Code, 19 persons were convicted to the sentences of restriction of freedom or deprivation of liberty, both involving compulsory labour, during the first five months of 2022; 19 persons in 2021; and 14 persons in 2020. No persons were punished with the sentences involving compulsory labour under sections 400 (violation of procedure for organizing and holding peaceful assemblies) and 404 (forming, leading and participation in activities of illegal public and other associations) of the Criminal Code from 2021 to the first five months of 2022.

The Committee also notes the observations of the Trade Union of Workers in the Fuel and Energy Complex regarding the application in practice of section 274 (spreading of false information) of the Criminal Code. In particular, the observations refer to the case of a political activist who, in 2020, was accused of publishing some negative information about the ruling party, and sentenced to three years of restriction of freedom and 100 hours of community service. Furthermore, the Committee notes that in its 2022 concluding observations, the United Nations Committee on the Elimination of Racial Discrimination expressed concern that the broadly worded provisions of section 174 of the Criminal Code may lead to unnecessary or disproportionate interference with the right to freedom of expression (CERD/C/KAZ/CO/8-10). The Committee further notes that in its opinions No. 33/2021 and No. 43/2020, the United Nations Working Group on Arbitrary Detention concluded that the arrests and detentions of the nine individuals resulted from the peaceful exercise of the rights to freedom of opinion and

expression and that the detentions were arbitrary as they were based on overly broad and vague provisions of section 174 of the Criminal Code (A/HRC/WGAD/2021/33; A/HRC/WGAD/2020/43).

The Committee also notes that in the joint communication of 18 January 2022, the United Nations independent human rights experts expressed concern over the reported wide-scale arbitrary arrests and detentions of over 9,900 individuals, including civil society representatives, journalists and human rights defenders during the protests of January 2022. In its 2023 concluding observations, the United Nations Committee against Torture expressed deep concern about many consistent reports indicating acts of intimidation, threats and arbitrary detention of human rights defenders in connection with their human rights work (CAT/C/KAZ/CO/4).

The Committee notes with **deep concern** the information relating to the arrests, detentions and convictions of persons who express opinions and views ideologically opposed to the established political, social or economic system, which have led or may lead to penalties involving compulsory labour. The Committee once again recalls that under *Article 1(a)* of the Convention, persons holding or expressing political views or views ideologically opposed to the established political, social or economic system shall not be subject to punishments that would require them to work, including compulsory prison labour, community service and correctional work. ***The Committee therefore urges the Government to take immediate measures to ensure that, both in law and practice, no one who expresses political views or opposes the established political, social or economic system in a peaceful manner, can be sentenced to penalties under which compulsory labour may be imposed. The Committee once again requests the Government to review sections 174, 274, 400 and 404 of the Criminal Code, for example by clearly restricting their scope to situations connected with the use of violence, or by suppressing penalties 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 of sections 174, 274, 400 and 404 of the Criminal Code, including the number and grounds for prosecutions and convictions made under each section, and the type of penalties imposed.***

*Article 1(d). Penalties for participating in strikes. Criminal Code.* The Government indicates that no cases have been considered by courts under section 402 of the Criminal Code, which provides for penal sanctions for incitement to continue a strike that has been declared illegal by a court. The Committee notes the Government's indication that within the framework of the Action Plan for the implementation of the recommendations of the ILO Committee on the Application of Standards in relation to the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it is being considered to amend section 402 of the Criminal Code by limiting its scope to the calls for continued participation in a strike recognized illegal by a court when it has inflicted substantial harm to the rights and legitimate interests of citizens or organizations or legally protected interests of the society or the State or has entailed mass disorders.

***Recalling that the imposition of compulsory labour as a penalty for the mere fact of organizing or peacefully participating in strikes is prohibited by the Convention and referring to its [comments made under Convention No. 87](#), the Committee requests the Government to take the necessary measures to repeal sanctions involving compulsory labour under section 402 of the Criminal Code. It requests the Government to provide information on the progress achieved in this regard and to continue to provide information on the application of section 402 of the Criminal Code, including the number and nature of the penalties applied.***

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

***[The Government is asked to reply in full to the present comments in 2024.]***

## Kenya

### Forced Labour Convention, 1930 (No. 29) (ratification: 1964)

#### Previous comment

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Action Plan. Implementation and monitoring.* Referring to its previous comments, the Committee notes the Government's information that within the framework of the National Plan of Action to Combat Trafficking in Persons 2013–17, 800 law enforcement and criminal justice officers as well as 60 trainers of trainers were trained and several public awareness-raising campaigns through vernacular radio stations, drama, community involvement, social media and television and print media were undertaken. The Government further indicates that the Counter Trafficking in Persons Advisory Committee has: (i) developed the draft National Plan of Action to Combat Trafficking in Persons 2021–26; (ii) introduced a module to collect data on trafficking of adults; (iii) trained about 1,700 officers in the criminal justice system and other law enforcement officers; (iv) carried out community engagement and awareness-raising programmes especially in communities vulnerable to trafficking in persons; (v) ensured that bilateral labour agreements were signed between Kenya and the United Arab Emirates, Qatar and Saudi Arabia, in order to reduce fraudulent employment opportunities abroad. ***The Committee encourages the Government to continue its efforts to prevent and combat trafficking in persons, and requests it to take the necessary measures to implement the National Plan of Action 2021–26. It requests the Government to provide information in this regard as well as on the assessment undertaken by the Counter Trafficking in Persons Advisory Committee of the results achieved and the difficulties encountered in the implementation of the National Plan of Action and the activities relating to combating trafficking in persons.***

*2. Protection and assistance to victims.* The Committee welcomes the Government's indication that the Counter Trafficking in Persons National Assistance Trust Fund has been operationalized and that since 2019 the Government has been providing funds to this end. The Trust Fund has been used to repatriate 81 victims of trafficking in and out of Kenya and another 30 victims of trafficking are being rehabilitated through a non-governmental organization, with support from the Trust Fund. The Government further indicates that the National Referral Mechanism Guidelines for assisting victims of trafficking, developed in 2016, have been disseminated in 23 counties.

Regarding the assistance provided to victims by the Advisory Committee, the Government states that 350 returnees from Gulf Cooperation Council countries were screened at the coastal area and potential victims of trafficking were sent to appropriate services. The existing Government facility is being refurbished to serve as a shelter for victims of trafficking. The Committee also notes that the National Employment Authority has a feature on its website for overseas workers to report exploitation, including potential trafficking crimes, and to request assistance. The National Employment Authority has also launched a toll-free helpline to enable migrant workers in distress to report their challenges and difficulties.

In this regard, the Committee notes that the United Nations Human Rights Committee, in its concluding observations of May 2021, expressed concern about Kenyan nationals, predominantly women, being coerced by employment agencies to work under exploitative conditions abroad (CCPR/C/KEN/CO/4).

***The Committee requests the Government to strengthen its efforts to protect Kenyan nationals from being exploited abroad, in particular by further developing awareness activities on safe recruitment processes and monitoring the activities of employment agencies. It also requests the Government to continue to provide information on the measures taken to ensure that victims of trafficking in Kenya and victims returning from abroad are provided with adequate protection,***



***assistance, rehabilitation services and compensation, as provided for under the National Referral Mechanisms Guidelines and the Counter Trafficking in Persons Act No. 8 of 2010.***

3. *Prosecution.* In response to its previous comments, the Committee notes the Government's information that the Police Standards of Operations (SOPS) have been prepared with the aim of guiding police officers in handling trafficking in persons cases at the pretrial stage. In addition, the Prosecutor's Manual gives direction to prosecutors on how to categorize cases related to trafficking in persons, charge offenders and impose the appropriate penalty for each offence. The Government also indicates that Guidelines for Identification of Victims of Trafficking have been developed to help the police as well as other authorized public officers to identify, screen and interview victims of trafficking, which would eventually contribute to rescuing victims, assist in the arrest of perpetrators and ensure enough evidence for court proceedings.

The Committee also notes that the United Nations Human Rights Committee, in its concluding observations of May 2021, expressed concern at the inadequate implementation of the Counter Trafficking in Persons Act No. 8 of 2010 and at the low rate of convictions for trafficking in persons (CCPR/C/KEN/CO/4).

***The Committee requests the Government to continue to take the necessary measures to ensure the adequate identification of cases of trafficking and prompt investigations so that the perpetrators are prosecuted and punished. It also requests the Government to provide statistical information in this regard, including on the number of persons prosecuted and convicted and the nature of the penalties applied.***

*Articles 1(1) and 2(1). Compulsory labour in connection with the conservation of natural resources.* For a number of years, the Committee has been requesting the Government to amend sections 13–18 of the Chief's Authority Act (Cap. 128), as amended by Act No. 10 of 1997, which go beyond the exception provided for under *Article 2(2)(e)* of the Convention concerning "minor communal services". Under sections 13–18 of the Act, able-bodied male persons between 18 and 50 years of age may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year.

The Committee notes the Government's statement that the Chief's Authority Act was repealed and replaced by the Fair Administrative Act No. 4 of 2015. The Committee, however, observes that the Fair Administrative Act No. 4 of 2015 does not explicitly refer to or repeal the Chief's Authority Act, and that the copy of the Chief's Authority Act, Revised Edition 2017, communicated by the Government, retains the above-mentioned sections 13–18. ***The Committee therefore requests the Government to indicate the specific provisions which repeal sections 13–18 of the Chiefs' Act or otherwise to take the necessary measures to ensure that these sections are repealed, in order to bring the legislation into conformity with the Convention and with practice, since the Government previously indicated that these provisions had never been enforced.***

*Article 25. Adequate penalties for the exaction of forced labour.* The Committee has previously referred to section 266 of the Penal Code, under which any person who compels a person to labour is guilty of a misdemeanour, punishable with imprisonment for a term not exceeding two years or with a fine, or with both (section 36). However, if this offence is committed for the purpose of exploitation, the person committing the offence shall be charged with the appropriate offence as specified in the Counter Trafficking in Persons Act (section 266A). According to section 3 of the Counter Trafficking in Persons Act, the offence of trafficking in persons for the purpose of exploitation is punishable with imprisonment for a term of not less than 30 years or to a fine, or to both. The Committee takes due note that in its report on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), the Government indicates that it has drafted an amendment to the Counter Trafficking in Persons Act to remove the option of a fine in lieu of imprisonment.

In this regard, the Committee recalls that when the sanctions envisaged to punish forced labour consist of a fine or a very short prison sentence, they do not constitute an effective sanction considering the seriousness of the violation and the fact that the sanctions need to be sufficiently dissuasive. ***The Committee therefore urges the Government to take the necessary measures to adopt the amendment to the Counter Trafficking in Persons Act so as to ensure that trafficking can not be punished with a simple fine. It also requests the Government to clarify how the provisions of section 266 and section 266A are applied in practice, giving examples of court decisions handed down on the basis of these sections and indicating the type of penalties imposed.***

## Kyrgyzstan

### Forced Labour Convention, 1930 (No. 29) (ratification: 1992)

#### Previous comment

The Committee notes that the first report of the Government on the application of the Protocol of 2014 to the Forced Labour Convention, 1930, has not been received. ***The Committee requests the Government to provide the first report on the Protocol of 2014 along with its next report on the Convention due in 2025.***

The Committee notes the observations of the Kyrgyzstan Federation of Trade Unions (FPK), received on 1 November 2022.

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Implementation and assessment of the action plan.* The Committee notes the Government's information on the adoption of the Programme to Combat Trafficking in Persons for 2022–25 and its Action Plan by Cabinet of Ministers' Resolution No. 227 of 2022. The Government also indicates that through Cabinet of Ministers' Decree No. 252 of 2021, the Ministry of Labour, Social Security and Migration has been designated as the State executive body responsible for the development and implementation of the national policy in the field of trafficking in persons. Coordination councils have also been established in the regions to serve as an effective mechanism for interdepartmental cooperation between State bodies and civil society to combat trafficking in persons at the local level. The Committee notes that both the Government and the FPK recognize that despite these measures Kyrgyzstan remains a country of origin and transit for trafficking in persons for the purposes of sexual and labour exploitation and, to a lesser extent, a country of destination.

***The Committee requests the Government to pursue its efforts to prevent and combat trafficking in persons, through the effective implementation of the Programme to Combat Trafficking in Persons for 2022–25 and its Action Plan. The Committee also requests the Government to provide information on the measures taken in this regard, as well as on the results of any monitoring and evaluation of the implementation of the Programme and its Action Plan, and the action taken as a follow-up.***

*2. Identification and protection of victims.* The Committee notes the Government's indication concerning the lack of effective measures to ensure early identification of victims of trafficking, including among vulnerable groups of women. The Committee also observes that the Programme for 2022–25 aims at developing the professional capacity of relevant bodies to identify victims of trafficking and ensuring effective collaboration of departmental agencies in the identification and referral of victims of trafficking (section 6 of the Programme). Section 4 of the Action Plan for 2022–25 contains various measures to improve protection and social assistance services provided to victims of trafficking, including the establishment of a shelter.

***The Committee requests the Government to intensify its efforts with regard to the identification of victims of trafficking for purposes of both sexual and labour exploitation, and to ensure that appropriate protection and assistance is provided to such victims. It further requests the Government to provide information on the number of victims who have been identified and on the nature of the***

**assistance and protection granted. The Committee also requests the Government to indicate the information provided to victims relating to safe migration and fair recruitment.**

3. *Law enforcement.* The Committee notes that according to the Government and the FPK, effective measures are needed to address the lack of effectiveness of prosecutions and the root causes of corruption among law enforcement bodies with a view to combating trafficking in persons. The Committee further observes that the Government's report does not provide information on investigations, prosecutions or convictions handed down for cases of trafficking. **The Committee requests the Government to take the necessary measures to ensure that all cases of trafficking in persons are adequately identified and subject to thorough investigations, so as to facilitate the prosecution and imposition of effective and dissuasive penalties on perpetrators, including complicit officials. The Committee requests the Government to provide information in this regard, as well as on the number of investigations, prosecutions, convictions and specific penalties applied under section 166 of the Criminal Code of 2021, which criminalizes trafficking in persons.**

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

## Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

### Previous comment

*Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for the expression of political views or views opposed to the established political, social or economic system.* The Committee notes that the United Nations Human Rights Committee, in its 2022 concluding observations, expressed concern about reports of undue government pressure on human rights defenders, lawyers, politicians, journalists and other individuals for expressing their opinion, including the initiation of criminal proceedings against bloggers and journalists (CCPR/C/KGZ/CO/3). The Committee also notes the statement of the United Nations Human Rights Office spokesperson of 26 October 2022 indicating the arrests and initiation of criminal charges against more than 20 people, including activists and bloggers, for organizing mass riots.

The Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. In this regard, the Committee has stressed that the range of activities that must be protected from punishment involving compulsory labour, includes the right to freedom of expression, which may be exercised orally or through the press and other communications media, as well as various other recognized rights, such as the right of association and assembly (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 302).

**The Committee therefore requests the Government to take the necessary measures to ensure that in practice persons who peacefully express certain political views or views ideologically opposed to the established political, social or economic system are not punished with penalties involving compulsory labour.**

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

## Lebanon

### Forced Labour Convention, 1930 (No. 29) (ratification: 1977)

#### Previous comment

The Committee takes note of the observations of the General Confederation of Lebanese Workers (CGTL), which were received with the Government's report. It also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2023, in which the IOE reiterates statements made by the employer delegates in the discussion that was held by the Committee

on the Application of Standards of the Conference (Conference Committee) in June 2023. It further notes the observations of the International Trade Union Confederation (ITUC), received on 27 September 2023. **The Committee requests the Government to provide its reply to these observations.**

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee takes note of the [detailed discussion](#) that was held by the Conference Committee, regarding the application of the Convention by Lebanon.

*Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant domestic workers to conditions of forced labour. (i) Legal protection.* The Committee observes that the Conference Committee noted with deep concern the lack of adequate protection for migrant domestic workers in law and practice who continued to face abusive working conditions that amount to forced labour, such as passport confiscation, high recruitment fees, non-payment of wages, deprivation of liberty, and physical and sexual abuse. The Conference Committee urged the Government to provide migrant domestic workers with adequate legal protection, including by ensuring the reinstatement and effective implementation of the revised Standard Unified Contract (SUC). It also requested the Government to provide information on any legislative changes adopted or envisaged to replace the *Kafala* system with a work permit system that allows domestic migrant workers to change employer. The Committee notes that the CGTL indicates, in its observations, that it considers that the Labour Code should be amended to include domestic workers.

The Committee notes the Government's information, in its report, that the latest draft Labour Code, prepared and sent to the Cabinet of Ministers in 2022, includes domestic workers in its scope of application, according to the new section 15, "in everything that does not contravene the Standard Unified Contract (SUC) for domestic workers, issued by a decision of the Minister of Labour". The Committee recalls, as indicated by the Government in its written information to the Conference Committee, that the implementation of the revised SUC, which was adopted by the Ministry of Labour (MoL) in 2020 and included new protections for domestic workers, was suspended by the State Shura Council. In the meantime, the SUC of 2009 still applies. Most importantly, the revised SUC would allow workers to terminate their contract without the consent of their employer. The Government indicates that the MoL is in the process of reviewing the previous draft SUC, taking into account the rights of all stakeholders. The Committee also observes the Government's indication that the MoL has issued Order No. 1/1 of 5 January 2023 regularizing the status of women migrant domestic workers who perform jobs other than those specified in the work permit.

***The Committee once again urges the Government to take the necessary measures to provide migrant domestic workers with adequate legal protection. To that end, it urges the Government to take the necessary measures, to ensure the adoption of the draft Labour Code. It requests the Government to indicate whether a revised SUC will be adopted or the suspension of the revised 2020 SUC will be lifted, with a view to allowing workers to terminate their employment at certain intervals or after having given reasonable notice during the duration of the contract, without the consent of their employer. Moreover, the Committee requests the Government to provide concrete information on the situations covered by Order No. 1/1 of 5 January 2023, for example, the number of workers concerned, the possibility to change employers, and information on its application in practice.***

(ii) *Access to complaints mechanisms.* As requested by the Committee in its previous comments, the Conference Committee urged the Government to ensure that migrant workers who are victims of abusive practices and working conditions amounting to forced labour have access to justice, including adequate protection, assistance and remedies.

The Committee observes that workers can submit a complaint to the Department of Labour Inspection, Protection and Safety and to the MoL's regional labour offices and that, by virtue of Ministerial Decision No. 1/168 of 2015, recruitment agencies are required to report disputes between

workers and employers to the MoL and when appropriate to file a complaint. The Committee notes the Government's information that, in 2020, it activated a hotline to enable foreign domestic workers to communicate directly and easily with the MoL to lodge complaints. The Government indicates that a media awareness campaign to promote the hotline was delivered in English, Arabic and in other relevant languages. According to the Government, 77 complaints were received by the MoL in 2020 through this hotline. Throughout 2022, 89 complaints concerning women migrant workers were sent to the MoL: (i) 62 were made by an employer against recruitment agencies; (ii) 20 were made by embassies, consulates, associations and trade unions, the bulk of which concerned employers' failure to pay women migrant workers their wages (15 were resolved); and (iii) 7 were made by women domestic workers themselves against recruitment agencies, 6 of which were resolved.

The Committee observes that the number of complaints reported appears to be low, especially considering that the vast majority of complaints are lodged by employers against agencies. ***The Committee therefore urges the Government to strengthen its efforts to ensure that migrant domestic workers can easily and effectively lodge complaints with the competent authorities and seek redress in the event of a violation of their rights or abuses, without fear of retaliation. In this regard, the Committee requests the Government to continue to provide information on the number of migrant domestic workers who have had recourse to complaints mechanisms, as well as more specific information on the violations denounced, the follow-up given to the complaints, and the remedies obtained.***

*Article 25. Enforcement and penalties.* (i) *Violations of labour rights.* The Committee notes that the Conference Committee urged the Government to hire and train additional labour inspectors and increase their material resources to carry out labour inspections in the domestic work sector and provide details to the Committee on the training received by labour inspectors, the number of inspections in the domestic work sector, the number of offences detected, and the penalties imposed with regard to infringements of the labour legislation. The Committee notes that the Government does not provide information in this regard but indicates that while migrant domestic workers are not covered by the Labour Code, they may still file civil suits on the basis of the Obligations and Contracts Act.

The Committee recalls that the effective imposition of penalties for violations of labour rights is an essential element in combating forced labour, as forced labour practices are, in most cases, characterized by the combination of a number of violations of labour legislation which must be punished as such. Moreover, taken as a whole, these violations may constitute the offence of forced labour, which in itself gives rise to specific criminal penalties. The Committee observes that the SUC of 2009 which contains provisions on domestic labour rights is applicable and that compliance with these rights needs to be effectively monitored. ***The Committee therefore once again requests the Government to strengthen the capacity of labour inspectors, or any other relevant law enforcement body, to allow for the effective monitoring of the working conditions of domestic migrant workers. It requests the Government to provide information on the measures taken in this regard, as well as information on the number of inspections carried out, number and nature of violations detected, and penalties applied for such violations.***

(ii) *Monitoring of recruitment agencies.* The Committee notes the Government's information regarding the recent adoption of certain decisions by the MoL pertaining to recruitment agencies and the status of women migrant domestic workers, in particular Decision No. 41/1 of 11 May 2022 on the regulation of the activity of agencies for the recruitment of women migrant workers for domestic service (article 28 of which prohibits them from charging fees to domestic workers). The Government indicates that a number of administrative measures were taken against agencies specializing in the recruitment of women migrant domestic workers for violating Decision No. 41/1, including the suspension of their activities or revoking of their licenses, following the receipt of complaints. The Committee notes in this regard that the Government representative had indicated, during the Conference Committee

discussion, that 77 recruitment agencies (20 per cent of all registered agencies) were closed. ***The Committee requests the Government to continue its efforts to monitor recruitment agencies and to ensure that recruitment fees are not charged to workers, and to provide information on violations detected in this regard. It encourages the Government to take measures to build the capacity and raise awareness of recruitment agencies on migrant workers' labour rights and the need for fair recruitment. It requests the Government to provide concrete information on the types of violations committed by the recruitment agencies that led to their suspension or closure and the procedure in such cases.***

(iii) *Penal sanctions for the exaction of forced labour.* Concerning the obstacles faced by migrant domestic workers when seeking to report abuses, the Committee notes that the Conference Committee urged the Government to introduce and apply effective and sufficiently dissuasive penalties on employers and labour recruiters who engage migrant workers in situations amounting to forced labour, and to strengthen the capacity of law enforcement bodies in this area.

The Committee notes the Government's indication that the General Directorate of General Security (GDGS) investigates any complaints involving domestic workers and, under the supervision of the competent public prosecutor, has the authority to initiate court proceedings on a case-by-case basis and takes the "requisite administrative measures" against those persons who are found to have committed abusive acts against domestic workers. The Government also refers to Act No. 205 of 2020, which provides for sanctions for the offence of sexual harassment by all employers, in particular in the context of a dependency or employment relationship.

The Government also shares the information received from the Human Trafficking Repression and Morals Protection Bureau regarding the number of cases of forced labour of migrant domestic workers that have been investigated and prosecuted. The Committee notes that the data provided does not relate to investigations, prosecutions and convictions of employers who subject domestic workers for abusive practices or forced labour. It observes that according to the data, some victims in cases of trafficking or sexual offences have also been arrested for desertion of the home of their employer or have remained with their employer. There is no detailed information on the circumstances of the cases reported in these statistics. The Committee notes in this regard that a 2020 ILO, IOM and UN Women report entitled "Women Migrant Domestic Workers in Lebanon: A Gender Perspective" shows that women migrant domestic workers have rarely been able to hold their employers to account by filing criminal complaints and that a study from 2020 revealed that 91 per cent of hearings in cases involving migrant domestic workers were conducted in absentia, suggesting that women are deported before their case is even referred to the courts. The same report reveals other violations of these women's right to access to justice, including regularly convicting domestic workers of "running away" from their employer even when they are facing severe abuse and overlooking cases of human trafficking or forced labour.

The Committee observes with **concern** the lack of information on sanctions against employers who subject domestic workers to abusive practices or practices amounting to forced labour. The Committee recalls in this regard that *Article 25* of the Convention requires Governments to ensure that penal sanctions are imposed for the exaction of forced labour. The Committee considers that the lack of sanctions imposed on employers, coupled with the challenges faced by migrant domestic workers in effectively lodging complaints and the lack of effective monitoring over conditions of work of domestic workers, may result both in migrant domestic workers being placed in situations of accrued vulnerability to forced labour, and victims of forced labour not being identified, recognized and protected as such. ***Underlining the importance of sufficiently dissuasive penalties being applied to those who impose forced labour practices, the Committee strongly urges the Government to take the necessary measures to investigate and prosecute employers who subject migrant domestic workers to practices amounting to forced labour. The Committee requests the Government to provide information on the measures taken to strengthen the capacity of law enforcement bodies in this area, as well as on the number of***

***cases of forced labour of migrant domestic workers investigated and prosecuted, and the number of convictions handed down and penalties imposed on the offending employers. Finally, the Committee requests the Government to take the necessary measures to ensure that the victims in such cases are adequately supported, rehabilitated and compensated.***

***While acknowledging the difficult situation prevailing in the country, the Committee notes with deep concern the lack of adequate protection for migrant domestic workers and urges the Government to take all necessary measures to ensure they benefit from the protection of the Convention. In this regard, the Committee trusts that the direct contacts mission requested by the Conference Committee will be carried out in the near future, and that it will help the Government to expedite its efforts to eliminate the forced labour practices faced by migrant domestic workers.***

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

## Malawi

### Forced Labour Convention, 1930 (No. 29) (ratification: 1999)

#### Previous comment

The Committee notes the Government's first report concerning the application of the Protocol of 2014 to the Forced Labour Convention, 1930.

*Articles 1(1), 2(1), and 25 of the Convention, and Article 2(a), (b), (c) and (f) of the Protocol. Effective abolition of the tenancy system.* Over a number of years, the Committee has raised the issue of the existence of forced labour in tobacco plantations, in the form of debt bondage, based on a tenancy system (a practice in which a landowner grants access to land to a tenant and his family, who oblige themselves to pay back by producing crops for the landowner). In its latest comments, the Committee noted the Government's recognition that the tenancy system constituted a gross violation of human rights and its intention to review the Employment Act to abolish this practice.

The Committee notes with **interest** that section 4 of the Employment (Amendment) Act, 2021, introduces a prohibition against the exaction or imposition of forced or tenancy labour. According to this provision, any person who exacts or imposes forced or tenancy labour on another person or causes or permits another person to perform forced or tenancy labour, commits an offence and shall, on conviction, be liable to a fine and imprisonment for five years. For this purpose, tenancy labour is defined as "work or service performed by a person on a piece of land for the purpose of growing a crop where an employer pays remuneration to that person at the end of the growing season or after the sale of the crop" (section 4(3)).

The Government indicates in its report that it has commenced work on the implementation of section 4 of the Employment (Amendment) Act by conducting quantitative and qualitative surveys to collect information for the design of the interventions required. It further indicates that measures to prevent forced labour include economic empowerment programmes and social protection programmes for vulnerable groups, including cash transfers.

The Government also indicates that, while labour inspections may be conducted at any workplace, including in the informal economy, in practice, labour inspectors face difficulties in carrying out inspections due to limited human and financial resources. In order to strengthen the inspection services, the Ministry of Labour has concluded memoranda of understanding with some employers to intensify labour inspections and promote decent work in the tobacco sector.

The Committee also notes a study produced by the International Labour Office in 2021 that assesses employment and labour trends in the national tobacco sector, with a focus on the tenancy system according to which there is a broad consensus among stakeholders on the need to secure land tenure for tenant families as part of the policy response to abolish tenancy. There is also agreement that the design, implementation and monitoring of a timebound national policy road map for the

abolition of tenancy will require intense and inclusive dialogue and coordination among all tobacco sector stakeholders, including growers and tenants. The Committee further notes that the Office has been implementing a project entitled Addressing decent work deficits and improving access to rights in Malawi's tobacco sector.

Lastly, the Committee observes that in their joint statement made in December 2022, various United Nations experts indicate that, despite the abolition of the tenancy system, serious concerns persist in relation to risks of forced labour and that reported cases affect over 7,000 adults and 3,000 children. The statement further highlights that tobacco farms in Malawi are usually located in remote areas where access to assistance and protection against labour rights abuses is limited, and action to prevent trafficking in persons is weak (UN press release, 21 December 2022).

While taking due note of the adoption of legislative measures prohibiting forced labour practices under the tenancy system, which constitutes an important first step, the Committee considers that these measures need to be accompanied by further coordinated and systematic action for the effective elimination of situations amounting to forced labour in the agricultural sector, especially in tobacco plantations.

***Therefore, the Committee requests the Government to continue to strengthen its efforts and take effective measures, in consultation with employers' and workers' organizations, to:***

- ***raise awareness about the prohibition of forced labour under the tenancy system among the public as well as relevant stakeholders;***
- ***reinforce the capacities of the labour inspection services in order to ensure that they can adequately perform their duties, including in remote areas, and provide information on the number and periodicity of visits carried out by labour inspectors as well as on the violations detected. The Committee refers in this regard to its [comments](#) under the labour inspection Conventions;***
- ***carry out the necessary qualitative and quantitative studies to identify the root causes of forced labour in agriculture, particularly in tobacco plantations, and design interventions to address such causes, including in relation to access to productive land by small farmers, access to regular employment and the fight against poverty;***
- ***protect victims of forced labour and ensure their access to remedies;***
- ***investigate and prosecute cases of forced labour and provide information on the number of prosecutions initiated, convictions handed down and sanctions applied in accordance with section 4 of the Employment (Amendment) Act, 2021.***

***The Committee requests the Government to provide detailed information on the progress made and the challenges faced in this regard.***

*Article 2(e) of the Protocol. Supporting due diligence to prevent and respond to the risks of forced or compulsory labour in the agricultural sector.* The Committee notes with **interest** that according to section 41 of the Tobacco Industry Act (No. 10 of 2019), every registered grower shall, within a prescribed period, furnish a report to the Tobacco Commission (an entity established by the Act to regulate the production, growing, processing, importation, exportation and marketing of tobacco) containing information on growers' undertakings on issues of forced labour, fair treatment and safe environment for their workers. If the registered grower fails to comply with this obligation, or if the information provided does not satisfy the Tobacco Commission, their registration as a grower can be cancelled. ***The Committee encourages the Government to continue to take measures to support due diligence by private entities to prevent and respond to the risk of forced labour in the agricultural sector. In this regard, it requests the Government to provide information on the implementation of section 41 of the Tobacco Industry Act, including good practices reported.***

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



## Maldives

### Forced Labour Convention, 1930 (No. 29) (ratification: 2013)

#### Previous comment

Articles 1(1), 2(1) and 25 of the Convention. *Vulnerable situation of migrant workers to the exaction of forced labour.* The Committee previously noted the issue of abusive practices faced by migrant workers, such as confiscation of identification documents, non-payment of wages and inhumane treatment. The Committee also noted that most migrants are unaware of the procedure to lodge a complaint, or are reluctant to do so because they fear deportation due to their undocumented status.

The Committee notes that the Government provides in its report information on: (i) the adoption of the Regulation on Employment of Foreigners in the Maldives No.2021/R-16, by the Ministry of Economic Development which sets out the procedures for issuing work permits to foreigners, including the amount of fees to be paid by employers, as well as occupational safety and health requirements in the workplace; (ii) the Regulation on General Standards for Accommodations Arranged by Employers for their Employees No. 2021/R-15, which establishes the requirements for the accommodation provided by employers as regards lighting, air circulation, size, sanitation and water supply; (iii) the Regulation on Employment Agencies No. 2016/R-21, which sets out the procedure for the recruitment of employees by employment agencies, as well as the conditions for the registration and licensing of employment agencies. The Government indicates that the number of complaints lodged by foreigners with the Labour Relations Authority was 407 in 2019, 742 in 2020, 294 in 2021 and 298 in 2022. The Committee also notes that 24 employment agencies remained on the blacklist as of 2019 (2022 Government report on the application of the United Nations International Convention on the Elimination of All Forms of Racial Discrimination).

The Committee further notes that in its 2023 report, the United Nations Working Group on discrimination against women and girls expressed concern that migrant workers lack special protection against exploitative conditions of work and that without adequate legal protection, migrants are not willing to report incidents of labour violations or violence to the authorities (A/HRC/53/39/Add.2). ***The Committee requests the Government to strengthen its efforts and take all necessary measures to ensure that migrant workers are fully protected against abusive practices and conditions that could amount to forced labour and are provided with effective and adequate protection, including redress and compensation. It further requests the Government to provide information on the measures taken to monitor the effective implementation of the regulations adopted; carry out workplace inspections; and inform migrant workers of their rights and the complaint mechanisms available. The Committee also requests the Government to provide more detailed information on the number of complaints that have been lodged by or on behalf of migrant workers who are victims of abusive practices, as well as the number of violations detected and sanctions imposed.***

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

## Mexico

### Forced Labour Convention, 1930 (No. 29) (ratification: 1934)

#### Previous comment

The Committee welcomes Mexico's ratification of the Protocol of 2014 to the Forced Labour Convention, 1930. ***The Committee requests the Government to provide detailed information on its application, in accordance with the report form adopted by the Governing Body.***

The Committee notes the observations made by the Authentic Workers' Confederation of the Republic of Mexico (CAT) and the Confederation of Workers of Mexico (CTM), sent with the Government's report.

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Systematic and coordinated action.*

The Committee requested the Government to continue its efforts to combat trafficking, in particular with a view to strengthening the capacity and cooperation of the competent bodies. The Committee notes the adoption in 2021 of the internal regulations of the Inter-ministerial Committee for the prevention, punishment and eradication of crimes relating to trafficking in persons and for assistance for victims (Inter-institutional Committee), which is responsible for defining, coordinating and evaluating the implementation of State policy on trafficking in persons. This Committee adopts annual reports and a work programme (PACTI) to determine the activities to be carried out during the year.

The Committee also welcomes the detailed information provided by the Government regarding: (i) strengthening social and economic support programmes, with a view to reducing marginalization and poverty, which increase the risk of people falling victim to various forms of forced labour; (ii) the various communication and awareness-raising activities carried out by the authorities and the production of information materials; (iii) the adoption of the National Training Programme on trafficking in persons, the main objective of which is to develop skills and knowledge to improve the authorities' efforts to prevent, identify and prosecute offences and to protect victims; (iv) strengthening the legislative framework and/or establishing coordination committees at state level (20 out of 32); (v) the adoption of the Simplified Guide for victim assistance, which outlines the process to be followed, the Protocol on consular assistance for Mexican victims of trafficking in persons abroad and the Protocol for identifying and assisting migrant victims of trafficking in persons in Mexico; (vi) measures to inform and assist migrants in transit through the country.

The Committee notes that the CAT, in its observations, emphasizes that despite the laws in force, trafficking in persons remains a problem in the country and that the Government must continue to carry out controls in high-risk areas and pursue its efforts to inform and raise awareness among the population, the business sector and government institutions of the issues involved in trafficking in persons.

The Committee notes that in its 2023 report on trafficking in persons, the National Human Rights Committee (CNDH) emphasizes that trafficking in persons remains a complex challenge as Mexico is a country of origin, transit and destination for victims of trafficking. This complex situation calls for a global response and greater collaboration. The CNDH also considers that the lack of information and consensus on the true scale of trafficking is one of the greatest obstacles to its eradication.

In this regard, the Committee notes from the information available on the website of the Inter-ministerial Committee that a National Programme for the Prevention, Punishment and Eradication of Crimes relating to Trafficking in Persons and for the Protection of Victims has been adopted, covering the period 2022–24 (the last programme was adopted in 2018). The programme is based on the observation that, as has been established in a number of analytical studies, gaps exist in the manner in which trafficking in persons has been addressed in Mexico, both in terms of the application of the General Act of 2012 aimed at preventing, punishing and eradicating trafficking offences and protecting and assisting victims, and in terms of operational responses in a country where situations such as migration, historical discrimination against certain populations, gender inequality and the criminalization of poverty coexist. The Committee is pleased to note that, on the basis of the various assessments produced and the competent authorities' annual reports, the National Programme seeks to respond to the ongoing challenges and directs national action towards the following five priority objectives:

- promote reform of the legislative framework;
- establish the basis for coordinating the eradication of trafficking;
- increase the support, social reintegration and full reparation of victims through the implementation of new instruments;
- promote the production of data on trafficking;

- promote the human rights of victims and potential victims from a gender perspective.

***While welcoming all the measures taken by the Government, the Committee requests the Government to continue its efforts to ensure the implementation of the five strategic objectives of the National Programme. The Committee requests the Government to provide information in this regard and on any assessment of the measures taken in this context by the Inter-institutional Committee and in the reports of the National Human Rights Committee, indicating the recommendations made, the challenges identified and the measures envisaged to address them. Recalling that the country is subject to significant migratory flows, both of its own nationals and of workers from neighbouring countries, the Committee requests the Government to continue to take measures to inform workers of the risks of exploitation at work involving forced labour and to provide them with assistance and protection where they are victims thereof in order to enable them to assert their rights. Finally, noting that it is mentioned in the National Programme that the Protection and Assistance Fund for victims of trafficking in persons provided for in the General Act of 2012 has not been established, the Committee requests the Government to indicate how reparation for victims is ensured.***

*Article 25. Enforcement and adequate penalties.* The Committee notes the detailed information provided by the Government concerning the judicial proceedings opened for the crime of trafficking for the period August 2017–July 2021, taken from the 2021 annual report of the CNDH. It notes that the crime rate doubled between 2017 and 2021. The 32 public prosecution agencies of the different states and the Prosecutor General's Office recorded a total of 3,226 cases under investigation, 2,863 at local level and 363 at federal level. In seven such cases, the person under investigation is a public servant. At the local level, 296 persons received final convictions, including 187 men and 109 women. According to the report, a total of 292 victims were reported, including 225 women, 29 men, and no information is available as regards the remaining 38 victims. In addition, 62 final convictions were handed down at the federal level. The Committee notes the Government's indication that in 2019 a former police officer was convicted of trafficking and sentenced to a lengthy prison term. The Committee also notes that the Government has carried out a large number of activities to strengthen the capacity of the law enforcement authorities to identify and prosecute cases of trafficking in persons for both labour and sexual exploitation. It notes in particular the action taken in this area by the Unit specialized in offences of violence against women and trafficking in persons (FEVIMTRA), which has adopted a road map for coordination between the Prosecutor General's Office and the states' public prosecution agencies in order to respond to suspected cases of trafficking and to rescue victims.

The Committee notes that, in its report, the CNDH refers to fear of reporting trafficking in persons and a lack of a culture of reporting, which leaves the door wide open to impunity for this crime. There are also no appropriate victim support or complaints mechanisms in place. In addition, the National Programme reports a high level of injustice and impunity in relation to the various forms of trafficking in persons, due to difficulties in applying the legislative framework. According to the Programme, the General Act of 2012 includes a number of offences relating to trafficking in persons, creating confusion for justice officials. Certain situations involving trafficking are classified as related offences and vice versa.

***The Committee urges the Government to continue to take the necessary steps to strengthen the coordination and capacity of the police authorities, the labour inspectorate and the Prosecutor General's Office to ensure that cases of trafficking, both for sexual and labour exploitation, are properly identified, investigated and prosecuted. The Committee requests the Government to provide information on the measures taken to overcome the difficulties identified in the National Programme with regard to the use of the General Act of 2012 by justice officials to prosecute and try cases of trafficking, as well as statistical information on proceedings initiated and convictions handed down. Lastly, the Committee requests the Government to continue to take all necessary measures to punish instances of complicity by public servants in cases of trafficking.***

## Mongolia

### Forced Labour Convention, 1930 (No. 29) (ratification: 2005)

#### Previous comment

*Articles 1(1), 2(1) and 25 of the Convention. 1. Trafficking in persons. (i) Implementation of the National Action Plan.* In response to its previous comments concerning the implementation of the National Programme on Combating Human Trafficking 2017–21, the Committee notes the Government's information in its report on the amount of the resources allocated to the National Programme. As regards the final evaluation of the National Programme, the primary objective of organizing work to prevent and combat trafficking in persons through the study of this phenomenon and its root causes was assessed as being 93.9 per cent complete. Between 2019 and 2021, nine national studies were conducted, while three nationwide public awareness-raising campaigns were organized. The Government and civil society organizations have independently and jointly carried out several activities including, capacity-building and training of personnel, sharing experiences with foreign counterparts, improving the legal framework, organizing nationwide awareness-raising campaigns and producing/distributing advocacy materials with the support of programmes and projects funded by international organizations. **The Committee requests the Government to pursue its efforts to combat trafficking in persons, including through developing and implementing a new national programme. It requests the Government to provide information on any assessment of the national action to combat trafficking carried out by the National Sub-Council on Combating Trafficking in Persons and any recommendations made in this context, as well as on the measures taken or envisaged as a consequence.**

(ii). *Identification and protection.* The Committee notes the Government's information that resources were allocated to non-governmental organizations (NGOs) for the provision of primary services including shelter, psychosocial rehabilitation, medical care and legal services and repatriation services to victims of trafficking. In 2021, two NGO-run shelters to accommodate victims of trafficking were furnished for the needs of child victims. Moreover, under the project Preventing Violence Against Women and Supporting Victims implemented by the Ministry of Labour and Social Protection, guidelines to identify victims of human trafficking were developed and adopted by Order No. A/57 of 5 April 2022. The Mongolian Gender Equality Center, an NGO, provided shelter, healthcare services, food, clothing, legal and psychosocial counselling to 46 victims of trafficking in 2020, 41 victims in 2021 and 21 victims in the first half of 2022. In addition, skills development training and assistance to start businesses were organized for victims of trafficking. **The Committee requests the Government to continue to take the necessary measures to provide protection and assistance to victims of trafficking in persons and to indicate the number of victims who have been identified and those who were granted assistance for their rehabilitation and/or repatriation, as well as the nature of such assistance.**

(iii). *Law enforcement and penalties.* The Committee notes the Government's information that within the framework of the National Programme, specialized training manuals for police officers, prosecutors, border service officers, immigration officers, judges, lawyers, social workers and health practitioners were developed. The Government indicates that between 2019 and 2021, 31 cases of trafficking in persons for sexual exploitation were registered under section 13.1 of the Criminal Code, involving 49 perpetrators and 130 victims of whom 40 per cent were children. In the four cases resolved in 2021, ten perpetrators were convicted and sentenced to imprisonment ranging from three to 15 years. During the first quarter of 2022, the police investigated four cases involving six alleged perpetrators and nine victims. **The Committee requests the Government to continue to take the necessary measures to ensure that all cases of trafficking are properly identified and subject to thorough investigations with a view to ensuring that perpetrators are prosecuted and that dissuasive penalties are imposed. It further requests the Government to provide statistical data in this regard as well as information on the measures taken to continue to strengthen the capacities of law enforcement**

**officials, including labour inspectors, prosecutors and judges, particularly by providing appropriate training.**

2. *Vulnerable situation of migrant workers with regard to the exaction of forced labour.* In its previous comments, the Committee noted that a significant number of migrant workers from China and the Democratic People's Republic of Korea worked in Mongolia in conditions tantamount to forced labour and requested the Government to take the necessary measures to address this situation.

The Committee notes the Government's information that the revised Law on Labour Migration, adopted by Parliament in December 2021, contains new provisions to protect the rights of foreign/migrant workers. According to this law, the State administrative body shall issue an employment permit to the foreign worker based on his/her employment contract with the employer. An employer who has failed to pay the wages of, or caused any damages to the previously employed worker, shall be denied the right to invite foreign workers for two years (section 25.1.2). According to section 26, an employer's permit to employ foreign workers shall be cancelled, if: (i) the terms and conditions agreed in an employment contract including wages, working environment, working hours and rest period have not been met; (ii) the employer has violated the labour or occupational safety and health legislation; (iii) the employer fails to provide preparatory training, health check-up and medical examination of workers; (iv) the employer has withheld the foreign worker's documents or wages; or (v) the employer has employed a foreign worker for purposes or at locations other than those specified in the employment permit. Moreover, section 34.2 provides for the establishment of a State administrative body to advise employers, conduct regular inspections and supervise the employment and working conditions of foreign workers and compliance with the law.

The Committee notes the Government's information that in 2021, the General Authority for Labour and Welfare Services launched an electronic platform to enable an integrated registration system of entities that receive foreign workers, and to improve oversight of compliance with the relevant legislation. The Government further indicates that according to the National Statistics Office, 6,200 foreign citizens from 88 countries were working on the basis of an employment contract in Mongolia as of the second quarter of 2022. It stresses that no cases of forced labour of foreign workers were prosecuted and that, in September 2020, three citizens of Myanmar lodged a complaint with the Mongolian authorities of labour exploitation, which was later dismissed. ***The Committee welcomes the adoption of the new provisions of the Law on Labour Migration and encourages the Government to continue to take measures to protect migrant workers from abusive practices and prevent them from being trapped in situations that could amount to forced labour. It requests the Government to provide information on the measures taken for the effective implementation of the Law on Labour Migration, indicating the measures taken to inform migrant workers of their rights, the number of inspection visits carried out by the State administrative body established under section 34 of the Law, the violations observed and the number of employer's permits that have been cancelled and the reasons for such cancellation.***

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

## Morocco

### Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

#### Previous comment

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons.* In response to the Committee's request regarding the application in practice of Act No. 27-14 on combating trafficking in persons, the Government indicates in its report that the National Committee for the Coordination of Anti-Trafficking Measures (hereinafter the National Committee), which was set up in 2018, presented its first national report in 2022. According to this report, 723 persons were prosecuted for trafficking in persons between

2017 and 2020. In 2019, 17 persons found guilty of trafficking in persons received prison sentences of under one year, 27 persons received prison sentences of one to five years and 24 persons received prison sentences of six years or more. Also according to the report, 719 trafficking victims were identified between 2017 and 2020 (414 men and 305 women; 536 Moroccan citizens and 183 other nationalities). Furthermore, among the victims identified, 367 persons were victims of trafficking for sexual exploitation, 63 of exploitation through begging and 44 of trafficking for servitude.

The Government also indicates that a draft integrated national action plan involving all governmental and non-governmental actors is being prepared by the National Committee.

The Committee also notes that the Government, in its report of August 2022 submitted to the United Nations Human Rights Council as part of the universal periodic review, refers to a number of measures taken to combat trafficking in persons and provide care for victims, including: (i) the setting up of a unit in the Public Prosecution Service for monitoring cases of trafficking in persons; (ii) the establishment at the appeal court level of a network of deputy public prosecutors specializing in trafficking cases; (iii) the creation of a special team of social assistants in the courts to provide care for victims; (iv) the provision of healthcare for trafficking victims; and (v) the holding of training courses and workshops for persons involved in combating trafficking in persons (A/HRC/WG.6/41/MAR/1). The Committee further notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of July 2022, refers to insufficient protection for trafficking victims, including in terms of availability of specific shelters for victims, and a lack of information on the identification and registration of migrant victims of trafficking (CEDAW/C/MAR/CO/5-6).

***The Committee encourages the Government to continue its efforts to reinforce the identification of cases of trafficking in persons, for both sexual and labour exploitation, and to provide effective protection and assistance for victims. It requests the Government to indicate the actions taken and the services established for this purpose. In this context, the Committee expresses the firm hope that the draft national action plan to combat trafficking in persons will be adopted in the near future, and requests the Government to provide information on progress made in this regard and on the action taken by the National Committee for the Coordination of Anti-Trafficking Measures. Lastly, the Committee requests the Government to continue taking the necessary steps to ensure that the perpetrators of trafficking in persons incur criminal penalties that constitute an adequate deterrent, and to provide information on the number of investigations conducted and prosecutions initiated with respect to trafficking in persons, and also on the penalties imposed pursuant to Act No. 27-14 on combating trafficking in persons.***

*Article 2(2)(d). Requisitioning of persons.* The Committee previously urged the Government to repeal or amend the *Dahir* of 13 September 1938 authorizing the requisitioning of persons to meet national needs, so as to limit powers of requisitioning only to circumstances that would endanger the lives or normal living conditions of the whole or part of the population.

The Committee observes that the Government merely indicates once again that the application of the *Dahir* of 13 September 1938, although belonging to the category of legal texts dating back to the protectorate period, remains closely linked to the Constitution of 2011, which establishes the principle of solidarity in bearing the burden arising from situations of force majeure. The Committee notes with **regret** that the Government does not appear to envisage measures to repeal or amend the above-mentioned *Dahir*. ***The Committee recalls that when the provisions authorizing the requisitioning of labour in cases of force majeure are formulated in such broad terms that they could be applied to a wide range of circumstances other than force majeure in the strict sense, they go beyond the exception provided for in Article 2(2)(d) of the Convention. The Committee expects the Government to take measures without delay to amend or repeal the Dahir of 13 September 1938 so as to strictly limit***

***powers of requisitioning of persons to circumstances that would endanger the lives or normal living conditions of the whole or part of the population.***

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

## **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1966)**

### Previous comment

*Article 1(d) of the Convention. Imposition of prison sentences involving the obligation to work as a punishment for participating in strikes.* In its previous comments, the Committee noted that section 288 of the Penal Code provides that any person who, through the use of threats or deception, causes or maintains, or endeavours to cause or maintain a concerted stoppage of work with the objective of forcing an increase or decrease in wages or jeopardizing the free exercise of industry or work, shall be liable to a sentence of imprisonment involving the obligation to work (under the terms of sections 24, 28 and 29 of the Penal Code and section 35 of Act No. 23-98 on the organization and operation of prisons). Noting that a basic Bill on the exercise of the right to strike and a draft reform of the Penal Code were under preparation, the Committee requested the Government to ensure that the new legislative texts were in conformity with the Convention.

The Government indicates in its report that a social agreement concluded on 30 April 2022 sets out a schedule for the adoption of the basic Bill on the exercise of the right to strike. The Government adds that the revision of section 288 of the Penal Code is still on the agenda of the overall reform that is being undertaken of the Penal Code. The Committee notes in this regard that, in its 2022 annual report on the situation of human rights in Morocco, the National Human Rights Council recommends the Government to accelerate the adoption of the Bill to amend and supplement the Penal Code and to complete the procedure for the approval of basic Bill No. 97-15 on the conditions and procedures for the exercise of the right to strike.

***Recalling that Article 1(d) of the Convention prohibits any type of compulsory labour as a punishment for participating in strikes, the Committee expects that the basic Bill on the exercise of the right to strike and the Bill to amend and supplement the Penal Code which are to be adopted will take into account the obligations deriving from the Convention and the above comments so as to ensure that no sentence involving compulsory labour (including compulsory prison labour) can be imposed as a punishment for peaceful participation in a strike.***

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

## **Myanmar**

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1955)**

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

The Committee notes that in the context of its follow-up to the situation of Myanmar as regards the elimination of forced labour (following the 2013 [Resolution of the International Labour Conference concerning remaining measures on the subject of Myanmar under article 33 of the ILO Constitution](#)), in March 2022, the Governing Body decided of its own motion to establish a Commission of Inquiry concerning non-observance by Myanmar of the Convention as well as the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee notes the detailed [report](#) issued by the Commission of Inquiry on 4 August 2023, which was noted by the [Governing Body in its 349th Session](#) (November 2023).

The Committee notes that in its report the Commission of Inquiry concluded that the following violations of the Convention existed (paragraphs 595–634):

- The continuing systematic and widespread use by the Myanmar military of residents, including members of the Rohingya community, to perform a range of different types of work or service, including as porters, guides, and human shields, as well as for cultivation, the construction and maintenance of military camps or installations, and the provision of transport, accommodation, food, or domestic work; such practices not falling under the scope of the exception of *Article 2(2)(d)* nor any other exceptions provided for under *Article 2(2)* of the Convention.
- The exaction of prison labour from persons, in particular those having expressed opinions opposing the military, who have been convicted following legal procedures that manifestly lacked independence, impartiality, and due process of law, which is not covered by the exception contained in *Article 2(2)(c)* of the Convention.
- Services required by the military authorities from businesses during days of “silent strikes” (people staying indoors on a designated day and not engaging in any outside activity) that amount to forced or compulsory labour within the meaning of the Convention.
- The lack of review of article 359 of the Constitution which allows for the exaction of forced labour in the context of duties assigned by the Union in accordance with the law in the interest of the people, and of the People’s Military Service Law (2010) which allows for the use of military conscripts for work that is not of a purely military nature.
- The lack of adequate and dissuasive criminal sanctions for the exaction of compulsory labour under section 374 of the Penal Code and section 27A of the Ward or Village Tract Administration Law which provide for a penalty of imprisonment of up to one year or a fine.
- A deteriorating enforcement of the legal prohibition of forced labour and the fact that victims of forced labour imposed by the military fear retaliations if they bring forward complaints.

The Committee also notes that based on the above-mentioned findings, the Commission of Inquiry urged the military authorities to (paragraph 644):

- Act to end the exaction of all forms of forced or compulsory labour by the army and its associated armed forces and groups, including any forced labour exacted from ethnic, religious or other minorities; and to end any forced recruitment into the military.
- Cease any action interfering with the freedom of business to open and close their establishments.
- Cease with immediate effect the exaction of prison labour as a consequence of a criminal conviction imposed since 1 February 2021 through procedures manifestly lacking independence, impartiality and due process guarantees.

The Commission of Inquiry also recommended that Myanmar (paragraph 650):

- Assess the functioning of the national authorities and mechanisms responsible for the suppression of forced or compulsory labour and the enforcement of the relevant legislation, with the participation of workers’ and employers’ organizations, and take the necessary measures to strengthen their capacity and cooperation; and ensure that workers and employers’ organizations have access to such authorities to report any practice contrary to the Convention.
- Take specific measures to end the exaction of forced labour from Rohingya women and men and other ethnic or religious minorities.
- Ensure that any future system for compulsory military service or any other national service obligation and any restrictions on civil servants, including military personnel, to resign from their positions are implemented in accordance with the Convention.
- Revise its national legislation prohibiting forced labour to ensure that it provides for penalties that are really adequate and dissuasive.



The Committee notes that in a communication dated 29 September 2023, the military authorities indicated to the Governing Body that Myanmar's position regarding the Commissions of Inquiry's recommendations would be communicated within three months.

The Committee **deeply deplors** that although the imposition of forced labour on the population in the country has continuously been the subject of close examination for many years by this Committee, the Committee on the Application of Standards of the Conference, two Commissions of Inquiry, as well as by the Governing Body, this practice has continued and has even exacerbated after the military takeover on 1 February 2021, as indicated in the report of the Commission of Inquiry of 2023.

**Therefore, the Committee strongly urges the military authorities to take all the necessary measures to immediately put an end to all forms of forced or compulsory labour identified above; ensure without delay full compliance with the Convention, both in law and in practice; and take steps to fully and effectively implement the recommendations made by the Commission of Inquiry. In this regard, the Committee specifically recalls the importance of reviewing article 359 of the Constitution that allows for the exaction of forced labour to bring it into conformity with the Convention. The Committee strongly urges the military authorities to take the measures commensurate with the extreme seriousness of the situation and ensure that victims of forced labour are duly recognized as such, given access to the appropriate complaint mechanisms and granted compensation and protection against reprisal. The Committee expects that the military authorities will provide detailed information on the measures taken for the implementation of the recommendations of the Commission of Inquiry.**

*[The Government is asked to reply in full to the present comments in 2024.]*

## Niger

### Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

#### [Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022. **The Committee requests the Government to provide its comments in this respect.**

*Articles 1(1) and 2(1) of the Convention and Article 1(1) of the Protocol. Effective measures to combat slavery and similar practices. Systematic and coordinated action.* The Committee previously underlined the importance of adopting a national policy and a specific action plan to combat slavery and slavery-like practices, in view of the persistence of these practices in Niger and the complexity of their underlying causes.

The Government indicates in its report that a process is under way to incorporate the issues of forced labour, slavery and similar practices into the National Plan of Action 2022–26 of the National Commission for the Coordination of Action against Trafficking in Persons (CNCLTP). In this context, capacity-building workshops for members of the CNCLTP and of the National Agency for Action against Trafficking in Persons and Smuggling of Migrants (ANLTP/TIM), the operational structure for the implementation of policies and strategies adopted by the CNCLTP, were organized in 2022 in the context of the ILO Bridge technical cooperation project. These workshops enabled a better understanding of the various forms of forced labour and the relevant legal texts and of the roles of stakeholders and possibilities for cooperation with a view to the coherent implementation of the National Plan of Action.

The Government also indicates that several capacity-building workshops for the most representative employers' and workers' organizations were held in 2020 and 2021 in the context of the Bridge project, with a view to promoting their participation in the preparation and implementation of the National Plan of Action. The Government explains that it plans to amend Decree No. 2012-

082/PRN/MJ of 21 March 2012 establishing the structure, composition and functioning of the CNCLTP so that employers' and workers' organizations are represented in it.

The Committee notes that the ITUC emphasizes in its observations that although the Government has expressed a strong political will to tackle slavery based on descent and the discrimination associated with it, the lack of sufficient resources to implement and apply laws, policies and programmes against slavery is a major problem. The ITUC notes that the mandate of the ANLTP/TIM does not cover slavery based on descent and stresses the importance of implementing a specific national strategy and action plan to eradicate slavery and slavery-like practices.

The Committee notes that the National Human Rights Committee (CNDH), in its 2021 annual report, highlights the surviving vestiges of slavery-like practices and the socio-cultural dimension of slavery. In addition, the Committee observes that the United Nations Committee on the Elimination of Racial Discrimination (CERD), in its concluding observations of 24 May 2023, expressed serious concern at reports of the persistence of slavery practices and of harmful practices against women, including those of slave descent, such as the slavery-like practice of *wahaya*, which entails the purchase of a girl, usually of slave descent, to become a "fifth wife" (CERD/C/NER/CO/22-25).

***In light of the information giving evidence of the persistence of slavery-like practices and practices similar to slavery in the country, the Committee urges the Government to take the necessary measures without delay to adopt a national policy and plan of action for the effective suppression of slavery and slavery-like practices. The Committee trusts that the competent authority which will be designated to implement this policy will have the necessary resources to perform its functions throughout the country.***

*Article 2 of the Protocol. Clauses (a) and (b). Prevention. Awareness-raising, education and information.* As regards the current situation of slavery-like practices and awareness-raising activities undertaken, the Government refers to a number of recent studies dealing in particular with judicial prosecution for engaging in slavery and slavery-like practices. However, the Committee notes that these studies are not accessible. The Government also indicates that the National Day of mobilization against trafficking in persons has explicitly incorporated the issue of slavery since 2020. As part of the National Day, the ANLTP, with support from the Bridge project, organized a number of public conferences on slavery. Training activities for journalists were also organized in 2020 and 2021 to promote communication on forced labour and slavery. ***The Committee requests the Government to continue its efforts to educate, inform and raise the awareness of the public, in particular at-risk population groups and traditional and religious chiefs, regarding the reality of slavery-like practices (for example, by reporting on the various forms of slavery and similar practices, the manifestations and consequences thereof, existing legislation, penalties incurred and the rights of victims). The Committee also requests the Government to send a copy of the most recent studies on the current situation of slavery and slavery-like practices.***

*Clause (f). Action to address the root causes of slavery.* As regards measures to tackle the root causes of the vestiges of slavery-like practices, the Committee welcomes the implementation, in the context of the Bridge project, of a programme of support for the development of means of subsistence, which has benefited 400 women of slave descent in 22 villages in the regions of Tahoua and Agadez, with an anti-slavery association. The programme is based on a series of activities aimed at the economic reintegration of beneficiaries and making them autonomous, including through vocational training, the provision of capital for income-generating activities, training in life skills and entrepreneurship, and literacy. The Government also indicates that various measures promoting schooling for children of slave descent, including children of *wahaya* women, have been implemented, resulting in the establishment of 848 birth certificates for children in eight villages, the enrolment of 201 of these children in school in 2021/22, and the provision of school kits for these children. In addition, 352 adults of slave descent were issued with national identity cards and another 457 with birth certificates during sessions organized at fairs for this purpose.

However, the Committee notes that, according to the observations of the ITUC, communities with slave origins are subjected to widespread stigmatization and discrimination and that because of their marginalization and the distance of their places of residence, these communities are generally neglected by government services and poverty reduction programmes. Descendants of slaves can be given away as gifts or bequests, are denied recognition of their civil status and have no access to identity documents, and most children who are descendants of slaves have no access to education. The ITUC underlines the need to pass legislation providing total and effective protection against discrimination in all areas and containing an exhaustive list of prohibited grounds of discrimination, including on the basis of slave descent.

***The Committee urges the Government to take the necessary steps to combat stigmatization of, and discrimination against, former slaves and descendants of slaves; in this regard, it also refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee also requests the Government to continue its efforts to tackle the root causes of the vestiges of slavery-like practices, including to ensure effective access to services dealing with the registration of births, education and employment; in this regard, the Committee also refers to its comments on the application of the Employment Policy Convention, 1964 (No. 122).***

*Article 3 of the Protocol. Identification and protection of victims.* The Committee notes the absence of information on the identification, release and protection of victims of slavery. It notes that, according to the 2020 edition of the compendium of statistics of the Ministry of Justice, attached to the Government's report, no victims of slavery or similar practices were recorded in 2018, and two victims were recorded in 2017. The Committee notes that the ITUC in its observations highlights the fact that victims of slavery have no access to adequate rehabilitation measures, and that there is no procedure for identifying and supporting victims and survivors of slavery. The ITUC underlines the need to devise a plan for the identification and release of victims and survivors of slavery-like practices, and to develop a comprehensive rehabilitation programme, including prompt access to a safe place of refuge, to medical and psychological care and to legal and social services. ***The Committee once again requests the Government to take the necessary proactive measures to identify, release and protect the victims of slavery-like practices, including by putting in place and publicizing a procedure for the identification of victims and by establishing a care structure for the psychological, economic and social rehabilitation of victims. The Committee also requests the Government to provide information on the number of victims of slavery-like practices who have been identified and on the number of victims who have been the recipients of assistance and protection measures.***

*Article 4 of the Protocol. Access to justice and compensation.* The Committee previously asked the Government to indicate how the legal assistance mechanism operated by the National Agency for Legal and Judicial Assistance functioned and how the various actors cooperated to ensure that victims can assert their rights in practice. The Government indicates that the anti-slavery association *Timidria*, with ILO assistance, recruited 17 paralegals who are deployed in areas where slavery is prevalent, whose role includes informing victims of their rights and of procedures for access to justice as well as helping them to compile a dossier with a view to recourse to the competent judicial or administrative authorities or to obtain documents showing civil status or identity, and, if necessary, to direct them to the competent services. The Government explains that the local legal and judicial assistance offices, representing the National Agency for Legal and Judicial Assistance, have a presence in the ten high courts.

The Committee also notes that the ITUC underlines the need to establish a specific compensation fund for the victims of slavery. The Committee observes that the United Nations Committee on the Elimination of Racial Discrimination expressed concern at the difficulties encountered by victims of slavery practices in accessing the services of the National Agency for Legal and Judicial Assistance, owing to the inadequacy of its means and resources (CERD/C/NER/CO/22-25).

**The Committee encourages the Government to continue its efforts to ensure that the victims of slavery-like practices know and can assert their rights, including by continuing to facilitate their access to justice and ensuring that legal assistance and compensation are actually granted to them. The Committee also requests the Government to provide information on the number of victims who have obtained legal assistance and compensation.**

*Article 25 of the Convention and Article 1(1) of the Protocol. Suppression and imposition of effective penalties.* The Committee previously noted the lack of information on the application in practice of sections 270-1 to 270-5 of the Penal Code relating to slavery, and urged the Government to strengthen the capacities of the law enforcement bodies. The Committee duly notes the training activities carried out for the judicial authorities and law enforcement agencies in the context of the Bridge project, aimed in particular at achieving a better understanding of slavery and practices similar to slavery, perfecting procedures for the identification of cases of slavery and strengthening the role of each of the actors concerned in the penal system. The Government also indicates that two capacity-building workshops for labour inspectors on combating forced labour were held in 2021 and 2022. It explains that the inspectors will participate actively in the implementation of the CNCLTP National Plan of Action.

The Committee notes that, according to the 2020 edition of the compendium of statistics of the Ministry of Justice, attached to the Government's report, one new case of slavery was recorded in the high and lower courts in 2018–19, and this case was prosecuted. The Committee also notes that, according to the 2022 edition of the compendium of statistics, no new cases of slavery were recorded in the high and lower courts in 2019–20, and five were recorded in 2020–21, including three which were prosecuted. As at 31 December 2020, seven persons had been convicted for acts of slavery, and five as at 31 December 2021.

The Committee notes that the ITUC emphasizes in its observations that the number of prosecutions is low and that only a few dozen slavery cases have been brought before the national courts. The ITUC also indicates that because of the distinction made between the "crime" of slavery, for which the penalty is 10 to 30 years' imprisonment, and the "offence" of slavery, for which the penalty is 5 to 10 years' imprisonment, the sentences handed down do not reflect the seriousness of the violations. The ITUC insists on the need for judicial officials and the other actors concerned to receive training with respect to the provisions of the Penal Code concerning slavery.

**The Committee urges the Government to continue taking steps to boost training activities for bodies responsible for applying the law (labour inspectorate, law enforcement agencies, prosecution authorities and judicial authorities) in order to enable these authorities to identify cases of slavery, conduct investigations and initiate judicial proceedings against the perpetrators of such practices. The Committee also requests the Government to ensure that the perpetrators of violations involving slavery are subjected to sufficiently dissuasive penalties, and to continue providing information on any cases of slavery identified, complaints filed and judicial proceedings initiated, and also on the number of convictions handed down and the penalties imposed under sections 270-1 to 270-5 of the Penal Code.**

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

## Republic of Moldova

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1993)

#### [Previous comment](#)

The Committee notes the observations of the National Confederation of Trade Unions of Moldova (CNSM), received on 17 August 2022.

*Article 1(b) of the Convention. Mobilizing of labour for purposes of economic development.* For many years, the Committee has been drawing the Government's attention to the incompatibility with the Convention of certain provisions of the Act on mobilization, No. 1192-XV of 4 July 2002, the Act on the

requisitioning of goods and services in the public interest, No. 1352-XV of 11 October 2002, and the Government decision to approve regulations on mobilization at the workplace, No. 751 of 24 June 2003, under which the central and local authorities, as well as military bodies can exact compulsory labour from the population under certain conditions as a means of mobilizing and using labour for purposes of the development of the national economy.

The Committee notes with **deep regret** that the Government has not provided any information on this point in its report. The Committee further notes that, in its observations, the CNSM points out that the Government should take the necessary measures, as soon as possible, to amend the provisions of the abovementioned acts, to bring them into conformity with the Convention.

The Committee recalls that *Article 1(b)* requires the abolition of any form of forced or compulsory labour as a means of mobilizing and using labour for purposes of economic development and that, as previously noted section 3(b) of the Law on the requisitioning of goods and services in the public interest clearly provides that one of the aims of such requisitioning is to create conditions for the good functioning of the national economy and public institutions. **The Committee urges the Government to take the necessary measures, without delay, to ensure the amendment of the Act on mobilization, No. 1192-XV of 4 July 2002, the Act on the requisitioning of goods and services in the public interest, No. 1352-XV of 11 October 2002, and the Government decision to approve the regulations on mobilization at the workplace, No. 751 of 24 June 2003, in order to bring them into conformity with the Convention.**

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

## Rwanda

### Forced Labour Convention, 1930 (No. 29) (ratification: 2001)

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.* The Committee notes the Government's information, in its report, on the adoption of Act No. 51/2018 of 13 August 2018 relating to the prevention, suppression and punishment of trafficking in persons and exploitation of others, which repeals the provisions of the Criminal Code criminalizing trafficking in persons. The Committee welcomes the fact that, in addition to provisions criminalizing trafficking in persons and establishing stringent penalties of imprisonment (section 18), Act No. 51/2018 also includes provisions on the prevention of trafficking, and on providing protection and assistance to the victims (sections 7 to 15). It notes the Government's indication that several awareness-raising and training activities were undertaken on trafficking in persons, more particularly for law enforcement institutions regarding the identification, investigation and prosecution of cases of trafficking in persons. The Government adds that, in 2019, the Rwanda Bureau of Investigation opened 63 cases of transnational trafficking in persons (41 for forced labour and 22 for sexual exploitation). Furthermore, 64 individuals were arrested for trafficking in persons, of whom 9 were prosecuted. Two individuals were convicted and sentenced to 20 years of imprisonment and a fine.

The Committee notes that, according to the findings of research undertaken in collaboration with the Ministry of Justice and the International Organization for Migration (IOM), in 2018, Rwanda is a transit country and, to a lesser extent, a country of origin for trafficking in persons. Data from the Department of Immigration and Emigration (DGIE) show that the majority of the suspected victims of trafficking in persons identified were women (77.67 per cent) and were mainly from neighbouring countries, and that Middle East Countries and East African Countries are the most frequent destination. The Committee notes that, in the framework of the Universal Periodic Review (UPR) of the United Nations Human Rights Council, the Government indicated that the findings of this research informed the drafting of the National Action Plan on counter-human trafficking which was at the stage of adoption by the Cabinet in November 2020 (A/HRC/WG.6/37/RWA/1, 9 November 2020, paragraph 107). It further notes that, in its 2021 concluding observations, the United Nations Committee on Migrant Workers expressed concern at the limited knowledge about trafficking in persons and the challenges in evidence-gathering as one of the main causes

of the low conviction rate for the crime of trafficking in persons as compared with other crimes (CMW/C/RWA/CO/2, paragraph 53). **The Committee requests the Government to pursue its efforts to combat trafficking in persons for both labour exploitation and sexual exploitation, including through the swift adoption of the draft National Action Plan on counter-human trafficking. The Committee requests the Government to provide information on the measures taken in this context to ensure adequate protection of victims of trafficking and strengthen the capacity of the law enforcement authorities to identify, investigate and prosecute cases of trafficking. The Committee also requests the Government to provide information on the number of cases investigated and prosecuted, the number of convictions handed down and the penalties imposed.**

*Article 2(2)(e). Minor communal services.* For a number of years, the Committee has been drawing the Government's attention to the fact that sections 2(2), 3, 5 and 13 of Act No. 53/2007 of 17 November 2007 on community work, go well beyond the exception allowed in *Article 2(2)(e)* of the Convention for minor communal services. It noted that, pursuant to Act No. 53/2007, community work, referred to as *Umuganda*, shall aim to promote development activities in the framework of supporting the national budget and that every Rwandan from 18 to 65 years old shall have the obligation to perform community works, which shall take place on the last Saturday of every month. Persons who fail to participate without justified reasons are punishable by a fine. The Committee noted from the information provided by the Government that infrastructure construction was one of the main activities.

The Committee notes the Government's indication that *Umuganda* is the gathering of efforts of many people in order for them to carry out a general public interest activity. These community works shall be considered a civic obligation for Rwandan citizens, as provided for in *Article 2(2)(b)* of the Convention. In that regard, the Committee emphasizes that the exception of "normal civic obligations" provided for under this provision of the Convention should be understood in a very restrictive way. Three kinds of such "normal civic obligations" are specifically mentioned in the Convention as exceptions to its scope, namely: compulsory military service, work or service in cases of emergency and "minor communal services". Thus, it is not possible to consider, within the meaning of the Convention, "normal civic obligations" to be work undertaken for public purposes, such as compulsory public works of general importance or compulsory national development service, which is prohibited by the Convention (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 277). Furthermore, the Committee recalls that "minor communal services" do not constitute forced labour only if certain criteria are met: (i) the services must be "minor", such as relating primarily to maintenance work; (ii) the services must be performed in the direct interest of the community and not relate to the execution of works intended to benefit a wider group; and (iii) the community which has to perform the services, or their "direct" representative, must be consulted in regard to the need for such services. **Noting that the large-scale participation in Umuganda is compulsory and infrastructure construction is one of the main activities, the Committee urges the Government to take the necessary measures to review the provisions of Act No. 53/2007 of 17 November 2007 to ensure compliance with the Convention, whether by ensuring that participation in community works is voluntary or by limiting their scope to the exception of "minor communal services". It requests the Government to continue to provide examples of the types of community works that can be required of the population under Act No. 53/2007.**

The Committee is raising other 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: 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. Sanctions involving compulsory labour imposed as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted that several sections of the Penal Code (Organic Law No. 01/2012/OL of 2 May 2012) provide for sanctions of imprisonment, which involve compulsory labour, in circumstances falling within the scope of the Convention (sections 116, 136, 451, 462, 463, 468 and 469). It expressed concern regarding information on prosecution of opposition politicians, journalists and human rights defenders as a means of discouraging them from freely expressing their opinions. The Committee requested the

Government to ensure that no penal sanctions involving compulsory prison labour may be imposed on persons for peacefully expressing political views.

Concerning compulsory prison labour, the Committee notes the Government's indication, in its report, that a draft law regulating correctional services is currently under the enactment process. The draft law would repeal the obligation of prisoners to perform activities for the development of the country, themselves and the prisons, provided for under section 50(8) of Act No. 34/2010 of 12 November 2010 on the establishment, functioning and organization of the Rwanda Correctional Service, in order to avoid any abuse that may result from its application. While noting this information, the Committee observes that section 35 of Act No. 68/2018 of 30 August 2018 determining offences and penalties in general, which replaced the Penal Code, provides that the court may order that the convict serve community service as a principal penalty in lieu of imprisonment when an offence is punishable by a term of imprisonment of up to five years. The Committee observes that the legislation in force continues to provide that persons sentenced to imprisonment are under an obligation to perform activities.

*Legislation related to civil liberties and political freedoms.* Referring to its previous comments, the Committee notes with **interest** that, pursuant to Act No. 69/2019 of 8 November 2019 amending Act No. 68/2018, defamation against the President of the Republic and humiliation of national authorities are decriminalized. It notes, however, that, under a certain number of provisions of Act No. 68/2018, sanctions involving compulsory labour may still be imposed for acts related to civil liberties and political freedoms and through which persons can express political views or views ideologically opposed to the established political, social or economic system. The provisions in question are as follows:

- section 161 concerning public insult;
- section 164 concerning the crime of "instigating divisions";
- section 194 concerning the spread of false information or harmful propaganda with intent to cause a "hostile international opinion" against the Government;
- section 204 on causing uprising or unrest among the population; and
- section 225(1) and (2), concerning demonstration in a public place without prior authorization or illegal demonstration or public meeting (when security, public order or health is not threatened).

*Legislation related to press and media freedoms.* The Committee further notes that, pursuant to Act No. 02/2013 of 11 March 2013, regulating media, "the freedom of opinions and information shall not jeopardize the general public order and good morals ...". In that regard, it notes that several legislations adopted in recent years also provide for sanctions involving compulsory labour for acts through which persons express political views or views ideologically opposed to the established political, social or economic system. More particularly:

- Act No. 60/2018 of 22 August 2018 on prevention and punishment of cyber-crimes imposes up to five years' imprisonment and a fine for publishing "rumours that may incite fear, ... or that may make a person lose their credibility" (section 39); and
- Act No. 24/2016 of 18 June 2016, governing information and communication technologies, prohibits the dissemination of "grossly offensive" or "indecent" messages, as well as the use of information and communications technology to cause "annoyance, inconvenience, or needless anxiety" (section 60), and provides that any person who, knowingly or wilfully, publishes, transmits or causes to be published in electronic form, any "indecent" information commits an offence punishable in accordance with the provisions of the Penal Code (section 206).

The Committee also notes that, as recently highlighted in the framework of the Universal Periodic Review (UPR) of the United Nations (UN) Human Rights Council, several UN treaty bodies and Special Rapporteurs continued to express serious concerns at prosecutions of politicians, journalists and human rights defenders, as a means of discouraging them from freely expressing their opinions (A/HRC/WG.6/37/RWA/2, 13 November 2020, paragraph 45; letter dated 30 May 2018 from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and CAT/C/RWA/CO/2, 21 December 2017, paragraphs 52–53). In the framework of the UPR, a number of recommendations formulated by the Working Group, and supported by Rwanda, referred to the elimination from the legislation of provisions that undermine freedom of expression and the protection of journalists

and members of the media and civil society against harassment and intimidation (A/HRC/47/14, 25 March 2021, paragraphs 134-136).

The Committee notes with **deep concern** this information. The Committee observes that the above-mentioned provisions of Act No. 68/2018 of 30 August 2018, Act No. 60/2018 of 22 August 2018 and Act No. 24/2016 of 18 June 2016, are worded in terms broad enough to lend themselves to their application as a means of punishment for peacefully expressing political views or views ideologically opposed to the established political, social or economic system. In so far as these provisions are enforceable with penal sanctions which involve compulsory labour, they fall within the scope of the Convention. The Committee recalls that legal guarantees of rights to freedom of thought and expression, freedom of peaceful assembly, freedom of association, as well as freedom from arbitrary arrest, constitute an important safeguard against the imposition of compulsory labour as a punishment for holding or expressing political or ideological views (*General Survey of 2012 on the fundamental Conventions*, paragraph 302). **The Committee therefore urges the Government to ensure that persons who, by means of methods that neither use violence nor incite to violence, express political views or views opposed to the established political, social or economic system do not incur penal sanctions involving an obligation to work. It expresses the firm hope that the Government will take the necessary measures to review the above-mentioned provisions of Act No. 68/2018 of 30 August 2018 determining offences and penalties in general; Act No. 60/2018 of 22 August 2018 on prevention and punishment of cyber crimes; and Act No. 24/2016 of 18 June 2016 governing information and communication technologies, for example by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour (such as compulsory prison labour or compulsory community service). In the meantime, the Committee requests the Government to provide information on the application of these provisions in practice, including on the number of prosecutions initiated and convictions handed down, as well as information on the facts that led to them.**

*Article 1(d). Sanctions for participating in strikes.* The Committee notes the adoption of Act No. 66/2018 of 30 August 2018 regulating labour, which provides for a number of restrictions on the exercise of the right to strike, by considering a strike as being legal only when the arbitration committee has exceeded 15 working days without issuing its decision or the conciliation resolution on collective dispute or the court award being enforceable have not been implemented (section 105). It notes that section 118 of Act No. 66/2018 provides for sanctions of imprisonment for a term of not less than six months, involving compulsory labour, for employees who go on strike illegally. The Committee further notes the adoption of Ministerial Order No. 004/19.20 of 17 March 2020, determining essential services that should not be interrupted during strikes or lock-outs, which repealed Ministerial Order No. 4 of 13 July 2010. It observes that services related to communication, transportation or education are still considered as essential services, and that section 6 of the Ministerial Order provides that other services may be considered as essential services “for public interest”. Furthermore, employees are prohibited from exercising a strike within ten days preceding or following elections in the country (section 8). The Committee wishes to draw the Government’s attention to the fact that the right to strike may only be restricted or prohibited in essential services in the strict sense of the term (namely, in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population), in the public service only for public servants exercising authority in the name of the State, or in situations of acute national crisis (see *General Survey*, paragraph 314). **The Committee therefore requests the Government to take the necessary measures, both in law and in practice, to ensure that no worker who participates peacefully in a strike can be liable and sentenced to penal sanctions involving compulsory labour.**

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

## Senegal

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

#### [Previous comment](#)

*Articles 1(1) and 2(1) of the Convention. Trafficking in persons.* The Committee notes the adoption of Decree No. 2020-2064 of 27 October 2020 establishing the National Committee to Combat Trafficking



in Persons and the Smuggling of Migrants (CNLTP), replacing the National Anti-Trafficking Unit, and extending the competence of the national coordination mechanism by formally assigning it a role of prevention and coordination in the fight against migrant smuggling. The Government adds, in its report, that a bill revising Act No. 2005-06 of 10 May 2005 on combating trafficking in persons and similar practices and the protection of victims was sent by the CNLTP to the Ministry of Justice. Similarly, a compensation fund for victims of trafficking was established by Decree No. 2023-920 of 26 April 2023. The Committee notes the adoption of the National Plan of Action to Combat Trafficking in Persons 2021–23, developed by the CNLTP. In this regard, it notes from the report submitted in 2023 by the Government to the United Nations Committee on Migrant Workers that a number of activities have been organized under the Plan of Action, including training workshops aimed at members of the judiciary at the regional level, organized by the CNLTP, to facilitate the identification of and psychological assistance, care and psychosocial support for victims of trafficking. The CNLTP also developed a Handbook for law enforcement officials, which facilitates the identification of trafficking victims, as well as Standard operating procedures for law enforcement services, on the identification and referral of victims of trafficking and their treatment in investigations and prosecutions. With regard to the data collection system on the various aspects of legal action taken in cases of human trafficking in Senegal (SYSTRAITE), the Government indicates that although the system was deployed in five pilot regions (Dakar, Kedougou, Saint-Louis, Tamba and Thies), the information available is fragmented and inconsistently collected (CMW/C/SEN/4, 19 July 2023). The Committee also notes the adoption, on 27 July 2023, of the National Strategy against Irregular Migration 2023–33, with particular emphasis on tackling exploitation and trafficking in persons.

The Committee welcomes the different measures adopted to strengthen efforts to combat trafficking in persons. It nevertheless notes with *regret* the absence of more specific information on the impact of these measures in practice, including the number of cases of trafficking in persons detected and of prosecutions and convictions in such cases. In this regard, the Committee notes that, in its concluding observations of 2022, the United Nations Committee on the Elimination of Discrimination against Women expressed particular concern about: (1) the fact that Senegal is a country of origin, transit and destination for trafficking in persons and that internal trafficking for purposes of sexual exploitation is equally prevalent; (2) the absence of data on the number of victims, investigations, prosecutions and convictions relating to trafficking in persons, particularly for purposes of sexual exploitation, forced labour and forced begging in Senegal and for purposes of domestic servitude in foreign countries; (3) the low rate of prosecutions and convictions and the lack of adequate mechanisms to identify victims of trafficking and refer them to appropriate services; and (4) reports of harassment by the police of women exploited in prostitution (CEDAW/C/SEN/CO/8, 1 March 2022).

***The Committee urges the Government to continue its action against trafficking in persons, both for sexual exploitation and labour exploitation, and to provide information on activities undertaken to this end by the National Committee to Combat Trafficking in Persons and the Smuggling of Migrants (CNLTP), including under the trafficking component of the National Strategy against Irregular Migration 2023–33. The Committee requests the Government to provide a copy of the most recent annual report of the CNLTP containing data and statistics on action against trafficking in persons as well as any evaluation of action taken in this area. The Committee further urges the Government to continue to strengthen the capacity of law enforcement officials and to ensure that persons who engage in trafficking are effectively prosecuted and victims can receive adequate protection and assistance to assert their rights and reintegrate. In this regard, the Committee requests the Government to provide information on: (i) the number of investigations and prosecutions carried out, specifying the penalties applied pursuant to Law No. 2005-06; and (ii) the number of victims of trafficking who have benefited from protection and assistance services and the nature of such services, including through the compensation fund established by Decree No. 2023-920 of 26 April 2023, and to provide a copy of the Decree in question.***

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

## Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

### Previous comment

*Article 1(c) of the Convention. Imposition of sentences of imprisonment involving an obligation to work for breaches of labour discipline.* For several years, the Committee has been referring to the need to amend sections 624, 643 and 645 of the Merchant Shipping Code (Act No. 2002-22 of 16 August 2002), which provides for prison sentences (involving compulsory labour in accordance with section 692 of the Code of Criminal Procedure and section 32 of Decree No. 2001-362 of 4 May 2001 on the execution and organization of penal sanctions), in the case of unapproved absence from the vessel, verbal insults, gestures or threats towards a superior, or a formal refusal to obey a service order. The Committee notes the Government's repeated indication, in its report, that 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 Government adds that, insofar as judges are bound to respect the principle of proportionality between the offence and the penalty when handing down a penalty, persons receiving the penalty always have the possibility of appealing to a high-court judge if they consider that the penalty against them is disproportionate.

The Committee recalls, in this respect, that in view of the fact that the scope of the provisions of the Merchant Shipping Code mentioned above is not confined to cases in which the breach of discipline would endanger the ship or the life or health of persons on board, these provisions are contrary to the Convention, which prohibits recourse to forced labour, including in the form of compulsory prison labour, as a means of labour discipline. ***With reference to its 2021 comments on the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006), in which it noted that a revision of the Merchant Shipping Code was under way, the Committee urges the Government to take the necessary measures to amend the above provisions of the Merchant Shipping Code and to thereby align national legislation with the practice indicated and the Convention. The Committee hopes that this revision will be carried out shortly to ensure that, in conformity with Article 1(c) of the Convention, breaches by seafarers of labour discipline which 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.* 1. *Requisitioning in the event of a strike* The Committee recalls that section L.279(m) of the Labour Code provides for the possibility of a prison sentence, including compulsory labour, to workers who do not comply with a requisition order in the case of a strike, under section L.276 of the Labour Code, which allows for the requisition of workers 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, with the list of jobs concerned to be established by decree. The Committee notes the Government's indication that the current reform of the Labour Code should be finalized by 2024 and that, in the interest of coherence, the implementing texts of the Labour Code will be adopted after revision of the Code. The Committee notes with **deep regret** that the Decree implementing section L.276 of the Labour Code has still not adopted since the entry into force in 1997 of the current Labour Code. The Committee wishes to draw the Government's attention to the fact that a suspension of the right to strike enforced by sanctions involving compulsory labour is compatible with the Convention only insofar as it is necessary to cope with cases of force majeure in the strict sense of the term – namely, when the existence or well-being of the whole or part of the population is endangered (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 314). The Committee recalls in this regard that the Government previously indicated that pending the Decree implementing section L.276, Decree No. 72-017 of 11 March 1972 establishing the list of posts, jobs and functions the holders of which may be requisitioned continued to be applicable, and that this Decree targeted posts, jobs or functions which do not constitute essential services in the strict sense of the

term. In this regard, it refers the Government to its 2022 [comments](#) under the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

***The Committee urges the Government to take the necessary measures to bring the national legislation into conformity with the Convention by ensuring that the Decree to implement section L.276 of the Labour Code limits the list of posts, jobs and functions the holders of which may be requisitioned, to posts, jobs and functions which constitute essential services in the strict sense of the term. Pending the adoption of these measures, the Committee requests the Government to provide information on the application in practice of sections L.276 and L.279(m) of the Labour Code, particularly on the number of prosecutions brought or court rulings handed down, specifying the penalties imposed and the acts that led to these convictions.***

2. *Occupation of premises in a strike.* Recalling that the last paragraph of section L.276 and section L.279(o) of the Labour Code provide for the possibility of imposing imprisonment involving compulsory labour for striking workers who have occupied the workplace or its immediate surroundings, the Committee notes with **regret** the absence of measures taken by the Government to ensure that, in both legislation and practice, no sanctions involving compulsory labour should be imposed for the mere fact of organizing or peacefully participating in strikes (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 315). ***The Committee once again urges the Government to take the necessary measures, particularly within the context of the revision of the Labour Code, to amend the last paragraph of section L.276 and section L.279(o) of the Labour Code so as to ensure that striking workers who peacefully occupy the workplace or its immediate surroundings are not liable to prison sentences during which prison labour may be imposed. The Committee requests the Government to indicate the number of strikers who have been prosecuted and convicted under sections L.276 and L.279(o) of the Labour Code.***

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

## South Sudan

### Forced Labour Convention, 1930 (No. 29) (ratification: 2012)

#### [Previous comment](#)

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons.* The Committee previously noted section 282 of the Penal Code of 2008 which criminalizes trafficking in persons for sexual exploitation outside South Sudan. It requested the Government to indicate the provisions in national legislation that would prohibit trafficking for labour exploitation, including within the borders of the country, as well as information on the measures taken to prevent and suppress all forms of trafficking in persons. The Committee notes that the Government refers in its report to section 11 of the Labour Act of 2017 which prohibits any person from organizing or assisting in the organization of illicit or clandestine movement of any persons into or out of South Sudan for performing work. The Government also indicates that no information is available concerning any decision or sanction imposed by the courts under section 282 of the Penal Code.

The Committee notes that the United Nations Special Rapporteur on Trafficking in Persons, in her report of May 2023, highlights the prevalence of trafficking in persons occurring in the context of extreme poverty, insecurity and continuing conflict and violence in South Sudan and the urgency for strengthening coordinated action to prevent and combat trafficking in persons for all purposes of exploitation. She also emphasizes the very limited assistance and protection available to trafficked persons and the need for urgent action to ensure safe accommodation, appropriate assistance and protection to victims. The Special Rapporteur indicates that South Sudan currently hosts 377,000 refugees and over 824,000 migrant workers and an estimated 2.3 million South Sudanese refugees are living in neighbouring countries making it the largest refugee crisis in Africa. This migration context,

combined with limited access to livelihoods and safe, regular migration opportunities, both inward and outward, contribute to increased risks of trafficking in persons. There are reports of women and girls who are abducted and detained by State and non-state armed groups for sexual slavery and forced labour (A/HRC/53/28/Add.2).

**While acknowledging the complexity of the situation on the ground, the Committee urges the Government to take the necessary measures to prevent and combat trafficking in persons for both sexual and labour exploitation by (i) adopting a legal framework encompassing all forms of trafficking in persons; ii) ensuring comprehensive prevention and awareness-raising activities, with a particular focus on refugees and returned refugees; (iii) ensuring appropriate assistance and protection to victims of trafficking; (iv) enhancing the capacities of the law enforcement bodies to identify situations of trafficking in persons, undertake prompt investigations and initiate prosecutions. It also requests the Government to provide information on the prosecutions carried out, the convictions handed down and the number and nature of penalties applied to perpetrators of trafficking in persons.**

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), 2(1) and 25 of the Convention. Abductions for the exaction of forced labour and penalties.* In its previous comments, the Committee noted the practice of abductions for the purpose of forced labour in the context of armed conflict. It noted the Government's indication in its last report that no evidence had been found regarding cases of abductions. The Committee further noted the United Nations Independent Expert's indication in 2016 that fighting continued, particularly in Darfur between Government forces and the Sudan Liberation Movement-Abdul Wahid, causing killings, abductions, sexual violence and displacement of civilians. The Committee noted the appointment of a Special Prosecutor for Darfur crimes, and the Government's information that no prosecutions undertaken by the Special Prosecutor were related to cases of abductions for forced labour. The Committee accordingly requested the Government to take immediate and effective measures to ensure the imposition of appropriate criminal penalties on perpetrators of abductions for the exaction of forced labour.

The Government indicates in its report that there are no records of abductions for the purpose of compulsory labour, and that the Special Prosecutor for Darfur crimes has not received any cases of abductions for forced labour. The Government states that the security situation in Darfur is stable thanks to the efforts of the transitional Government, which has made peace its priority.

The Committee notes the United Nation's indication available on its website that a transitional Government was formed in August 2019 by the Transitional Military Council and the country's main opposition alliance, for a three-year period leading up to democratic elections. The Committee notes that the General Framework for the programme of the transitional Government sets as one of its priorities to put an end to the war and build fair, comprehensive and sustainable peace. In this regard, practical measures include: (i) establishing and activating the Transitional Justice Commission and building the relevant compensation and reparation institutions; and (ii) creating units for psychological support and assistance for the victims of violations. In addition, the Committee notes that Article 6(3) of the Transitional Constitution, signed on 17 August 2019, provides that despite any provision in existing laws, there shall be no statutory limitations on war crimes and crimes against humanity, extrajudicial killings, violations of international human rights law and international humanitarian law, and offences relating to corruption and abuse of power committed since 30 June 1989. The Committee welcomes the formal signature of a peace agreement on 3 October 2020 in Sudan between the transitional Government and opposition groups. **The Committee requests the Government to continue to take measures to ensure that no cases of abductions for the exaction of forced labour occur in future and to guarantee that victims are fully protected from such practices. The Committee also requests the Government to provide information on the establishment of the Transitional Justice Commission, the compensation and reparation institutions and the units to support and**

***assist victims of violations, and to indicate the activities that they have undertaken for the reparation and reintegration of victims of abductions for the exaction of forced 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.***

### **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.* The Committee previously noted that sections 50, 66 and 69 of the Criminal Act provided for penalties of imprisonment, which might involve an obligation to perform prison labour, for committing an act with the intention of undermining the constitutional system, for the publication of false news with the intention of harming the prestige of the State, and for committing an act intended to disturb public peace and tranquillity. It took note of the report of 2016 of the Independent Expert on the situation of human rights in the Sudan according to which repressive measures, including arrests and detentions, had been used by Sudanese authorities against political opposition groups, civil society organizations and students. The Committee accordingly urged the Government to take the necessary measures to ensure that sections 50, 66 and 69 of the Criminal Act were repealed or amended so that no prison sentence involving compulsory labour could be imposed on persons who, without using or advocating violence, expressed certain political views or opposition to the established political, social or economic system.

The Government indicates in its report that the Criminal Act is currently subject to review. The Committee notes that the Criminal Act was amended by the Act on various amendments of 13 July 2020. The Committee notes with **regret** that sections 50, 66 and 69 do not appear to have been amended.

The Committee further notes that the Human Rights Committee indicated in its concluding observations of November 2018 that the 2013 amendments to the Armed Forces Act introduced the possibility for the trial of civilians before military jurisdictions for crimes such as the spreading of false news (section 66 of the Criminal Act) or undermining the constitutional system (section 50 of the Criminal Act). The Human Rights Committee also pointed out that political opponents have been prosecuted before military jurisdictions (CCPR/C/SDN/CO/5, paragraph 39). ***The Committee urges the Government to take the necessary measures to ensure that the legislation is amended without delay so that persons who peacefully express political views or views ideologically opposed to the established political, social or economic system cannot be subject to sanctions involving compulsory prison labour. For instance, the Government could restrict the scope of application of sections 50, 66 and 69 of the Criminal Act to situations of violence, or could repeal sanctions involving compulsory prison labour. In the meantime, the Committee requests the Government to indicate the specific penalties that have been imposed on persons under sections 50, 66 and 69 of the Criminal Act, including by the military jurisdictions. It also requests the Government to provide a copy of the 2013 amendments to the Armed Forces 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 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 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking and sexual slavery.* Following its previous comments, the Committee notes that according to the 2016 Report of the UN Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic to the Human Rights Council, credible information indicates that women and girls trapped in conflict areas under the control of the Islamic State in Iraq and the Levant (ISIL) face trafficking and sexual slavery. Some specific ethnic groups are particularly vulnerable, such as Yazidis and those from ethnic and religious communities targeted by the ISIL (A/HRC/32/35/Add.2, paragraph 65). The Committee also notes that, according to the 2017 Report of the UN Secretary-General on conflict-related sexual violence, thousands of Yazidi women and girls who were captured in Iraq in August 2014 and trafficked to the Syrian Arab Republic continue to be held in sexual slavery, while new reports have surfaced of additional women and children being forcibly transferred from Iraq to the Syrian Arab Republic since the start of military operations in Mosul (S/2017/249, paragraph 69).

The Committee notes the Government's indication in its report that, pursuant to the Prevention of Human Trafficking Act of 2010, a Department to Combat Trafficking in Persons was established. However, since the conflict has erupted, trafficking of persons and sexual slavery have increased because of the presence of terrorist groups in the country. The Committee must express its **deep concern** that, after almost six years of conflict, trafficking in persons and sexual slavery are practices that are still occurring on a large scale on the ground. **While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee once again urges the Government to take the necessary measures to put an immediate stop to these practices which constitute a serious violation of the Convention and to guarantee that the victims are fully protected from such abusive practices. The Committee recalls that it is crucial that appropriate criminal penalties are imposed on perpetrators so that recourse to trafficking or sexual slavery does not go unpunished. The Committee urges the Government to take immediate and effective measures in this respect, and to provide information on the results achieved.**

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

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

## Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* For a number of years, the Committee has been drawing the Government's attention to certain provisions under which penal sanctions involving compulsory prison labour, pursuant to sections 46 and 51 of the Penal Code (Act No. 148 of 1949), may be imposed in situations covered by the Convention, namely:

- Penal Code: section 282 (insult of a foreign State); 287 (exaggerated news tending to harm the prestige of the State); 288 (participation in a political or social association of an international character without permission); and sections 335 and 336 (seditious assembly, and meetings liable to disturb public tranquillity); and
- the Press Act No. 156 of 1960: sections 15, 16 and 55 (publishing a newspaper for which an authorization has not been granted by the Council of Ministers).

The Committee also previously noted that the abovementioned provisions are enforceable with sanctions of imprisonment for a term of up to one year which involves an obligation to perform labour in prison.

The Committee notes the Government's indication in its report that the Press Act of 1960 had been repealed and replaced by the Media Act No. 108 of 2011, under which the penalty of imprisonment has been replaced by a fine. The Government also indicates that a draft Penal Code has been prepared and is in the

process of being adopted. ***The Committee expresses the firm hope that, during the process of the adoption of the new Penal Code, the Government will take all the necessary measures to ensure that persons who express political views or views opposed to the established political, social or economic system benefit from the protection afforded by the Convention and that, in any event, penal sanctions involving compulsory prison labour cannot be imposed on them.***

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

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

## Tajikistan

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

#### Previous comment

*Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee notes the Government's indication in its report that there are eight persons convicted under section 137 "Public insults of the President"; two persons convicted under section 137-1 "Public insults or defamation of the Leader of the Nation"; 137 persons convicted under section 189 "Incitement of social, racial, national, regional, religious enmity or discord"; and one person convicted under section 330(2) "Insult of a representative of authority" of the Criminal Code. The Committee also takes note of the examples of the court decisions handed down under sections 137, 189, and 330 of the Criminal Code provided by the Government.

The Committee notes that the United Nations (UN) Human Rights Committee, in its 2023 report on follow-up to its concluding observations, regretted that individuals had been deprived of their liberty on a number of charges related to insulting or libelling the President/Leader of the Nation and insulting other State officials (CCPR/C/137/2/Add.4). With respect to section 189(1) of the Criminal Code, the UN Working Group on Arbitrary Detention, in its Opinion No. 89/2020, expressed concern that the provisions of this section are vague and overly broad and may be used to punish the peaceful exercise of human rights. In its other Opinions, the UN Working Group on Arbitrary Detention referred to the arbitrary arrests and deprivation of liberty of political opposition activists which resulted from the legitimate exercise of their rights and freedoms (Opinions No. 48/2021 and No.23/2020) The Committee also notes that the UN human rights experts expressed concern about the use of extremism- and terrorism-related charges against human rights defenders and minority activists (the communication of 12 May 2023). The UN Committee on the Elimination of Racial Discrimination regretted that the national counter-terrorism legislation, including the provisions of the Criminal Code, contains an overly broad and ambiguous definition of "terrorism" and related offences (CERD/C/TJK/CO/12-13).

The Committee recalls that while *Article 1(a)* of the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence, it protects those who, in a peaceful manner, express their views or oppose the established political, social or economic system (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 303). The Committee further observes from the examples of the court decisions provided by the Government that the application of sections 137, 189 and 330 of the Criminal Code in practice is not limited to cases of violence. The Committee notes with **concern** that the provisions of the Criminal Code are used to arrest, prosecute and convict human rights defenders, opposition members and journalists who express political views or views ideologically opposed to the established political, social or economic system, leading to the imposition of penalties involving compulsory labour, particularly imprisonment, corrective labour and public works. ***The Committee therefore urges the Government to take the necessary measures to review the provisions of the Criminal Code punishing extremism and terrorism-related offences, in such a way that, both in law and***

***practice, no penalty involving compulsory labour can be imposed on persons who peacefully express political views or views ideologically opposed to the established political, social or economic system. The Committee further urges the Government to amend or repeal sections 137, 137-1, 189, and 330 of the Criminal Code by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour.***

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

## Togo

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

#### Previous comment

*Article 1(a) of the Convention. Imposition of prison sentences involving an obligation to work as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. 1. Penal Code and Charter for political parties.* The Committee recalls that a number of provisions in national legislation may give rise to the application of prison sentences involving an obligation to work under section 68 of the Penal Code, for offences related to activities through which persons express political views or views ideologically opposed to the established political, social or economic system, namely:

- Penal Code: sections 290 to 292 (defamation), 301 and 302 (insulting the President or members of the Government or other public authorities), 491 and 492 (insulting representatives of public authority, or insulting the flag or anthem), 540 (organizing demonstrations on public thoroughfares that fail to comply with legal requirements), 552 (seditious cries or chants uttered in public places or gatherings) and 665 (the publication, dissemination or reproduction, by whatever means of fake news).
- Act No. 91-4 of 12 April 1991 establishing a charter for political parties: section 25 (persons who lead or run a political party in violation of the provisions of the charter).

The Committee notes with **regret** the absence of information from the Government on the application of these provisions in practice, and on any measures envisaged 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 on the basis of these provisions.

The Committee further notes that, in its concluding observations of 2021, the United Nations Human Rights Committee expressed concern in relation to: (1) the existence of a number of vague legislative provisions that impose excessive limits on the content of speech, notably in the Press and Communications Code; (2) a number of sections of the Penal Code that criminalize activities linked to the exercise of freedom of expression, such as seditious chants and cries in public places or meetings, the publication of fake news, and defamation; (3) allegations of the use of these penal provisions to hamper the activities of journalists, trade unionists, opinion leaders and human rights defenders, and to curb their freedom of expression; and (4) reports concerning numerous incidents involving threats, intimidation, harassment and arbitrary arrests of human rights defenders (CCPR/C/TGO/CO/5, 24 August 2021).

The Committee notes this information and expresses **concern** at the continuing existence in the legislation of provisions that can be used to restrict the exercise of the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media) and that can result in the imposition of penalties involving compulsory prison labour.

The Committee once again recalls that *Article 1(a)* of the Convention prohibits the use of compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. 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, or through the exercise of the right of association, including the creation of political parties or societies). However, certain limitations may be imposed by law on the rights and freedoms concerned, which must be accepted as normal safeguards against their abuse, examples being laws against incitement to violence, civil strife or racial hatred (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 302 and 303).

***The Committee urges the Government to take steps, both in law and in practice, to ensure that any person expressing political views or views ideologically opposed to the established political, social or economic system cannot be sentenced to penalties involving an obligation to work. It requests the Government to amend these sections of the Penal Code and the charter for political parties, clearly limiting the scope of these provisions to situations involving the use of violence or incitement to violence, or by repealing the penal sanctions involving compulsory labour. The Committee requests the Government to provide information on any progress made in this respect and to indicate the number of prosecutions initiated on the basis of these provisions, the nature of the penalties imposed, and the events giving rise to the prosecutions or convictions.***

2. *Act No. 40-484 of 1 July 1901 concerning contracts of association.* The Committee recalls that a number of provisions of Act No. 40-484 of 1 July 1901 concerning contracts of association provide for prison sentences that include the obligation to work for offences related to the exercise of freedom of expression and which may therefore fall within the scope of the Convention, namely:

- section 8(1), which provides for a fine, which may be commuted to a prison sentence for non-payment pursuant to section 76 of the Penal Code, in the event of failure to comply with formalities relating to prior notification of changes in the administration or management of an association, and any amendments to the statutes;
- section 8(2), which provides for a fine and imprisonment of between six days and one year for the founders, directors or administrators of an association that has been maintained or reconstituted illegally after a ruling of dissolution, and section 8(3), which provides that any persons who have facilitated meetings of members of the dissolved association by granting them the use of premises available to them shall be liable to the same penalty; and
- section 15, which provides for the penalties established in section 8(2) for the representatives or directors of a religious congregation who have not complied with the provisions concerning the keeping of a list of the congregation members and the presentation of such a list at the request of the prefect.

The Committee notes with **regret** the repeated lack of information in the Government's report on the practical application of these provisions. The Committee also notes that a draft bill on freedom of association to replace the 1901 Act was launched in 2020 and that it provides for prison sentences. It notes that several United Nations Special Rapporteurs have expressed concern about this draft bill, particularly with regard to the penalties imposed (OL/TGO 3/2021, 13 August 2021).

***The Committee trusts that in revising Act No. 40-484 of 1 July 1901 concerning contracts of association, the Government will take account of the requirements of the Convention and ensure that no penalty involving compulsory labour may be imposed on persons who exercise rights through which they express opinions or oppose the established political, social or economic system. It requests the Government to provide updated information on this legislative review process and to send copies of any new legislation adopted in this regard. Meanwhile, the Committee again requests the Government to provide information on the application of these provisions in practice and to communicate any court decisions handed down on the basis of these provisions.***

3. *Press and Communications Code.* With regard to the Press and Communications Code, the Committee notes the Government's indication that progress has been made leading to the adoption of

a new Press and Communications Code (Act No. 2020-001 of 7 January 2020). The Government indicates that section 157 of the Code, replacing section 86 of the previous Code, no longer provides for prison sentences for journalists, technicians or media assistants who incite the public to violate the laws of the Republic, but rather stipulates that this offence shall be punished in accordance with the provisions of ordinary law. **The Committee requests the Government to indicate the provisions of ordinary law that would be applicable in this respect.**

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)

#### Previous comment

The Committee notes the Government's report received on 31 August 2023. It also takes note of the observations of the International Organisation of Employers (IOE), received on 1 September 2023. Moreover, it notes the observations of the International Trade Union Confederation (ITUC), received on 27 September 2023, and the Government's reply to the ITUC's observations, received on 27 October and 9 November 2023. The Committee further takes note of the report on the implementation of the 2023 road map for cooperation between the ILO and the Government of Turkmenistan (implementation report), produced following the visit of the independent ILO mission on the observance of the conditions of work and recruitment of cotton pickers during the 2023 harvest.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the [detailed discussion](#) by the Conference Committee on the Application of Standards (Conference Committee), which took place in June 2023 during the 111th Session of the International Labour Conference.

*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.* The Committee notes that, in its conclusions adopted in June 2023, the Conference Committee deplored the persistence of the widespread use of forced labour in relation to the annual state-sponsored cotton harvest in Turkmenistan and the Government's failure to make any meaningful progress on the matter since the Conference Committee discussed the case in 2016 and 2021. The Conference Committee further urged the Government, in consultation and cooperation with the social partners, to: (i) ensure the full implementation of the road map for cooperation between the ILO and the Government; (ii) reinforce its efforts to ensure the complete elimination of the use of compulsory labour of public and private sector workers, as well as students, in state-sponsored cotton production; (iii) eliminate the compulsory quota system for production and harvesting of cotton; (iv) issue clear instructions on the prohibition of the use of forced labour and strengthen labour inspection and law enforcement; (v) prosecute and sanction appropriately any public official who participates in the forced mobilization of workers for the cultivation or harvest of cotton; and (vi) promote social dialogue in cotton production and continue engaging in cooperation with the ILO and relevant organizations of workers and employers to ensure the full application of the Convention in practice.

The Committee takes note of the Government's information in its report concerning the measures taken in the framework of the implementation of the road map for cooperation between the ILO and the Government for 2023 (road map), which was adopted in March 2023 following several ILO high-level technical assistance missions. This road map covers activities in the following six areas: (1) a review of the policy and administrative framework governing the cotton harvest; (2) improvement of labour inspection and law enforcement; (3) promotion of full, productive and freely chosen employment in the cotton sector; (4) improvement of cotton production and harvesting; (5) design and implementation of

awareness-raising activities; and (6) promotion of social dialogue in cotton production. In particular, the Government indicates that: (1) an analysis has been carried out of the current legislative framework with regard to the application of the Convention and the resulting draft legislative acts were submitted to Parliament; (2) meetings were held with the participation of the relevant ministries and agencies, social partners and ILO representatives to discuss compliance of the legislation and law enforcement practices with the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and to proceed towards the ratification of these Conventions; (3) there are ongoing efforts to produce a qualitative study of recruitment practices for the cotton harvest and a quantitative study to assess cotton harvesting trends over the past five years; (4) a technical workshop was held during the ILO mission in July 2023 to discuss seasonal and casual employment in Turkmenistan's agricultural sector; (5) in 2021–22, more than 200 awareness-raising meetings, workshops and round tables were held to address fair employment issues throughout the country; and (6) the social partners are actively involved in implementing all the measures set out in the road map.

The Committee further notes from the ITUC's observations that despite the Government's engagement with the ILO and the adoption of the road map, forced labour practices in cotton production are still prevalent on a massive scale in Turkmenistan. Moreover, the ITUC points out the increased pressure on the heads of state-owned enterprises to mobilize workers to the cotton fields in 2022. In particular, tens of thousands of public sector employees, including teachers, doctors, cultural workers, and civil servants, were mobilized to pick cotton to meet the State's cotton harvest plan. Cotton pickers were forced to work under hazardous and unsanitary conditions, including in temperatures ranging from -10°C in December to +40°C in August with no shade and an inadequate supply of drinking water. While cotton pickers were exposed to chemicals, they received no warning or protective equipment, and no medical care. They had also to pay for food, water, transportation, and accommodation. The ITUC further indicates that persons were forced to pay for replacement pickers in order not to participate in cotton harvesting. In 2022, the replacement fee varied between 20 to 60 manats per day (about US\$1–3), while the average teacher's salary is between 1,300–1,400 manats per month (about US\$65–70).

The Committee notes the Government's reply to the ITUC's observations reiterating the measures taken to ensure the implementation of the road map and indicating its intention to discuss the prospects for long-term cooperation with the ILO in the event of the successful implementation of the road map. The Government further refers to the information prepared by the National Centre of Trade Unions of Turkmenistan (NCTU) which indicates that the NCTU did not receive any complaints about the use of forced labour from workers during the cotton harvest. The NCTU further indicates that in some regions of Turkmenistan, local authorities and farmers, in collaboration with employment services, organize the voluntary recruitment of cotton pickers, who are provided with transport and food and receive wages depending on the amount of cotton harvested.

The Committee notes that the IOE, in its observations, expresses hope that progress will be made in the application of the Convention, in line with the Conference Committee's conclusions and in close consultations with the most representative employers' organization in Turkmenistan.

The Committee further notes that in its 2023 concluding observations, the United Nations Human Rights Committee expressed remaining concern about the widespread use of the forced labour of civil servants during the cotton harvest (mainly women) under threat of such penalties as the loss of wages or salary cuts and the termination of employment as well as other sanctions (CCPR/C/TKM/CO/3).

The Committee also notes that, with the acceptance of the Government, an independent ILO observance mission of the conditions of work and recruitment of cotton pickers, by ILO staff and independent consultants recruited by ILO, took place during the 2023 harvest in October 2023. The Committee notes that, according to the information contained in the implementation report, initial

findings from this observance mission indicate direct or indirect evidence of mobilization of public servants in all regions visited (Ahal, Lebap, Dashoguz and Mary provinces) except for Ashgabat City.

While taking due note of the Government's collaboration with the ILO in the framework of the road map and during the observance of the cotton harvest in 2023, the Committee reiterates its **deep concern** about the continued practice of forced labour in the cotton sector. **The Committee strongly urges the Government to strengthen its efforts to ensure the complete elimination of the use of compulsory labour of workers, particularly from the public sector, in cotton production. In this regard, the Committee urges the Government to continue to engage with the ILO and the social partners, within a cooperation framework, to ensure the full application of the Convention in practice. It requests the Government to continue to take measures to implement the various components of the road map and to continue to provide information on the concrete measures taken in this respect, including measures to further raise public awareness on this subject and to monitor the cotton harvest.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Bolivarian Republic of Venezuela

### Forced Labour Convention, 1930 (No. 29) (ratification: 1944)

#### Previous comment

The Committee notes the joint observations of the Confederation of Autonomous Trade Unions (CODESA), the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the Independent Trade Union Alliance Confederation of Workers (CTASI), the National Union of Workers of Venezuela (UNETE), and the United Federation of Workers of Venezuela (CUTV), received on 30 August 2023. **The Committee requests the Government to provide its comments in this regard.**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Massive migration flows.* The Committee notes the Government's statement, in its report, that the coercive unilateral measures imposed on Venezuela result in an uncertain economic context and migration of the Venezuelan population. It notes, however, that the Government has not provided specific information on measures taken so that this situation does not contribute to an increase in cases of trafficking of Venezuelans among the high number of persons who migrate.

The Committee notes that, in their joint observations, CODESA, the CTV, FAPUV, CTASI, UNETE and the CUTV highlight that this phenomenon is only getting worse owing to the generally impoverished population, the lack of education and job opportunities, and the poor living conditions, which have provoked widespread exodus of the population, which travels often with an irregular status and in dangerous conditions, continually exposed to human rights abuses and violations in the border areas and migratory routes, including trafficking in persons. In this respect, the trade union organizations indicate that, because of the urgency of this situation, CTASI has launched a campaign, entitled "We have the right not to migrate", demanding that an agreement be drawn up on Venezuelan migration, with the support of the ILO and the International Organization for Migration, as the most urgent priority is to prevent and mitigate the causes of migration and its link with trafficking in persons, through social dialogue and a coordinated action to promote the right not to migrate. The trade union organizations also regret the absence of measures taken by the Government to regularly collect and publish information on the number of persons concerned by this phenomenon and likely to be affected by trafficking.

In this regard, the Committee notes that according to the Regional Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V), managed jointly by the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration, to date,

approximately 7.7 million persons have left Venezuela, more than 80 per cent of whom have migrated to Latin America and the Caribbean. The Committee notes the adoption of the Return to the Homeland Plan 2018–25 (*Plan Vuelta a la Patria*) which aims to facilitate the repatriation of Venezuelan nationals by air, sea or over land. It notes, in this regard, that in its 2022 concluding observations, the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families noted with concern that: (i) there is the lack of accessible information on returns, which is key to developing social protection and reintegration policies for returnees; (ii) according to the requirements for registration, persons who are considered to have participated in public acts of violence or acts of hatred against the Venezuelan people may not be able to participate in the plan for return; (iii) in order to benefit from socio-economic reintegration and social protection measures, registration in the *Carnet de la Patria* (Card for the Nation) system appears to be a prerequisite; and (iv) there has been harassment of people who returned outside the framework of the Return to the Homeland Plan. The United Nations Committee also noted with concern the deterioration in consular services for Venezuelan migrants due to the closure of several consulates in foreign countries, and the difficulties migrants have experienced in acquiring and renewing their passports – a basic requirement for access to the regularization procedure and to health, employment, education and financial services in destination and host countries (CMW/C/VEN/CO/1, 27 October 2022).

***Given the massive and ongoing migratory flows, the Committee urges the Government to take specific measures to ensure that the actions taken by the national authorities to address this situation do not contribute, directly or indirectly, to increasing the vulnerability of Venezuelans at risk of trafficking, inside or outside the country. It requests the Government to provide information on any bilateral agreements signed with the biggest host countries to this end, as well as on the situation of migrants who return to the country, within the framework of the programme for assistance to return or by their own means, specifying the support and follow-up provided to those repatriated when they return, including to facilitate their reintegration.***

2. *Legislative and institutional framework.* The Committee takes due note of: (i) the adoption of the National Plan to combat trafficking in persons for 2021–25 and the establishment of a National Council to combat trafficking in persons, responsible for ensuring the follow-up, evaluation, implementation and enforcement of the plan (Presidential Decree No. 4.540 of 21 July 2021); and (ii) the establishment in November 2020 of the Special Division of the Ombuds Office for the protection of migrants, refugees and victims of trafficking in persons. It notes that, in their joint observations, the trade union organizations regret the lack of information from the Government on the specific actions implemented by these institutions to combat trafficking in persons, including within the framework of the National Plan, in particular in the Orinoco Mining Arc (*Arco Minero del Orinoco, AMO*), which covers the states of Bolivar, Amazonas and Delta Amacuro, where the situation is worrying and is deteriorating. The trade union organizations add that with the rise of illegal mining in Bolivar, the state has become not only an area of transit and origin, but also a destination for human trafficking; Venezuelan jobseekers who come to this region are forced to work in the mines in conditions akin to slavery, and women and girls from indigenous communities are victims of trafficking for the purposes of sexual exploitation in the mining areas. The trade union organizations add that in July 2023, the Government launched Operation Autana to expel 10,000 miners from the Orinoco Mining Arc.

The Committee notes that, in their 2023 concluding observations, the United Nations Human Rights Committee and the United Nations Committee on the Elimination of Discrimination against Women both expressed concern about the increase in contemporary forms of slavery, including sex trafficking and child labour in mining areas, particularly in the Orinoco Mining Arc, in the context of the presence of non-State armed and criminal groups linked to extraction activities. The Committee on the Elimination of Discrimination against Women also noted with concern that the Special Division of the Ombuds Office for the protection of migrants, refugees and victims of trafficking in persons lacks the

human, technical and financial resources necessary for the implementation of its mandate (CCPR/C/VEN/CO/5, 3 November 2023; and CEDAW/C/VEN/CO/9, 31 May 2023).

The Committee notes with **concern** this information. ***The Committee urges the Government to take the necessary measures to combat trafficking in persons, both for the purposes of labour exploitation and sexual exploitation, in particular in the Orinoco Mining Arc, and in the mining and agricultural sectors. Noting that the National Plan to combat trafficking in persons for 2021–25 has still not been published, the Committee requests the Government to provide a copy of the Plan, as well as information on the actions implemented within its framework, and on the evaluation of the results achieved and the difficulties encountered. It also requests the Government to provide information on the functions and activities of the National Council to combat trafficking in persons and the Special Division of the Ombuds Office, and on the measures taken to ensure that sufficient resources are made available to them. It once again requests the Government to indicate whether the bill against trafficking in persons is still on the agenda.***

3. *Prevention and awareness-raising* The Committee notes the Government's general information that various strategies, policies and programmes have been developed in coordination with the different national agencies aimed at preventing and eliminating trafficking in persons, particularly by identifying the geographical areas where this crime is likely to occur, such as border areas, by strengthening their presence through prevention and awareness-raising actions for vulnerable groups of the population. The Committee notes that, in their joint observations, the trade union organizations highlight the limited impact of the preventive measures implemented by the Government, which indirectly contribute, according to the organizations, to the massive migratory flows of the population. The trade union organizations add that despite the efforts of the National Bureau to Combat Organized Crime and the Funding of Terrorism (ONCDOFT), its preventive activities implemented between January 2022 and April 2023 reached less than 2 per cent of the population, thus failing to recognize the scale of the phenomenon of trafficking. ***The Committee requests the Government to continue its efforts to implement large-scale prevention and awareness-raising activities, concerning trafficking in persons, both for the purposes of labour exploitation and sexual exploitation, at the national and local levels, in particular in the areas where most cases of trafficking are identified. It also requests the Government to provide information on the content of the activities carried out to this end, the preventive tools put in place, the results achieved and the difficulties encountered.***

4. *Identification and protection of victims.* The Committee notes the Government's reference to the Victim Assistance Unit (UAV) under the Public Prosecutor's Office, which is a department attached to special high-level prosecutor's offices in each State. The service is entirely free of charge and aims to provide guidance to victims of crime, including trafficking, inform them of their rights and provide them with personalized support, particularly psychological, to ensure that they are able to participate during the criminal proceedings. Specifically, regarding Venezuelan presumed victims of trafficking identified abroad, the Government indicates that a mechanism for assistance is in place within consulates to provide the necessary assistance and refer these potential cases to the national authorities. The Government adds that the National Office for Comprehensive Care of Victims of Violence (ONAIIV) is the body responsible for establishing institutional policies in this area and acts in four fields: health, psychological support, social and legal assistance. ONAIIV has developed a protocol for standardizing criteria and procedures for the assistance, follow-up, supervision and evaluation of care for victims of violence. The Government adds that, between 2022 and 2023, 57 victims of trafficking were identified, including 47 adults.

The Committee notes that, in their joint observations, the trade union organizations highlight that these figures do not reflect the scale of trafficking, and testify to the absence of adequate mechanisms for detecting and identifying victims of trafficking. They add that the actions of ONAIIV are, in practice, limited as it does not have local offices throughout the country and is mainly dedicated to addressing violence against women in general.

***The Committee requests the Government to continue to take measures to ensure that all victims of trafficking receive protection and assistance adapted to their situation. It requests the Government to provide information on the number of victims identified who have received assistance and the type of assistance provided. It once again requests the Government to provide a copy of the protocol for assistance for victims of trafficking formulated by ONCDOFT, once it has been revised.***

5. *Punishment and enforcement of effective penalties.* The Committee welcomes the establishment within the Public Prosecutor's Office, of a special unit to investigate trafficking in persons, particularly of women and girls; and within the Scientific, Penal and Criminal Investigating Body, of the investigation unit for trafficking in persons for reporting, investigating and dismantling trafficking networks. With regard to the activities of ONCDOFT, which is responsible for developing training programmes for officials from the judiciary, the Public Prosecutor's Office and law enforcement, the Government indicates that a series of actions was carried out with police officers and officials from the immigration services to better identify cases and victims of trafficking in persons. In addition, training activities in trafficking were carried out by the Special Division of the Ombuds Office set up in 2020, as part of its national training plan concerning the rights of victims of trafficking, including for judiciary officials, police officers and immigration services officials. To date, 869 persons have benefited from these actions. The Government adds that training for labour inspection officials was carried out by the People's Ministry of Labour, in cooperation with the International Organization for Migration (IOM), in order to address the identification, detection and referrals of presumed cases of trafficking. The Government adds that it participates in various initiatives launched at the regional level to combat trafficking in persons, such as the Regional Platform against trafficking in persons and smuggling of migrants, and the Network on trafficking and smuggling of migrants of the South American Conference on Migration.

The Committee notes from the statistical information provided by the Government that legal proceedings for cases of trafficking in persons were brought against 26 persons in 2022 and 21 persons in 2023. Furthermore a total of 51 persons were convicted of the crime of trafficking in the same period. The Committee observes that only one of these persons was convicted of trafficking for the purposes of forced labour, and once again notes that the Government does not specify the nature of the penalty imposed in this respect. The Committee notes that, in their joint observations, the trade union organizations highlight the need to increase the number and effectiveness of anti-trafficking activities, as this phenomenon is becoming worse and more complex. They also underline the lack of information concerning the actions taken by the new above-mentioned structures within the Public Prosecutor's Office and the Scientific, Penal and Criminal Investigating Body to fulfil their mandate against trafficking.

***The Committee requests the Government to take action to strengthen the capacity and the competence of the various authorities that contribute to combating trafficking in persons, so that these authorities can effectively identify situations of trafficking, carry out adequate investigations and initiate prosecutions against the perpetrators of trafficking and any complicit public officials. Recalling that Article 25 of the Convention provides that the exaction of forced labour shall be punishable by adequate and strictly enforced penalties, The Committee once again requests the Government to provide detailed information on the number and nature of investigations carried out, prosecutions initiated, court decisions handed down and penalties imposed, specifying the provisions of the national legislation under which the criminal proceedings were initiated.***

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

## **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)**

### [Previous comment](#)

The Committee notes the joint observations of the Confederation of Autonomous Trade Unions (CODESA), the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the Independent Trade Union Alliance Confederation of Workers

(CTASI), the National Union of Workers of Venezuela (UNETE) and the United Federation of Workers of Venezuela (CUTV), received on 20 August 2023. **The Committee requests the Government to provide its comments in this regard.**

*Article 1(a) of the Convention. Imposition of sentences of imprisonment involving the obligation to work as a punishment for expressing political opinions or views ideologically opposed to the established political, social or economic system.* The Committee recalls that several provisions of the national legislation can result in the application of custodial sentences (*presidio* or *prisión*) – involving compulsory labour under sections 12 and 15 of the Criminal Code and section 64 of the Basic Prison Code – for infringements that could be linked to activities in which persons express political views or views ideologically opposed to the established political, social or economic system, in particular:

- The Criminal Code: sections 147 and 148 (offending or showing a lack of respect for the President of the Republic or for a number of public authorities; section 149 (public denigration of the National Assembly, the Supreme Court of Justice, and so forth); sections 222 and 225 (offending the honour, reputation or prestige of a member of the National Assembly or a public servant, or of a judicial or a political body); section 226 (proof of the truth of the facts is not admitted); and sections 442 and 444 (defamation).
- The Constitutional Act against hatred, for peaceful coexistence and tolerance (Act No. 41.274 of 8 November 2017): sections 20 and 21 (inciting hatred, real or alleged membership to a determined political group constituting an aggravating circumstance to the infringement).

The Committee notes the Government's statement in its report that it categorically rejects any allegations of infringements of the right to freedom of expression within its territory and specifies that social movements aimed at expressing political opinions opposed to the established political, social or economic order are not criminalized. It states that Venezuelans can exercise their right to freedom of thought, the free development of their personality and their right to protest in full freedom, as guaranteed by the Constitution. It highlights that the State is nevertheless bound to ensure respect of the rights of others, and that certain limitations to the rights in question are provided for in the legislation for this purpose. It falls to the judge to penalize the conduct prohibited by the legislation and to impose a penalty proportionate to the offence found and the damage caused, as part of a due process. With regard to compulsory labour for persons who receive custodial sentences, the Committee notes that the Government provides detailed information on the possibility of receiving alternative penalties to imprisonment. The Government also adds that, since the entry into force of the Constitution in 1999, no penalty of *presidio* has been handed down. The Committee notes this information and observes that the Government has not referred to the penalty of *prisión*, which, like the penalty of *presidio*, is a custodial sentence including compulsory labour. Furthermore, it once again notes with **regret** the absence of information from the Government on the use in practice of the national legislative provisions referred to above and the penalties imposed in this context.

In this regard, the Committee notes that, in their joint observations, CODESA, the CTV, FAPUV, CTASI, UNETE and the CUTV underscore the purely normative nature of the information provided by the Government which merely refers to the current criminal procedure without mentioning any measure taken to put an end to the violations of the Convention. The trade union organizations indicate that the criminalization of peaceful social protests and the expression of political views other than those of the party in power has continued, with the Centre for Justice and Peace (CEPAZ) documenting 523 cases of persecution and repression in 2022 alone. The trade union organizations add the many trade unionists and trade union leaders, as well as workers, especially in the public sector, have been arrested, prosecuted and convicted for having organized or participated in protests in defence of their labour rights, particularly for "treason", "terrorism" and "inciting hatred". According to the trade union organizations, the above-mentioned laws are used arbitrarily to criminalize legitimate trade union activities and the exercise of the right to freedom of expression and peaceful protest.



The Committee also notes that since its last examination in 2020, several United Nations bodies have expressed their increasing concerns at the allegations of intimidation, reprisal and criminalization of persons who are considered voices dissident to the Government and its programme (annual reports of the Office of the United Nations High Commissioner for Human Rights on the situation in the Bolivarian Republic of Venezuela - A/HRC/53/54, 4 July 2023; A/HRC/50/59, 12 August 2022; and A/HRC/47/55, 16 June 2021; United Nations Special Rapporteurs on freedom of association and peaceful assembly, and on promotion and protection of human rights and fundamental freedoms while countering terrorism – communication reports VEN 4/2022, VEN 9/2021, VEN 7/2021, VEN 5/2020; treaty bodies of the Office of the United Nations High Commissioner for Human Rights and the Universal Periodic Review). The Committee notes in particular that, in its report on terrorism and human rights, the United Nations Secretary-General highlighted that in Venezuela, vaguely formulated criminal offences related to organized crime and terrorism have been used to stigmatize and criminalize civil society and the media (A/76/273, 6 August 2021). It also notes that, in its concluding observations of November 2023, the United Nations Human Rights Committee expressed its concerns about various sources of information referring to serious restrictions to freedom of opinion and expression in the Bolivarian Republic of Venezuela, in particular to political opposition to the Government, such as harassment, intimidation, surveillance, persecution, excessive use of defamation, arbitrary arrest and detention of journalists, human rights defenders and political activists considered critical of the Government and its programme, and recourse to above-mentioned Act No. 41.274 to restrict freedom of expression (CCPR/C/VEN/CO/5, 3 November 2023).

It also notes that, in its report published in September 2023, the independent international fact-finding mission on the Bolivarian Republic of Venezuela indicated that: (i) in at least 58 cases since 2020, people have been arbitrarily detained as part of a selective crackdown on real or alleged opponents of the Government; (ii) trade union leaders continued to be persecuted, with six trade union leaders sentenced on 1 August 2023 to 16 years' imprisonment for terrorism; (iii) relatives of the main suspects in these cases, particularly women, have been arbitrarily detained on serious charges such as treason and terrorism; and (iv) in several cases, people who received custodial sentences remained in prison even after a judge ordered their immediate release, a trend that disproportionately affects those convicted of opposition to the Government. The independent international mission also indicated that it had reasonable grounds to believe that, in the context of the ongoing humanitarian and economic crisis, the criminal justice system in Venezuela has been used to punish, silence and quash criticism, or real or alleged opposition to the Government, in particular journalists, trade unionists, human rights defenders and political activists, by charging these individuals with arbitrary, and often serious, criminal accusations, based on provisions of the Criminal Code, the Basic Act against organized crime and the financing of terrorism of 2012, and Act No. 41.274 (A/HRC/54/57, 22 September 2023).

Lastly, the Committee notes the decisions and discussions held at the 344th, 345th, 346th and 347th Sessions of the Governing Body (March, June and October–November 2022 and March 2023) on the developments concerning the social dialogue forum that aim to give effect to the recommendations made to the Government by the Commission of Inquiry on the application of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). It hopes that these developments will also all ensure progress in the application of Convention No. 105.

While welcoming the dialogues under way, particularly in the social dialogue forum, the Committee **deplores** the continued criminalization of social movements and the expression of views ideologically opposed to the established political, social or economic system, as well as the repeated absence of information from the Government in this regard, which denies the existence of such acts. **In the light of the foregoing, the Committee once again strongly urges the Government to take the necessary measures, both in law and practice, to put an immediate end to any violation of the**

*provisions of the Convention by ensuring that no one who, in a peaceful manner, expresses political views or opposes the established political, social or economic system can be sentenced with penalties involving compulsory labour. The Committee once again requests the Government to provide detailed information on the application in practice of the provisions of the Criminal Code, the Basic Act against organized crime and the financing of terrorism, and Act No. 41.274, referred to above, and to specify the number of prosecutions brought on the grounds of these provisions, the nature of the penalties imposed and the acts that led to the legal proceedings or convictions. Lastly, the Committee urges the Government to ensure the immediate release of any person sentenced to imprisonment involving compulsory labour for having, in a peaceful manner, expressed political views or views ideologically opposed to the established political, social or economic system and to provide information on any progress achieved in this matter.*

With reference, lastly, to its previous observation, the Committee takes due note of the adoption of the Act on the partial reform of the Basic Code of Military Justice of 17 September 2021, which provides that no civilian may be judged in the ordinary criminal courts and that all cases concerning them must be referred to the ordinary criminal jurisdictions (section 6 of the Act).

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 29** Bahamas, Bolivia (Plurinational State of), Comoros, France, Gabon, Gambia, Georgia, Germany, Greece, Guinea, Guinea-Bissau, Honduras, Hungary, Iceland, India, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lithuania, Malawi, Maldives, Mauritius, Mongolia, Morocco, Namibia, Netherlands, New Zealand, Niger, North Macedonia, Norway, Papua New Guinea, Republic of Korea, Republic of Moldova, Romania, Rwanda, Saint Lucia, Senegal, Singapore, Solomon Islands, South Sudan, Sudan, Syrian Arab Republic, Tajikistan, Timor-Leste, Togo, Turkmenistan, Venezuela (Bolivarian Republic of), Yemen **Convention No. 105** Afghanistan, Barbados, Comoros, Gabon, Gambia, Georgia, Grenada, Guinea, Honduras, Hungary, India, Indonesia, Kazakhstan, Kiribati, Kyrgyzstan, Maldives, Mauritius, Mongolia, Morocco, Namibia, Niger, Papua New Guinea, Republic of Moldova, Saint Kitts and Nevis, Senegal, Solomon Islands, South Sudan, Sudan, Syrian Arab Republic, Tajikistan, Togo, Turkmenistan, Viet Nam, Yemen.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 105** Guinea-Bissau.

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

### Afghanistan

#### Minimum Age Convention, 1973 (No. 138) (ratification: 2010)

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 2024, 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.* The Committee previously noted the implementation of the various measures taken by the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) to prevent child labour, including: the National Child Labour Strategy, 2012, followed by a National Action Plan to prevent child labour in brick kilns; a National Strategy for the Protection of Children at Risk; and a National Strategy for Working Street Children, 2011. However, the Committee noted, that children in Afghanistan are engaged in child labour and often in hazardous conditions, including in agriculture, carpet weaving, domestic work, street work, and brick making. Moreover, 27 per cent of children between the ages of 5 and 17 years (2.7 million children) are engaged in child labour with a higher proportion of boys (65 per cent). Of this, 46 per cent are children between 5 and 11 years of age. At least half of all child labourers are exposed to hazardous working conditions such as dust, gas, fumes, extreme cold, heat or humidity. Moreover, 56 per cent of brick makers in Afghan kilns are children and the majority of these are 14 years of age and below.

The Committee notes that the Government's report contains no new information in this regard. The Committee once again notes with **concern** that a significant number of children under the age of 14 years are engaged in child labour, of which at least half are working in hazardous conditions. **The Committee therefore urges the Government to strengthen its efforts to ensure the progressive elimination of child labour in all economic activities, both in the formal and informal sectors, and requests that the Government provide information on the measures taken in this regard, as well as the results achieved.**

*Article 2(1). Scope of application.* The Committee noted that according to sections 5 and 13 of the Labour Law, read in conjunction with the definition of a "worker", the Law applies only to labour relations on a contractual basis and, therefore, that the provisions of the Labour Law did not appear to cover the employment of children outside a formal employment relationship, such as children working on their own account or in the informal economy.

Noting the absence of information provided in this regard in the Government's report, the Committee recalls that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not there is a contractual employment relationship. **The Committee therefore requests, once again, that the Government take the necessary measures to ensure that all children, including children working outside a formal employment relationship such as children working on their own account or in the informal economy, benefit from the protection laid down by the Convention. In this regard, the Committee encourages, once more, the Government to review the relevant provisions of the Labour Law in order to address these gaps as well as to take measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.**

*Article 7(1) and (3). Minimum age for admission to light work and determination of light work.* The Committee previously noted that section 13(2) of the Labour Law sets 15 years as the minimum age for employment in light work in industries and section 31 prescribes a weekly working period of 35 hours for young persons between 15 and 18 years of age. It observed that the minimum age for light work of 15 years is higher than the minimum age for admission to employment or work of 14 years, specified by Afghanistan.

Noting the absence of information provided in this regard by the Government, the Committee once again draws the Government's attention to the fact that *Article 7(1)* of the Convention is a flexibility clause which provides that national laws or regulations may permit the employment or work of persons aged 13–

15 years in light work activities which are not likely to be harmful to their health or development and not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received.

The Committee notes the lack of information contained in the Government's report and recalls once again that *Article 7(4)* permits member States who have specified a general minimum age for admission to employment or work of 14 years to substitute a minimum age for admission to light work of 12–14 years to that of the usual 13–15 years of age (see General Survey of 2012 on the fundamental Conventions, paragraphs 389 and 391). ***In view of the fact that a high number of children under 14 years of age are engaged in child labour in the country, the Committee once again requests that the Government regulate light work activities for children between 12 and 14 years of age to ensure that children who, in practice, work under the minimum age are better protected. The Committee also requests that the Government take the necessary measures to determine light work activities that children of 12–14 years of age are permitted to undertake and to prescribe the number of hours and conditions of such work, pursuant to Article 7(3) of the Convention.***

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

***The Committee 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: 2010)**

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 2024, 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 30 August 2017, and the in-depth discussion on the application of the Convention by Afghanistan in the Committee on the Application of Standards at the 106th Session of the International Labour Conference in June 2017.

**Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)**

*Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery or practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for use in armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration.* In its previous comments, the Committee noted that the Law on prohibiting the recruitment of child soldiers criminalizes the recruitment of children under the age of 18 years into the Afghan Security Forces. The Committee also noted that a total of 116 cases of recruitment and use of children, including one girl, were documented in 2015. Out of these: 13 cases were attributed to the Afghan National Defence and Security forces; five to the Afghan National Police; five to the Afghan Local Police; and three to the Afghan National Army; while the majority of verified cases were attributed to the Taliban and other armed groups who used children for combat and suicide attacks. The United Nations verified 1,306 incidents resulting in 2,829 child casualties (733 killed and 2,096 injured), an average of 53 children were killed or injured every week. A total of 92 children were abducted in 2015 in 23 incidents.

In this regard, the Committee noted the following measures taken by the Government:

- The Government of Afghanistan signed an Action Plan with the United Nations on 30 January 2011 to end and prevent the recruitment and use of children by the Afghan National Security Forces, including the Afghan National Police, Afghan Local Police and Afghan National Army.
- A roadmap to accelerate the implementation of the Action Plan was endorsed by the Government on 1 August 2014.
- The Government endorsed age-assessment guidelines to prevent the recruitment of minors.
- In 2015 and early 2016, three additional child protection units were established in Mazar e Sharif, Jalalabad and Kabul, bringing the total to seven. These units are embedded in Afghan National

Police recruitment centres and are credited with preventing the recruitment of hundreds of children.

The Committee notes that the Conference Committee recommended that the Government take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children into armed forces and groups. It further recommended the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in law and practice. Finally, the Conference Committee recommended the Government to take effective and time-bound measures to provide for the rehabilitation and social integration of children who are forced to join armed groups.

The Committee notes the IOE's indication that children are engaged in armed conflict in Afghanistan. The Committee notes the Government representative's indication to the Conference Committee that the Law on the Prohibition of Children's Recruitment in the Armed Forces (2014), along with other associated instruments, has helped prevent the recruitment of 496 children into national and local police ranks in 2017. Moreover, the Ministry of Interior, in cooperation with relevant government agencies, was effectively implementing Presidential Decree No. 129 which prohibits, among others, the use or recruitment of children in police ranks. Inter-ministerial commissions tasked with the prevention of child recruitment in national and local police have been established in Kabul and the provinces, and child support centres have been set up in 20 provinces, with efforts under way to establish similar centres in the remaining provinces. Finally, the Committee notes the Government's indication that the National Directorate of Security has recently issued Order No. 0555, prohibiting the recruitment of underage persons and that the Order is being implemented in all security institutions and monitored by national and international human rights organizations. **While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee requests the Government to continue its efforts in taking immediate and effective measures to put a stop, in practice, to the recruitment of children under 18 years by armed groups, the national armed forces and police authorities, as well as measures to ensure the demobilization of children involved in armed conflict. It once again urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice. Finally, it requests the Government to take effective and time-bound measures to remove children from armed groups and armed forces and ensure their rehabilitation and social integration, and to provide information on the measures taken in this regard and on the results achieved.**

*Articles 3(b) and 7(2)(b). Use, procuring or offering of children for prostitution and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.* The Committee previously noted that concerns remained regarding the cultural practice of *bacha-bazi* (dancing boys), which involves the sexual exploitation of boys by men in power, including the Afghan National Defence and Security Forces' commanders. It also noted that there are many child victims of *bacha bazi*, particularly boys between 10 and 18 years of age who have been sexually exploited for long periods of time. The Committee further noted that some families knowingly sell their children into forced prostitution, including for *bacha-bazi*.

The Committee notes that the Conference Committee recommended the Government to take immediate and effective measures to eliminate the practice of *bacha-bazi*. It also recommended the Government to take effective and time bound measures to provide for the rehabilitation and social integration of children who are sexually exploited.

The Committee notes the Government representative's indication to the Conference Committee that the Child Protection Law has been submitted to Parliament for adoption and makes the practice of *bacha-bazi* a criminal offence. The Committee also notes the new Law on Combating Human Trafficking in Persons and Smuggling of Migrants of 2017 (Law on Human Trafficking of 2017). It notes that section 10(2) of this Law punishes the perpetrator of trafficking to eight years' imprisonment when the victim is a child or when the victim is exploited for the purpose of dancing. **The Committee urges the Government to take the necessary measures to ensure the effective implementation of the prohibition contained in section 10(2) of the Law on Human Trafficking of 2017. It requests the Government to provide information on the results achieved to effectively eliminate the practice of *bacha-bazi*, to remove children from this worst forms of**

**child labour and to provide assistance for their rehabilitation and social integration. It also requests the Government to provide information on the adoption of the Child Protection Law, and its effective implementation.**

*Article 7(2). Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour and taking into account the special situation of girls. Access to free basic education.* The Committee previously noted the Government's statement that as a result of the past three decades of conflict, insecurity and drought, children and youth are the most affected victims, a majority of whom are deprived of proper education and training. The Committee noted that Afghanistan is among the poorest performers in providing sufficient education to its population. A large number of boys and girls in 16 out of 34 provinces had no access to schools by 2013 due to insurgents' attacks and threats that lead to the closure of schools. In addition to barriers arising from insecurity throughout 2015, anti-government elements deliberately restricted the access of girls to education, including closure of girls' schools and a ban on girls' education. More than 369 schools were closed partially or completely, affecting at least 139,048 students, and more than 35 schools were used for military purposes in 2015. Finally, the Committee noted the low enrolment rate of girls, in particular at the secondary school level, high dropout rates especially in rural areas owing to a lack of security in the journey to and from school, and the increased number of attacks on girls' schools and written threats warning girls to stop going to school by non-state armed groups.

The Committee notes the Government representative's statement at the Conference Committee that many households respond to poverty by taking their children out of school and forcing them into labour. The Government indicates that child labour is not only a law enforcement matter but a fundamental problem which requires a comprehensive understanding and a robust response mechanism. With a view to providing preschool support to children under the age of six, the Ministry of Labour, Social Affairs, Martyrs and Disabled has established over 366 local kindergartens which house over 27,000 children. The Government also indicates it is taking strong action against the exploiters as well as the families who knowingly force their children into prostitution and expects a sharp decline in the practice in the coming years. Finally, the Committee notes the Government's indication that school burnings and the imposition of bans in Taliban-controlled areas prevented girls and children from attending school. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to raise awareness among households that education is key in preventing the engagement of children in the worst forms of child labour. Additionally, it once again urges the Government to take the necessary measures to improve the functioning of the education system and to ensure access to free basic education, including by taking measures to increase the school enrolment and completion rates, both at the primary and secondary levels, particularly of girls.**

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

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

## Antigua and Barbuda

### Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes with **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 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 3(1) and (2) of the Convention. Minimum age for admission to hazardous work and determination of these types of work.* The Committee previously noted the Government's indication that the unions and employers' federation were consulted regarding the activities and occupations which should be prohibited to persons below 18 years of age. It noted that although a recommendation was made, it was not submitted before the National Labour Board, as it was the Government's aim to revamp the occupational health and safety legislation. Thereafter, the Committee noted the Government's statement that the proposed amendments to the provisions of the Labour Code on occupational health and safety have been circulated

to Cabinet, but have not yet been adopted. It further noted the Government's indication that technical assistance was sought in relation to new and separate occupational health and safety legislation.

The Committee notes the Government's indication in its report that the National Labour Board is currently reviewing the occupational health and safety legislation. The Government states that it has noted the Committee's comments and that it will act accordingly. The Committee notes with **regret** that the list of hazardous types of work prohibited for children under 18 years of age has still not been adopted. The Committee therefore once again reminds the Government that *Article 3(1)* of the Convention provides that the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of young persons, shall not be less than 18 years. It also reminds the Government that, under the terms of *Article 3(2)* of the Convention, the types of hazardous employment or work shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. **Observing that the Convention was ratified by Antigua and Barbuda more than 30 years ago, the Committee urges the Government to take the necessary measures to ensure that a list of activities and occupations prohibited for persons below 18 years of age is adopted in the near future, in accordance with Article 3(1) and (2) of the Convention. It encourages the Government to pursue its efforts in this regard through amendments to the occupational health and safety legislation, and to provide information on progress made. Lastly, it requests that the Government provide a copy of the amendments to the occupational health and safety legislation once adopted.**

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

## Bahamas

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Previous comments: observation and direct request

*Article 1 of the Convention. National policy.* Following its previous comments, the Committee notes the Government's indication, in its report, that the National Policy for the Prevention and Elimination of Child Labour (NCLP) was adopted in 2021 by the National Tripartite Council (NTC), in collaboration with the ILO Office. The Government further indicates that the second Decent Work Country Programme (2021–26) (DWCP) was launched in December 2021, the aim of which is the general promotion of decent work, particularly in the framework of the recovery and reconstruction in the aftermath of Hurricane Dorian and the COVID-19 pandemic. Consequently, the DWCP should contribute to the elimination of child labour by mitigating some of the push factors that are inducing children to work (such as poverty or lack of decent work opportunities for their families). Moreover, the Committee observes that one of the outputs of the DWCP is to enhance national statistics on priority areas, including on the economic activities of children and youth. **The Committee encourages the Government to continue taking the necessary measures to ensure the progressive elimination of child labour. It requests the Government to provide information on the progress made and results achieved, in particular in terms of the effective reduction of the prevalence of child labour, through the implementation of the NCLP and DWCP. It also requests the Government to provide updated statistics on the employment of children in economic activities in the Bahamas.**

*Article 2(1). Scope of application and labour inspection.* Following its previous comments, the Committee notes the Government's indication that the amendments to the Employment Act that the NTC and Department of Labour will undertake are expected to strengthen the powers of the labour inspectorate to increase the protection of children from child labour. This is also highlighted as an objective of the DWCP. **The Committee requests the Government redouble its efforts to ensure that the capacity of the labour inspectorate is strengthened, and its reach expanded into the informal economy. It requests the Government to continue providing information on specific measures taken in this regard, as well as on the results achieved, including the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate.**

*Article 2(2) and (3). Raising the minimum age for admission to employment or work and the age of completion of compulsory schooling.* Following its previous comments, and in response to the Government's information in its report, the Committee recalls that there is no disparity between the age of admission to employment or work and the age of completion of compulsory schooling in the Bahamas, which are both 16 years of age according to national legislation. The disparity exists between the minimum age for employment or work in national legislation (16 years by virtue of section 7 of the Child Protection Act of 2007) and the minimum age for employment or work specified by the Bahamas at the time of ratification of the Convention (14 years). **The Committee therefore encourages the Government to consider the possibility of sending a declaration under Article 2(2) of the Convention, thereby notifying the Director-General of the ILO that it has raised the minimum age to employment or work from 14 to 16 years of age.**

*Article 3(2). Determination of types of hazardous work.* Following its previous comments, the Committee notes the Government's indication that the NTC and the Department of Labour will review and amend the Employment Act in a manner to satisfy the Committee's request with regard to the adoption of a list of types of hazardous work. **Considering that the Committee has been raising this question for more than ten years, the Committee urges the Government take the necessary measures, without delay, to ensure that a list of types of hazardous work prohibited for persons under the age of 18 years is elaborated, in consultation with the social partners, and adopted in the very near future. It requests the Government to provide information on any progress made in this regard and as to supply a copy of the list once it has been adopted.**

*Article 7(1) and (3). Minimum age for admission to light work and determination of types of light work activities.* The Committee notes, as it did in its previous comments, that section 7(3)(a) of the Child Protection Act provides that a child under the age of 16 may be employed by the child's parents or guardian in light domestic, agricultural or horticultural work. It further notes that, under section 50 of the Employment Act, children under 14 years of age may only be employed in the undertakings listed in the First Schedule, which are: grocery packers, gift wrappers, peanut vendors, newspaper vendors, or any firm as may be approved by the Minister of Labour. The Committee therefore considers that, when these two provisions are read together, the minimum age for admission to light domestic, agricultural or horticultural work should be 14 years. On the other hand, the Committee observes that there is no minimum age set for light work of children under 14 years employed in the undertakings listed in the First Schedule of the Employment Act.

The Government indicates that it is anticipated that the NTC will amend the Employment Act to include a clearly defined category of "light work". In this regard, the Committee once again draws the Government's attention to *Article 7(4)* of the Convention which allows for a lower minimum age of 12 years for light work, only if the specified minimum age is 14 years as per *Article 2(4)* of the Convention, while *Article 7(1)* sets 13 years as the minimum age for light work, if the minimum age declared is 15 years or above. The Government should therefore take into consideration that when the minimum age for admission to employment or work is raised from 14 to 16 years, as per *Article 2(2) and (3)* of the Convention, the minimum age for light work should also be set accordingly. **The Committee once again urges the Government to take the necessary measures without delay to bring the national legislation in line with the Convention by clearly determining the light work activities that may be permitted to children of 13 years and above, and the conditions in which such employment or work may be undertaken. It requests the Government to provide information on any progress made in this regard.**

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

### [Previous comment](#)

*Article 4(1) of the Convention. Determination of hazardous work.* **With regard to the adoption of the list of hazardous types of 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. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, and direct assistance for their removal from the worst forms of child labour and for their rehabilitation and social integration. Child sex tourism.* In response to the Committee's previous comment noting the lack of awareness-raising activities among the actors directly related to the tourism industry in relation to children, and particularly girls, engaged in sexual exploitation in the tourism sector, the Committee notes the Government's indication that the Ministry of Tourism has been given the mandate of disbursing training and information to prevent commercial sexual exploitation in the tourism sector. In particular, the Ministry of Tourism works with other governmental departments to raise awareness on human trafficking and, along with the Ministry of Immigration, monitors 29 ports of entry. Public awareness efforts are also currently being exercised through anti-trafficking campaigns by the use of posters at all ports of entry, conducting training sessions with Foreign Affairs, hotels, other tourism-related businesses, NGOs and the public in general. The Government further indicates that measures to ensure the detection, prevention and remediation of children engaged in child labour and its worst forms in the tourism sector are included in the 2021 National Policy for the Prevention and Elimination of Child Labour (NCLP). **The Committee requests the Government to continue taking the necessary measures, including awareness-raising measures, to prevent the commercial sexual exploitation of children and to provide information on their impact. It also requests the Government to provide information on the number of child victims of sexual exploitation in the tourism sector who have been removed from this situation and given appropriate protection through rehabilitation and social integration measures.**

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

## Barbados

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with **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 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 3(a) of the Convention. Worst forms of child labour. Sale and trafficking of children.* The Committee previously noted the adoption of the Transnational Organized Crime (Prevention and Control) Act in 2011, section 8 of which criminalizes the trafficking of persons for the purposes of labour and sexual exploitation.

The Committee takes due note of the Government's information in its report that the Transnational Organized Crime (Prevention and Control) Act of 2011 was repealed and replaced by the Trafficking in Persons Prevention Act 2016-9, which contains comprehensive provisions addressing the issue of trafficking. According to section 4, the trafficking of children for labour and sexual exploitation is punishable by a fine of 2 million Barbadian dollars (BBD) (about US\$990,099), life imprisonment or both. The Committee notes, however, that according to the Government's written replies to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) of 2017, since 2015, no new arrests and charges have been made in relation to trafficking (CEDAW/C/BRB/Q/5-8/Add.1, paragraph 52). In its concluding observations of 2017, the CEDAW expressed its concern that Barbados remains both a source and a destination country for women and girls, including non-nationals, who are subjected to trafficking for purposes of sexual exploitation and forced labour, as a result of high unemployment, increasing levels of poverty and the weak implementation of anti-trafficking legislation. The CEDAW was also concerned about the lack of information on the number of complaints, investigations, prosecutions and convictions related to the trafficking of women and girls (CEDAW/C/BRB/CO/5-8, paragraph 25). The Committee on the Rights of the Child (CRC) similarly expressed its concern at the high level of internal trafficking of children, the lack of information on the situation in general and the lack of effective measures to address and prevent the sale

and trafficking of children in its concluding observations of 2017 (CRC/C/BRB/CO/2, paragraph 58). **The Committee therefore requests the Government to take the necessary measures to ensure the effective implementation of the Trafficking in Persons Prevention Act 2016-9, particularly in relation to the trafficking of children. It also requests the Government to provide information on the application of section 4 of the Act in practice, including the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed.**

*Articles 3(d) and 4(1). Determination of hazardous work.* The Committee previously noted that, while section 8(1) of the Employment (Miscellaneous Provisions) Act prohibits the employment of a young person in any work that by its nature or the circumstances in which it is done is likely to cause injury to his/her health, safety or morals, the national legislation does not contain a determination of these types of work, as required under *Article 4(1)* of the Convention. The Government indicated that the formulation of a list of types of hazardous work prohibited to persons under 18 years of age was being considered. The Committee also noted that the Safety and Health at Work Act 2005 entered into force in January 2013 and that draft regulations under the provisions of this were forwarded for comments to the representative employers' and workers' organizations.

The Committee notes the Government's repeated indication that the types of hazardous work prohibited to persons under 18 years of age are addressed in specific pieces of legislation, including the Factories Act, the Pesticide Control Regulations, the Protection of Children Act and the Employment (Miscellaneous Provisions) Act. However, the Committee observes that these provisions together do not constitute a comprehensive determination of the types of hazardous work prohibited for persons under 18 years of age. The Committee also notes the Government's statement that none of the draft regulations under the Safety and Health at Work Act deal with this issue. Considering that it has been referring to this issue since 2004, the Committee must express its **deep concern** at the absence of a comprehensive list of the types of hazardous work prohibited for children. The Committee once again draws the Government's attention to *Article 4(1)* of this Convention, according to which the types of work referred to under *Article 3(d)* must be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards, in particular Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). **The Committee therefore urges the Government to take the necessary measures to ensure that the determination of types of hazardous work prohibited for persons under the age of 18 is included in national legislation, after consultation with the organizations of employers and workers concerned, and to provide information on any progress made in this regard.**

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

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

## Plurinational State of Bolivia

**Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)**  
(ratification: 1973)

**Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)** (ratification: 1973)

**Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)** (ratification: 1977)

[Previous comments: Conventions Nos 77 and 78](#)

[Previous comment: Convention No. 124](#)

In order to provide an overview of the issues concerning the application of the Conventions on the medical examination of young persons, the Committee considers it appropriate to examine Conventions Nos 77, 78 and 124 in a single comment.

*Article 2(1) of Conventions Nos 77 and 78. Medical examination for fitness for employment.* The Committee notes, from the Government's report, the adoption of Law No. 1139 of 20 December 2018

which amends the Code for Children and Young Persons 2014. It notes with **interest** that section 131 of the Code for Children and Young Persons 2014, as amended, provides that young persons of at least 14 years of age who wish to engage in employment: (1) must freely express their willingness to carry out any labour activity or work, (2) whether it relates to work on their own account or on account of another, must obtain the authorization from the Ombudsperson for Children and Adolescents; and (3) in either case, the Ombudsperson for Children and Adolescents, before granting the authorization to work, must order a comprehensive medical assessment certifying the young person's health and their physical and mental capacity for the performance of the corresponding work or the work activity. **The Committee requests the Government to provide information on how the application of section 131 of the Code for Children and Young Persons is ensured in practice.**

*Medical examination for fitness for employment and periodic re-examinations required for persons under 21 years of age in underground work (Article 2(1) of Convention No. 124). Periodical medical examinations (Article 3(2) and (3) of Conventions Nos 77 and 78). Medical examinations required until the age of 21 years in occupations which involve high health risks (Article 4 of Conventions Nos 77 and 78). Appropriate measures for the vocational guidance and physical and vocational rehabilitation of young persons found by medical examination to be unsuited to certain types of work or to have physical handicaps or limitations (Article 6 of Conventions Nos 77 and 78).* Further to its previous comments, the Committee notes with **concern**, the Government's indication that the Bill on occupational safety and health, is still waiting to be adopted by the Parliament. It notes the Government's repeated statement that it undertakes to monitor the status of this issue in front of the Parliament and promote discussions on the matter in the legislative body. **Recalling that the Government has been referring to the Bill on occupational safety and health since 2011, the Committee urges the Government to take all the necessary measures to ensure that the Bill is adopted without delay and to ensure observance of these provisions of the Conventions. It requests the Government to provide information on any progress made in this regard.**

*Article 7(2) of Convention No. 78. Supervision of the application of the system of medical examination for fitness for employment to children and young persons engaged either on their own account or on account of their parents.* **Noting that the Government remains silent on this point, the Committee requests it to ensure: (i) the adoption, without delay, of the Bill on occupational safety and health; and (ii) that it will contain provisions determining the measures of identification to ensure the application of the system of medical examination for fitness for employment to children and young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried out in the streets or in places to which the public have access, as well as any other methods of supervision to be adopted to ensure the strict enforcement of the Convention, in accordance with Article 7(2) of the Convention. The Committee requests the Government to provide information on any progress made in this regard.**

*Application of the Conventions in practice.* The Committee notes the Government's indication that all authorizations to work need to be recorded in a Register of authorizations and must contain compulsory information, including but not limited to, the name, age and activity of the child, as well as the medical examination report and the official Form of authorization signed by a parent or legal guardian and issued by the Ministry of Labour, Employment and Social Welfare (MTEPS) (section 42 of the Supreme Decree No. 2377 regulating Law No. 548 on the Code for Children and Young Persons). The Government also states that section 138 of the Code for Children and Young Persons provides that it is the Ombudsperson for Children and Adolescents who is responsible for the Register of authorizations of all children engaged in work, and upon request, the Ombudsperson shall submit copies of the Register to the MTEPS for the purposes of inspection and supervision. The Committee notes that, in 2022, the MTEPS issued a request to all municipal authorities to provide copies of their Registers of authorization of children in work and received information from 21 municipalities. Out of the replies received, only four municipalities had dealt with procedures of authorization of work of young persons, for a total of 48 authorizations. The Government indicates that all these 48 cases

complied with the requirement of medical examinations. However, the Committee notes that it is not clear if this includes the requirement of periodical medical examinations (*Article 2(1)* of Convention No. 124 and *Article 3* of Conventions Nos 77 and 78). The Government adds that it will endeavour to obtain the requested information from all municipalities and ensure that further information is provided on the type of work authorized to be performed by young persons, in order to provide comprehensive statistical data to this Committee. ***The Committee requests the Government to continue to collect and provide information on the number of children and young persons who are engaged in work and have undergone the periodical medical examinations envisaged in the Conventions. Considering the low number of registered authorizations, the Committee encourages the Government to strengthen its efforts to ensure that all young persons who work in the country will progressively be covered by the protection afforded by the Conventions, including children and young persons engaged either on their own account or on account of their parents, in itinerant trading or in any other occupation carried out in the streets or in places to which the public have access. Please also provide extracts from the reports of the inspection services relating to any infringements reported and the penalties imposed.***

### Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

#### Previous comment

*Article 2(1) of the Convention. Minimum age for admission to employment or work.* In its previous comments, the Committee requested that the Government amend section 129(2) of the Code for Children and Young Persons and its related sections (130(3); 131(1), (3) and (4); 133(3) and (4); and 138(1)) and that it raise the minimum age for work from 10 years back to 14 years, to bring it in conformity with Decision No. 0025/2017 of the Constitutional Court of 21 July 2017 and the Convention. The Committee notes the information provided in the Government's report on the adoption of Law No. 1139 of 20 December 2018 amending the Code for Children and Young People, which amends sections 130, 131, 132, 133(3) and (4), 138(1) and (2), 140(b), 188(ff) and (gg) of the Code. The Committee notes with **satisfaction** that section 131, as amended, provides that only children of at least 14 years can apply for authorizations to work to the Ombudsman for Children and Adolescents. It further notes the Government's statement that taking into consideration Decision No. 0025/2017 of the Constitutional Court of 21 July 2017 and Law No. 1139 amending the Code for Children and Young Persons, the minimum age for admission to work has been raised to 14 years, in line with the Convention. However, the Committee notes that Law No. 1139 does not explicitly amend section 129(2), which sets the minimum age for admission to work to 10 years for own-account workers, and to 12 years for children in an employment relationship. In this regard, the Committee notes that the United Nations Committee on the Right of the Child and the Committee on Economic, Social and Cultural Rights have noted with satisfaction the adoption of Law No. 1139 and the increase of the minimum age for admission to work or employment to 14 years (CRC/C/BOL/CO/5-6, 6 March 2023, para. 44 and E/C.12/BOL/CO/3, 5 November 2021, para. 32). The Committee further notes that article 133 of the Political Constitution provides that: "the ruling that declares the unconstitutionality of a law ... makes the challenged norm inapplicable and has full effects on everyone". ***The Committee requests the Government to confirm that section 129(2) of the Code for Children and Young Persons is effectively inapplicable.***

*Article 6. Apprenticeships.* With regard to sections 28 and 58 of the General Labour Act, which allow children below the age of 14 years to work in apprenticeships, the Committee notes with **deep concern** that the Government's report still does not provide any new information on the steps taken to prohibit children under 14 years of age from engaging in apprenticeships, and only refers to information already provided in previous reports. The Committee therefore once again recalls that sections 28–30 of the General Labour Act do not prescribe a minimum age for signing an apprenticeship contract and that section 58 of the Act explicitly prohibits work for children under the age of 14 years, except for cases of apprenticeships, while none of these provisions make any reference to section 129(1) of the Code for Children and Young Persons on the minimum age for admission to work. The Committee also notes the

Government's information that, in 2019, 12,000 children were working as apprentices (compared to 124,000 in 2016), but it notes that this data is not disaggregated by age. **Recalling that it has been drawing the Government's attention to this matter since 2001, the Committee strongly urges the Government to take the necessary steps to harmonize the provisions of the national legislation with Article 6 of the Convention so as to set, without delay, the minimum age for admission to employment or work in apprenticeships at 14 years.**

*Article 7(1) and (4). Light work.* The Committee notes with **interest** the Government's indication that Law No. 1139 repeals section 132(7) of the Code for Children and Young Persons and amends section 133, with the effect of removing the provisions authorizing children between the ages of 10 and 14 years to be employed, under the condition that it does not endanger their life, health, safety or image, and does not interfere with their access to education. The Committee notes that while these amendments have repealed the express authorization for children to be engaged in light work between the ages of 10 and 14 years of age, sections 132 and 133, as amended, no longer provide a lower minimum age for admission to light work. **The Committee therefore requests the Government, in consultation with the social partners concerned, to take the necessary steps to ensure that the Code for Children and Young Persons is amended so that a minimum age for admission to light work is clearly provided, which should be no less than 12 years, in accordance with Article 7(1) and (4) of the Convention.**

*Article 9(3). Keeping of registers.* The Committee notes the Government's indication that: (1), following the adoption of Law No. 1139, establishing the minimum age at 14, the Ombudsperson for Children and Adolescents, in charge of delivering work authorizations for children, will only grant authorizations for children aged 14 and above; (2) efforts must be made to strengthen both the authorization and registration procedures of young workers, to guarantee the protection of their rights, and that, through the Ministry of Labour, Employment and Social Welfare (MTEPS), it will insist that the legislation is applied by the Autonomous Regional Governments; and (3) section 138 of the Code for Children and Young Persons provides that the Ombudsperson for Children and Adolescents is responsible for keeping the Register of work authorizations for children aged between 14 and 18 years who are engaged in work. The Committee notes, however, that section 138 does not address the obligation of the employer to keep and make available registers or other documents of persons whom he/she employs or who work for him/her and who are less than 18 years of age. **The Committee requests the Government to take the necessary measures to ensure that all employers keep a register of the persons whom they employ who are less than 18 years of age, in accordance with Article 9(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: 2003)**

### [Previous comment](#)

*Articles 3(a), 7(1) and 7(2)(a) and (b) of the Convention. Debt bondage and forced and compulsory labour, penalties and effective and time-bound measures. Preventing children from being engaged in the worst forms of child labour and providing direct assistance for their removal and for their rehabilitation and social integration. Sugar cane and Brazil nut harvesting industries.* In its previous comments, the Committee noted the prevalence and conditions of exploitation of children working in hazardous conditions in sugar cane and nut harvesting plantations. The Committee takes note of the Government's indication, in its report, that in the ten years since the implementation of the programme on Eradication of Child Labour in the department of Santa Cruz, led by the Government and in cooperation with UNICEF and private and public institutions, 5,000 children were removed from work in the sugar cane industry. The Government adds that 90 per cent of children who come from sugar cane harvesting families have stopped engaging in daily work in harvesting, while 10 per cent of children, generally adolescents, continue to engage in such activities. The Committee notes the Government's indication that the labour inspectorate undertook 225 inspections of child labour in 2021, and 252 inspections up until July 2022.

The Government states that the concrete impact of these inspections, whether regular or unscheduled, can be seen from the continuing reduction of child labour in the sugar cane and nut harvesting plantations. While taking due note of the information provided by the Government, the Committee notes once again with **regret** the absence of information on the number of violations identified from these inspections or the penalties imposed. **The Committee strongly urges the Government to ensure that persons using the labour of children under 18 years of age in the sugar cane and Brazil nut harvesting industries, under conditions of debt bondage or forced labour, are prosecuted and that sufficiently effective and dissuasive sanctions are applied. It requests the Government to provide information on the number and nature of violations detected and the penalties applied. The Committee also strongly encourages the Government to continue to take effective and time-bound measures to: (i) prevent children from becoming victims of debt bondage or forced labour in the sugar cane and Brazil nut harvesting industries, and to remove child victims from these worst forms of child labour and ensure their rehabilitation and social integration; and (ii) provide information on the measures taken to this end and the results achieved.**

*Articles 3(d) and 7(2)(a) and (b). Hazardous types of work and effective and time-bound measures for prevention, assistance and removal. Children working in mines.* The Committee noted previously that over 3,800 children work in the tin, zinc, silver and gold mines in the country, and that the Government also referred to the establishment by the Ministry of Labour of Integrated Mobile Offices (Oficinas Móviles Integrales) in remote areas where the presence of the worst forms of child labour is suspected, including in mining areas. **Noting that the Government is silent on this point, the Committee again requests the Government to indicate the effectiveness of the action undertaken by the Integrated Mobile Offices in preventing children from being engaged in hazardous work in mines, their removal from such work and their rehabilitation.**

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

## Bosnia and Herzegovina

### Minimum Age Convention, 1973 (No. 138) (ratification: 1993)

#### Previous comment

*Article 3(2) of the Convention. Determination of hazardous work. Federation of Bosnia and Herzegovina (FBiH).* Regarding the by-law that shall define the types of work referred to in section 57 of the Labour Law of the FBiH No. 26/2016 (work likely to create a hazard or increased risk to the life, health, development or morale of underage persons), the Government indicates, in its report, that it has not yet been adopted, considering other legislative priorities (particularly the new by-laws on the new Law on Occupational Safety and Health, 2021). The Government indicates that the by-law in application of section 57 of the Labour Law could be adopted in the next legislative period.

The Committee further notes the Government's detailed information regarding the Rulebook on "requirements for establishing positions with special working conditions and physical examinations of employees occupying such positions" (the "Rulebook") (Official Gazette of the Socialist Republic of Bosnia and Herzegovina, No. 2/91), which is in force in the FBiH. The Committee notes with **interest** that the Rulebook establishes an extensive list of 55 workplace risks/types of work that can be performed only by employees who are at least 18 years old. **The Committee requests the Government to provide a copy of the Rulebook as well as information on its application in practice, in particular whether there have been instances of children under the age of 18 engaged in the types of prohibited hazardous work listed and, if so, whether penalties have been imposed to those who have employed them. In addition, the Committee once again request the Government to take the necessary measures to ensure, pursuant to section 57 of the Labour Law of the FBiH, that a list of activities and occupations prohibited for persons below 18 years of age is adopted, after consultation with the employers' and workers' organizations**

**concerned, in accordance with Article 3(2) of the Convention. It requests the Government to provide information on any progress made in this regard.**

*Brčko District.* Following its previous comments, the Committee notes with **regret** that no progress has been made regarding the adoption of a list of hazardous types of work prohibited to children and young persons under 18 years of age pursuant to section 75(1) of the Labour Law of the Brčko District No. 34/19 of 2019. **Observing that it has been raising this issue since 2005, the Committee strongly urges the Government to take the necessary measures to adopt a regulation determining the types of hazardous work prohibited for persons under the age of 18 years, after consultation with the employers' and workers' organizations concerned, in accordance with Article 3(2) of the Convention. 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.

## Comoros

### Minimum Age Convention, 1973 (No. 138) (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 2024, 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(3) of the Convention. Compulsory schooling and application of the Convention in practice.* In its previous comments, the Committee noted that child labour was a visible phenomenon in the country, particularly as a result of poverty and of the low school enrolment rate in some cases. In this regard, the Committee noted that the capacity of schools was very limited and that some primary and secondary schools were obliged to refuse to enrol certain children of school age. Consequently, a large number of children, particularly from poor families and disadvantaged backgrounds, were deprived of an education.

The Committee noted the Government's indication that there had been a positive trend towards gender parity in school, standing at 0.87 at primary level. However, it was less satisfactory at secondary level, where the numbers of girls in school had fallen significantly. According to the Government, particular problems in the educational situation for girls involved late enrolment, a very high repetition rate – around 30 per cent in primary school and 23 per cent in secondary school – and a high drop-out rate, with only 32 per cent of pupils completing primary education.

The Committee notes the Government's statement in its report that it is taking steps to reduce the disparity in school enrolment rates for girls and boys. The Government indicates that the school mapping system is being revised by the Ministry of Education, in conjunction with the education offices and UNICEF, with a view to boosting educational coverage and ensuring better access to education for children living in rural areas. Moreover, the Committee notes that a UNICEF country programme has been adopted for 2015–19, which aims, among other things, to support the Government's efforts to enhance children's right to education. One of the main objectives of the programme is to ensure that all children are enrolled in and complete inclusive, high-quality education, with the focus on equity and achievement.

However, the Committee notes that section 2 of Framework Act No. 94/035/AF of 20 December 1994 provides that schooling is only compulsory from 6 to 12 years of age, which is three years earlier than the minimum age for admission to employment or work, namely 15 years. Referring to the [General Survey of 2012 on the fundamental Conventions](#), the Committee observes that if compulsory schooling comes to an end before children are legally entitled to work, a vacuum may arise which regrettably opens the door for the economic exploitation of children (paragraph 371). The Committee therefore considers it desirable to raise the age of completion of compulsory schooling so that it coincides with the minimum age for admission to employment or work, as provided for in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). **Recalling that compulsory education is one of the most effective means of combating child labour, the Committee strongly encourages the Government to take the necessary steps to make education compulsory until the minimum age for admission to employment, namely 15 years. Moreover, the**

**Committee requests that the Government intensify its efforts to increase the school attendance rate and reduce the school drop-out rate, especially among girls, in order to prevent children under 15 years of age from working. The Committee requests that the Government provide information on the results achieved in this respect.**

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

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

## Congo

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Previous comments: observation and direct request

*Article 2(3) of the Convention. Age of completion of compulsory schooling.* The Committee notes, in the Government's report, statistics on the rates of school enrolment and attendance compiled during the development of the sectoral education strategy 2021–30. They show a total primary school completion rate of 78.86 per cent and a total secondary school completion rate of 67.35 per cent.

The Committee takes due note of the Government's information that, within the framework of the sectoral education strategy 2015–30, 104 preschools, education, training and apprenticeship centres, and a national centre for vocational rehabilitation for persons with disabilities have been built in the country. The Government also indicates that a rehabilitation centre for vulnerable children has been established, as part of an informal literacy and education initiative, with a view to providing alternatives for out-of-school children.

It also takes due note of the information that the national action plan to improve the quality of life of indigenous populations 2022–25 provides for training for indigenous teachers, in order to adapt education to their way of living, under the provisions of Decree No. 2019-204 of 12 July 2019 on special measures to facilitate access for indigenous children to education and adults to literacy. The Committee notes, however, that, according to the Report on the right of indigenous peoples of the United Nations Human Rights Council, of 10 July 2020, the Special Rapporteur expressed deep concern at the percentage of indigenous children who were out of school (65 per cent des of indigenous children aged 12 to 15 years, compared with 39 per cent in the general national population) (A/HRC/45/34/Add.1, paras 45 and 49). **Recalling once again that compulsory education is one of the most effective means of combating child labour, the Committee requests the Government to intensify its efforts to ensure that children who have not yet reached the minimum age for admission to occupation or employment, set at 14 years, are included in the education system. It requests the Government to provide detailed information on the specific measures taken in this respect, within the framework of the sectoral education strategy and the national action plan to improve the quality of life of indigenous populations, as well as on the results achieved. The Committee also encourages the implementation of appropriate measures to improve completion rates, which remain relatively low. In this regard, it requests it to continue to provide detailed statistics relating to the rates of school enrolment and particularly completion rate of children under 14 years, in both rural and urban areas, and disaggregated by age and gender.**

*Article 3(2) and (3). Determination of hazardous types of work and age of admission to hazardous work.* Further to its previous comments, the Committee takes due note of the Government's information that one of the strategic priorities is the revision of the list of hazardous work prohibited to children under 18 years of age, in all economic branches of activity. It also notes the Government's information that a preliminary study was deemed necessary to appropriately determine the types of hazardous work by sector of activity, following the complexity of the revision of the 1953 regulatory text, and the rejection of a draft decree drawn up solely by the Minister of Justice. **The Committee requests the Government to take the necessary measures to ensure the adoption of the decree determining the list**



**of types of hazardous work prohibited to children under 18 years of age, under section 68(d) of the Child Protection Act, in consultation with the social partners. It requests the Government to provide information on progress made in this regard.**

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

## Gabon

### Minimum Age (Underground Work) Convention, 1965 (No. 123) (ratification: 1968)

#### Previous comment

*Articles 4(4)(a) and (b) and 5 of the Convention. Records of persons who are employed or work underground.* The Committee notes the Government's indication, in its report, that under section 295 of the Labour Code, the employer must keep a constantly up-to-date record at the workplace containing a complete list of the workers which must be kept available for the labour inspectorate. The information which it must contain is fixed by regulation. The Committee notes that section 295 of the Labour Code does not specify that the records must also be made available to workers' representatives, at their request. The Government indicates that a committee drafting the implementing regulations for the new Labour Code is updating General Order No. 3018 of 29 September 1953 establishing the model for employers' records. **The Committee requests the Government to take the necessary steps to require that lists established in accordance with Article 4(5) shall be made available to workers' representatives, at their request. It also requests the Government to ensure that these lists indicate in particular the date of birth of all workers under 21 years of age and the date on which persons were employed or worked underground for the enterprise for the first time.**

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

### Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) (ratification: 1968)

#### Previous comment

*Article 3(2) of the Convention. X-ray film of the lungs.* The Committee notes the adoption on 19 November 2021 of Act No. 22/2021 issuing the Labour Code. It notes the Government's indication in its report that an X-ray film of the lungs must be made on the occasion of the initial medical examination, in accordance with sections 245 and 246 of the Labour Code. However, the Committee notes that sections 245 and 246 merely refer to a "supplementary medical examination", without stating that an X-ray film of the lungs is compulsory. **Recalling that it has been raising this matter for nearly 30 years, the Committee urges the Government to take the necessary measures to ensure that an X-ray film of the lungs is required during the initial medical examination of any person under 21 years of age with a view to their employment or work underground in mines and, if considered necessary from a medical point of view, during subsequent re-examinations.**

*Article 4(4) and (5). Records of persons who are employed or work underground.* The Committee notes with **regret** the Government's indication that General Order No. 3018 of 29 September 1953 establishing the model for employers' records has still not been amended. The Government indicates that a committee drafting the implementing regulations for the new Labour Code has started work to bring Order No. 3018 into conformity with the Convention. **The Committee therefore once again requests the Government to take the necessary measures in the near future to bring General Order No. 3018 of 29 September 1953 into conformity with the Convention, and to require that the employer must make available to workers' representatives, at their request, the records of persons under 21 years of age employed or working underground, with these records obliged to indicate the date of birth of the aforementioned persons, details of the nature of their work and a certificate of fitness for employment, but not providing any medical information.**

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

### Minimum Age Convention, 1973 (No. 138) (ratification: 2010)

Previous comments: observation and direct request

*Article 2(1) of the Convention. Scope of application and minimum age for admission to employment or work.* The Committee notes the adoption on 19 November 2021 of Act No. 022/2021 issuing the Labour Code. It notes the Government's indication in its report that section 214 of the new Labour Code lays down the principle that, unless an exemption is granted, no child under 16 years may be employed in an enterprise. The Committee notes, however, that under the terms of section 1 of the Labour Code, the Code continues to govern only labour relations between workers and employers, and between the latter or their representatives and apprentices and trainees placed under their authority. It therefore appears that the Labour Code and the provisions on 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 therefore notes with **regret** that the Government has not taken the opportunity of the revision of the Labour Code to bring its legislation into conformity with the Convention. 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 requests the Government to take the measures necessary, 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.**

*Article 3(1) and (2). Minimum age for admission to hazardous types of work and determination of such types of work.* The Committee notes the adoption of Act No. 003/2018 of 8 February 2019 issuing the Children's Code, section 74 of which prohibits the engagement of a child (defined as any person under 18 years) in work that is paid or is likely to jeopardize their health, safety or morals. However, the Committee notes that section 7 of the Labour Code provides that before 16 years of age, children may not be engaged in work that is not appropriate for their age, health, physical or psychological condition, or development, unless exemptions are granted under the present legislation. The Committee also notes with **concern** that section 214(2) of the Labour Code prohibits the engagement of children under 16 years (and not of children under 18 years as stipulated in *Article 3(1)* of the Convention) in work considered 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 their health, safety or morals. This particularly includes: (1) work which exposes children to physical, psychological or sexual abuse; (2) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; (3) work underground, under water, at dangerous heights or in confined spaces; and (4) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health. In addition, section 214 provides that a decree will determine the nature of work and the categories of enterprises prohibited to children, as well as the minimum age that applies to this prohibition. **The Committee urges the Government to take the necessary measures, in the near future, to amend section 214 of the Labour Code and prohibit the performance of work which by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of all children under 18 years, in accordance with Article 3(1) of the Convention. The Committee also requests the Government to indicate the measures taken to adopt a decree determining the nature of work and the categories of enterprises prohibited to children under section 214 of the Labour Code, and to guarantee the application of this decree to all children under 18 years.**

*Article 7. Light work.* The Committee notes with **regret** that, contrary to the information previously provided by the Government, the new Labour Code does not contain provisions governing the rules for

light work by children. It notes therefore that Decree No. 0651/PR/MTEPS of 13 April 2011 determining individual exemptions from the minimum age for admission to employment remains the rule in force and that, under sections 2 and 3, subject to the agreement of a parent or guardian and of the works doctor, individual exemptions from the minimum age to employment may be granted for the performance of light work not likely to jeopardize the health, development or education of the minors concerned, or their participation in vocational orientation and training programmes. The Committee reminds the Government that, under *Article 7(1)* of the Convention, national laws or regulations may permit the employment of children aged at least 13 years in light work and that, under *Article 7(3)* of the Convention, the competent authority, and not the persons exercising parental authority, shall determine the activities in which light employment or work may be permitted and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken. **The Committee therefore once again requests the Government to take the necessary measures to: (i) set the minimum age for admission to light work at 13 years; (ii) adopt a list of types of light work in which children between 13 and 16 years of age may be engaged; and (iii) ensure that the competent authority determines the conditions for such employment. The Committee requests the Government to provide information on the progress achieved in this regard.**

*Article 9(3). Keeping of registers.* The Committee notes that, under section 295 of the Labour Code, the employer must keep updated, at the work premises, an employer's register, containing a full list of his or her current employees. The information that must be kept in the register is set through regulations. The Committee notes, from the Government's report on the application of the Minimum Age (Underground Work) Convention, 1965 (No. 123), that a drafting committee for the implementing texts for the new Labour Code is in the process of updating General Order No. 3018 of 29 September 1953 determining the model of the employer's register. The Committee reminds the Government that, in accordance with *Article 9(3)* of the Convention, national regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by employers, containing the name 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 therefore once again requests the Government to take the necessary measures, in the near future, to bring General Order No. 3018 into conformity with the requirements of Article 9(3) of the Convention, by providing that the employer must keep registers and make them available.**

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children.* The Committee notes the revision in 2019 of the Criminal Code. It notes that section 342 of the revised Criminal Code defines trafficking in persons as: the recruitment, transport, transfer, accommodation or reception of a person in exchange for remuneration or any other consideration, or for the promise of remuneration or other consideration, in order to place that person at the disposal of an identified or unidentified third party so as: (1) to allow the commission against that person of the offences of procuring, sexual assault and the exploitation of begging or living or working conditions inconsistent with human dignity; or (2) to compel that person to commit any such offence, or to assist him or her in immigrating or emigrating. The Committee notes the Government's indications, in its report, that section 343 of the revised Criminal Code provides for penalties of imprisonment of up to seven years with a fine of 1 million CFA francs (approximately US\$1,700) for crimes of trafficking involving adult victims and imprisonment of up to 15 years with a fine of up to 100 million CFA francs (approximately US\$173,000) for trafficking involving victims who are minors.

The Committee takes due note of the Government's indication that measures have been taken to improve the functioning of the justice system and that some 50 magistrates received training to

strengthen their competence in ruling on crimes of trafficking in persons under the Criminal Code. The Government also indicates that in order to improve intersectoral coordination, 70 actors from law enforcement, social services and civil society received training in investigations into trafficking in persons. The Government indicates that the police opened 17 investigations into reported cases of child trafficking in 2018, and three into forced labour of children in 2019. The Government adds that, in 2019, the Ministry of Justice referred 20 cases of child trafficking to the Prosecutor's Office. Also in 2019, one perpetrator of trafficking was found guilty by the court and another presumed perpetrator of trafficking was absolved.

The Committee notes the Government's acknowledgement that there are difficulties in applying the Convention in the informal sector. The Committee notes that, according to the concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW), Gabon continues to be a country of transit and destination for trafficked women and girls, mainly for purposes of labour and sexual exploitation, including in mines, disproportionately affecting migrant women and girls (CEDAW/C/GAB/CO/7, 1 March 2022, paragraph 20). **While noting certain measures taken by the Government, the Committee requests the Government to continue taking the necessary steps to ensure that thorough investigation and robust prosecution of perpetrators of the sale and trafficking of children, including government officials suspected of complicity and corruption, are carried out and completed, and to ensure that sufficiently effective and dissuasive penalties are imposed on them. The Committee requests the Government to provide concrete information on the application of provisions relating to this worst form of child labour, by transmitting statistics on the number of convictions handed down and the criminal penalties imposed.**

*Articles 5 and 6. Monitoring mechanisms and programmes of action.* The Committee notes that the Government has not responded to its previous requests, particularly on: (1) the measures taken to ensure that the watchdog committees, which are responsible for monitoring and combating the trafficking of children for exploitation within the country, can better detect cases of trafficking of children under 18 years of age; and (2) the role and activities of the Council to Prevent and Combat the Trafficking of Children and the Interministerial Committee to Combat the Trafficking of Children. It notes the Government's indication that, in 2019, it: (1) organized an awareness-raising campaign to combat trafficking and other forms of violence against children, reaching 861 people; (2) provided training for social workers and first responders on child protection issues, particularly trafficking in persons, in the province of Ogooué Ivindo, in the north-east of the country; and (3) supported the awareness-raising campaign of a Gabonese NGO in Libreville by providing access to official sites. The Government also indicates that it approved the national action plan against trafficking in early 2020. However, the Committee notes that, according to the 2022 concluding observations of CEDAW: (1) there is a lack of data on the extent of trafficking in persons and an absence of specific procedures in place for the early identification of victims and national referral mechanisms for protection and assistance; and (2) there is an absence of a national anti-trafficking plan and of a functioning interministerial committee to coordinate the national anti-trafficking response (CEDAW/C/GAB/CO/7, paragraph 20). It also notes, according to the Government's report under the application of the Minimum Age Convention, 1973 (No. 138), that in 2017, the authorities identified 65 child victims of trafficking and, in 2018, 50 child victims. The Committee notes that, according to the Government's report to the Human Rights Council for the Universal Periodic Review, a text on the establishment, powers, organization and functioning of a national commission to prevent and combat trafficking in persons in Gabon is being drafted. The goal is to have a single national body responsible for dealing with trafficking in persons in Gabon that will implement the existing national programme (A/HRC/WG.6/42/GAB/1, 28 October 2022, paragraph 72). **The Committee requests the Government to take the necessary measures 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 continue to provide information on the number of child victims of trafficking who have been identified, and on the activities undertaken. The Committee also**

**requests the Government to provide information on: (i) the role and recent activities of the Council to Prevent and Combat the Trafficking of Children and the Interministerial Committee to Combat the Trafficking of Children; and (ii) the progress made in establishing a national commission to prevent and combat trafficking in persons.**

*Article 7(2). 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 Government indicates that in 2018, 30 children were removed from situations of forced labour. The Government also indicates that it is funding two reception centres run by NGOs for comprehensive services for victims of trafficking, orphans and street children, in particular by financing social workers, medical assistance, psychological services, legal assistance and school fees. The Committee notes that, according to the Government's report for the Universal Periodic Review, the responsibilities of the Centre for Children in Difficult Circumstances henceforth include the provision of support for child victims of trafficking, and that qualified civil servants have been seconded to a private transit centre that takes in child victims of trafficking (A/HRC/WG.6/42/GAB/1, paragraph 69). **While noting the 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 continue 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 notes the Government's indication that specific cooperation agreements with Togo, Benin and Burkina Faso are being drawn up to improve coordination in combating child trafficking. The Government adds that draft trilateral agreements are envisaged to include transit countries, thereby strengthening the legal effects. In its report for the Universal Periodic Review, the Government indicates that it faces major challenges, including lack of genuine cooperation among countries of origin, transit countries and Gabon – as the country of destination – with regard to prevention, and the weakness of tools and services for support and protection, the effectiveness of which essentially depends on cooperation among all national and international actors (A/HRC/WG.6/42/GAB/1, paragraph 70). **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)

#### [Previous comment](#)

*Article 2(3) of the Convention. Compulsory education.* In response to the Committee's previous request to indicate the legal provisions which provide for compulsory schooling, the Government indicates, in its report, that a provision setting an age of completion of compulsory schooling, aligned with the minimum age for admission to employment or work, will be introduced in the framework of the revision of the current Children's Act, 2005. **Considering that the Committee has been raising this issue since 2009, the Committee requests the Government to take measures to ensure that the revision of the Children's Act will introduce compulsory schooling up to the minimum age for admission to employment or work of 14 years, in compliance with Article 2(3) of the Convention. It requests the Government to provide information on the progress achieved in this respect.**

*Article 6. Vocational training and apprenticeship.* Following its previous comments, the Committee notes with **regret** the Government's indication that sections 78 and 79 of the Labour Bill, which regulate apprenticeships, remain silent regarding the minimum age for admission to apprenticeships. This means that the issue of the minimum age for admission to apprenticeships (currently 12 years of age in the informal economy by virtue of sections 50 and 51 of the Children's Act, 2005, and no minimum age for apprenticeships in the formal economy under the Labour Act, 2007) remains unresolved. The Government indicates that the National Steering Committee on Child Labour has made recommendations to raise, and provide for, a minimum age for apprenticeships, and that the age of admission to apprenticeship will be considered in the Labour Bill in parallel with the review of the Children's Act, with a view to aligning the provisions of the two laws. **The Committee therefore once again requests the Government to take the necessary measures to ensure that a minimum age for admission to apprenticeships of at least 14 years, in both the formal and the informal economy, is established by law, in conformity with the Convention. The Committee requests the Government to provide information on the progress made in this regard.**

*Article 7. Light work.* In response to the Committee's previous request to determine the types of activities, number of hours and the conditions in which light work may be undertaken by children as of the age of 12, the Committee notes the Government's indication that the minimum age for light work will be raised to 14 years under both the Labour Bill and the Children's Bill, and that the types of activities, number of hours and conditions under which light work may be performed, will be integrated in these two bills. **The Committee requests the Government to take the necessary measures to ensure that the new provisions regulating the minimum age for light work and determining the types of light work activities, the number of hours and the conditions in which light work may be undertaken by children, are adopted in the near future. It requests the Government to provide information on the progress made in this regard.**

*Article 9(1). Penalties and labour inspectorate.* In response to the Committee's previous observation that the enforcement of the law remained a challenge in the country, and its request to strengthen the labour inspectorate to ensure the detection of cases of child labour, the Committee observes with **concern** that, according to the statistics communicated by the Government for the first quarter of 2022, the labour inspectorate conducted only seven inspections in the greater Banjul area and 28 inspections in the rest of the country, and that it did not conduct any inspections in the second quarter of 2022. In this regard, the Government indicates that the Inspectorate Unit of the Labour Department is severely understaffed and lacks material resources, including vehicles, and cannot therefore effectively carry out routine inspections. While the ILO has supported the training and continuous capacity-building of labour inspectors, the Government states that it requires more technical assistance. **While taking note of the difficulties faced by the country in this regard, the Committee urges the Government to take the necessary measures to adapt and strengthen the labour inspection services and to ensure that labour inspectors have sufficient resources and adequate training on child labour issues in order to improve their capacity to detect cases of child labour. It requests the Government to provide information on the progress made in this regard and on the results achieved. It also requests the Government to continue providing information 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 economy, and on the number and nature of penalties imposed.**

**The Committee encourages the Government to take its comments into consideration during the ongoing review of the Labour Act, 2007, and of the Children's Act, 2005, and while taking measures to improve the capacity of the labour inspectorate. The Committee reminds the Government that it may avail itself of ILO technical assistance in order to bring its legislation and practice 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)

### Previous comment

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). Sale and trafficking of children and child sex tourism.* The Committee previously noted that section 39 of the Children's Act, 2005, prohibits child trafficking, and that this offence is punishable by life imprisonment. It also notes that the Trafficking in Persons Act, 2007, prohibits all forms of trafficking and provides a penalty of 15 years to life imprisonment.

The Committee takes note of the report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material of 22 January 2021 (A/HRC/46/31/Add.1), in which it is revealed that the Gambia remains a source and destination country for children subjected to trafficking for sexual exploitation purposes. The Special Rapporteur heard allegations of trafficking of children, in particular Senegalese children to, and Gambian children from, the Gambia, for exploitation in international or domestic labour, domestic servitude, prostitution, apprenticeships and the fishing industry, and as beggars or shoe shiners. She also heard about instances of Gambian girls being trafficked to the Middle East for labour exploitation and domestic servitude (paras 9–10).

The Special Rapporteur also describes in detail the information she received concerning the commercial sexual exploitation of children in the context of travel and tourism (paras 15–18). It is reported that the Gambia is listed as a major destination for both male and female perpetrators of child sex offences. Incidents of commercial sexual exploitation of children are reportedly occurring in the tourism development areas, which comprise the areas around the major hotels, beaches, restaurants and nightclubs, and where children from poor communities are brought to meet tourists. Some perpetrators come into contact with children and develop relationships with them through organizations registered as philanthropic or as charities; others approach children under the guise of sponsoring their education or through intermediaries known as “bumsters”, who can be tour guides, taxi drivers and hotel workers. There are also allegations of existing organized sex-trafficking networks, reportedly operated by overseas and Gambian travel agencies, that promote Gambia as a destination for child sex tourism.

The Committee notes that, according to the Special Rapporteur, perpetrators of child trafficking and of commercial sexual exploitation of children are rarely brought to justice and punished. Enforcement is hampered by several factors, including a lack of awareness of existing laws and penalties; inadequate human, technical, financial and administrative capacity to oversee and rapidly respond to reported cases; and significant gaps in capacity and expertise for providing victims with the necessary child-friendly services and assistance, including at the first point of contact with children (para. 33). Moreover, the Special Rapporteur heard that reports of sexual abuse are often not taken up by the authorities for further action. In the rare instances where complaints are lodged with the police, they are not duly acted upon, the gathering of compelling evidence is delayed, and investigation and prosecution are stalled, resulting in victims or witnesses withdrawing their complaints. Reportedly, cases have been dismissed on the grounds that child victims' statements were allegedly inconsistent. In some cases, the police or even the judiciary have encouraged the parties to settle a case in the community to the detriment of the child and in the interest of protecting the family's honour. At the time of the visit of the Special Rapporteur in 2019, 15 new investigations were reported by the Government, six of which involved allegations of sex trafficking and nine involved allegations of forced labour in domestic work in the Middle East. Three prosecutions were still pending. No convictions were known to have been obtained on charges of trafficking of persons (paras 59–60).

The Committee notes with **concern** that, according to both the Special Rapporteur (para. 9) and the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 1 November 2022 (CEDAW/C/GMB/CO/6, para. 23(b)), the trafficking of children is

drastically underreported, owing to, inter alia, the lack of confidence in the administration of justice, lengthy investigations and court proceedings, the lack of prosecutions and convictions. **Recalling that the established sanctions are only effective if they are actually applied, the Committee urges the Government to take the necessary measures, without delay, to ensure that thorough investigations and prosecutions are carried out of persons who violate the provisions related to the sale and trafficking of children and that effective and dissuasive sanctions are imposed on them in application of the Children's Act, 2005, and of the Trafficking in Persons Act, 2007. In this regard, it urges the Government to take the necessary steps to strengthen the capacities of law enforcement bodies to combat the sale and trafficking of children under 18 years of age, including by means of training and adequate resources. The Committee requests the Government to provide statistics on the number of convictions and penal sanctions imposed.**

*Article 6. Programmes of action. Child trafficking and commercial sexual exploitation.* The Committee notes, according to the report of the Special Rapporteur, that the Government has adopted some measures to prevent the sale and trafficking of children, as well as their commercial sexual exploitation, such as setting up children's courts and putting in place a manual for training on the eradication of child labour and sexual exploitation in the tourism industry, as well as a tourism code of conduct in hotels, motels and restaurants (paras 18 and 32). However, the Committee notes the observation of the Special Rapporteur according to which Government measures have had a limited impact on the prevention of the sale and sexual exploitation of children and the protection of child victims, notably due to the lack of a comprehensive strategy to effectively tackle the sale and sexual exploitation of children, including the root causes (para. 34). Those root causes include rampant poverty, limited access to education and economic opportunities for girls in rural areas, a lack of awareness of the relevant laws, existing societal barriers, the stigma and shame related to sexual exploitation and abuse, a deeply embedded culture of silence, compounded by weak law enforcement and inadequate child protection responses, the reportedly high number of children not immediately registered at birth, particularly in rural areas, and more (paras 21–23). **The Committee requests the Government to take measures to develop and adopt a comprehensive plan of action to combat and eliminate child trafficking for labour and sexual exploitation, which takes into consideration and addresses the root causes and factors that are pulling and pushing children into becoming victims of trafficking. It requests the Government to provide information on the progress made in this regard in its next report.**

*Clause (b). Providing 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 trafficking and commercial sexual exploitation.* The Committee notes the Government's indication, in response to its previous comments, that the Directorate of Children's Affairs of the Ministry of Gender, Children and Social Welfare is involved in the provision of all support to child victims of commercial sexual exploitation. Moreover, the National Agency Against Trafficking in Persons developed a National Referral Mechanism for victims of Human Trafficking and the Gambia Tourism Authority for the Protection of Children trained hotel staff on the commercial sexual exploitation of children. There is also a case management system that is intended to facilitate the identification, referral and care for children who are victims of all abuses.

The Committee notes, however, that in its concluding observations of 1 November 2022, the CEDAW expresses its concern regarding the lack of an effective national referral mechanism to appropriate support services for victims of trafficking for purposes of forced labour and sexual exploitation, including sex tourism (CEDAW/C/GMB/CO/6, paragraph 23(b)). The Special Rapporteur also highlighted the need for a functional referral system and effective case management to ensure efficient service delivery and connect victims to support services, as well as the urgent need to establish additional shelters for child victims of sexual exploitation that are properly funded and staffed by well-trained personnel who can offer integrated psychological, legal, medical and other services (para. 66). **The Committee therefore once again urges the Government to strengthen its efforts to ensure that**



**child victims of trafficking for labour or sexual exploitation and child victims of commercial sexual exploitation are removed from these worst forms of child labour, rehabilitated and socially integrated, including through the establishment of additional shelters for child victims. It requests the Government to provide information on the number of children removed and provided with support.**

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

## Greece

### Minimum Age Convention, 1973 (No. 138) (ratification: 1986)

#### Previous comment

The Committee notes the observations of the Greek General Confederation of Labour (GSEE) received on 30 August 2022. **The Committee requests the Government to reply to these observations.**

*Article 3(3) of the Convention. Authorization to carry out hazardous work from the age of 16 years.* The Committee takes note of the Government's information, in its report, regarding the adoption of the new Law No. 4763/2020 on the national system of vocational education, training and lifelong learning. It notes the Government's statement that section 7(5) of Decree No. 62/1988 – permitting the employment of young persons from the age of 15 in work that is liable to prejudice their health, safety or development where such work is necessary for their vocational training – is the only exception to the general prohibition of the engagement of minors under 18 years in hazardous work.

The Committee notes the GSEE's observation that the Government has not taken the necessary measures to amend section 7(5) by raising the age of admission to hazardous work in vocational training to 16 years of age.

In this regard, the Committee must once again underline that, according to *Article 3(3)* of the Convention, national laws or regulations or the competent authority may only authorize employment in hazardous work as from the age of *16 years*, regardless of whether or not this employment takes place in the framework of vocational training or apprenticeships, on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or training in the relevant branch of activity. **Considering that it has been raising this issue for more than 20 years, the Committee urges the Government to take the necessary measures, without delay, to ensure that the minimum age for the exemptions from the prohibition on the employment of young persons in hazardous work, as laid down in section 7(5) of Presidential Decree No. 62/1998, will be raised to at least 16 years, so as to be in compliance with Article 3(3) of the Convention. 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.

## Guyana

### Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

#### Previous comment

*Article 1 of the Convention. National policy for the elimination of child labour, labour inspection and application in practice.* The Committee notes the Government's indication, in its report, that the National Child Labour Policy towards the elimination of child labour 2019 and the National Plan of Action for the Elimination of Child Labour 2019–25 continue to be implemented. The Committee takes due note of the various activities undertaken by the Government under the National Action Plan for the Elimination of Child Labour 2019–25, including: (1) the review of the laws governing child labour with a view to strengthening the legislative protection and enforcement in combating child labour, and the subsequent recommendations made for legislative amendments to fill gaps and clarify or strengthen

the effects of offences and penalties; (2) the training of 22 labour inspectors to better investigate, coordinate, monitor and respond to child labour; (3) various poverty eradication measures to create jobs and provide a better income to families; and (4) measures aimed at increasing school enrolment and attendance rates. The Committee notes the Government's indication that the labour inspectorate conducts regular and frequent inspections across the country (960 inspections in industrial establishments in 2021 and 1,600 inspections between January 2022 and August 2023), but that no case of child labour was observed during these inspections. The Government adds that one of its labour inspectorate unit conducts checks for child labour whenever inspections are done, but that there is no separate child labour inspectorate unit. The Committee further notes with **interest** the Government's indication that, according to the Multiple Indicator Cluster Survey 2019–20, there was a decline in child labour across all regions of Guyana. In 2019, 6.4 per cent of children aged 5 to 17 years were engaged in child labour compared to 18 per cent in 2014. The Survey also highlights the decrease in the number of children, aged 5 to 17 years, working under hazardous conditions, from 13 per cent in 2014 to 8 per cent in 2019, and that boys are still more likely to be involved in hazardous work than girls. **The Committee encourages the Government to pursue its efforts towards the effective elimination of child labour, including hazardous child labour. It also requests the Government to continue to provide updated statistical information on the employment of children and young persons below the age of 15 in the country and on the number of children under 18 years engaged in hazardous work.**

*Article 3(3). Authorization to work in hazardous employment from the age of 16 years.* The Committee notes the Government's indication that it intends to amend the Employment of Young Persons and Children Act (chapter 99:01) to ensure that persons from the ages of 16–18 years may only be authorized in hazardous work on the conditions that their health, safety and morals are fully protected and that they, in practice, receive adequate specific vocational training, in line with *Article 3(3)* of the Convention. The Government indicates that it is seeking the assistance of the ILO to this end. **The Committee requests the Government to continue its efforts, in cooperation with the ILO, to ensure the amendment of the Employment of Young Persons and Children Act with a view to bringing it into conformity with the Convention and requests the Government to provide a copy of the amendments to the Act once they have been adopted.**

*Article 9(3). Keeping of registers.* The Committee notes the Government's indication that it considers that all businesses are captured by the definition of "industrial establishment" of section 2(1) of the Occupational Safety and Health Act (chapter 99:06), as it includes "a factory, shop, office, or workplace and any, building or other structure or premises appertaining thereto but does not include premises occupied for residential purposes only". The Government adds that it has taken note of the Committee's observation that the legislation should be amended to ensure that all employers, including non-industrial undertakings, should be obliged to keep registers of all employed persons under the age of 18 years, and that the necessary attention will be given to this observation when the occupational safety and health regulations are next reviewed. **The Committee once again requests the Government to take the necessary measures to ensure that national legislation or regulations be adopted to ensure that all employers of non-industrial undertakings are also obliged to keep registers of all persons below the age of 18 years who work for them, in conformity with Article 9(3) of the Convention.**

## Honduras

### Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1960)

#### [Previous comment](#)

The Committee notes the observations of the Honduran National Business Council (COHEP) received on 30 August 2022. **It requests the Government to provide its reply to these observations.**

*Article 4 of the Convention. Medical examination until the age of 21 years.* In its report, the Government once again indicates that, without prejudice to the fact that the Protected Adolescent Work Regulations and the Child Labour Regulations do not apply to young workers aged between 18 and 21 years, these workers are protected by the applicable Labour Code, as well as the General Regulations on measures to prevent occupational accidents and diseases. Section 46(2)(a) of these Regulations, applicable to all enterprises and workers, determine the conditions under which medical examinations are required. However, the Committee notes with **concern**, from the observations of the COHEP, that there is still no provision in the national legislation requiring young persons between the ages of 18 and 21 years who are authorized to carry out unhealthy or hazardous work to undergo medical examination and re-examinations for fitness for employment. The Committee once again recalls that *Article 4* of the Convention sets the requirement that national laws or regulations shall either specify or empower an appropriate authority, not the employer, to specify the occupations or categories of occupations in which medical examinations and re-examinations for fitness for employment shall be required until the age of 21 years. **The Committee urges the Government to give effect to its engagement, contracted 50 years ago, and take the necessary measures to ensure that the national legislation lays down an obligation for young persons between the ages of 18 and 21 years who are authorized to carry out unhealthy or hazardous work to undergo a medical examination and re-examinations for fitness for employment.**

*Article 7(2). Ensuring the application of the system of medical examination for fitness for employment to children employed either on their own account or on account of their parents, and application of the Convention in practice.* The Committee notes, from the observations of the COHEP, that there has not been any tripartite dialogue held with the view of establishing a system of medical examination for fitness for employment for children and young persons employed on their own account or on account of their parents. However, the COHEP refers to the Protected Adolescent Work Regulations, approved by Executive Agreement of 14 December 2020, in which the procedure for the medical examination of young persons is set out in section 9, and the Committee notes that, in application of section 119 of the Code for Children and Young Persons, this also applies to children working on their own account. Indeed, the Committee notes with **interest** that section 119 of the Code for Children and Young Persons provides that the employment of children is subject to the prior authorization of the Secretary of State in the Offices of Labour and Social Security, and that the same authorization is required for “children who intend to carry out independent work, that is, those in which there is no remuneration or a contract or working relationship”. However, the Committee notes that neither the Code for Children and Young Persons nor the Protected Adolescent Work Regulations set out measures of identification for ensuring the application of the system of medical examination for fitness for employment to children and young persons engaged either on their own account or on account of their parents. **The Committee therefore requests the Government to take the necessary measures to ensure that measures of identification are adopted in national laws or regulations with a view to ensuring the application of the system of medical examination for fitness for employment to children and young persons engaged either on their own account or on account of their parents.**

## Minimum Age Convention, 1973 (No. 138) (ratification: 1980)

### [Previous comment](#)

The Committee notes the observations of the Honduran National Business Council (COHEP), received on 30 August 2022.

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee notes, from the observations of the COHEP, that according to the 2022 Report on the Characteristics of the Labour Market, published by the National Institute of Statistics, 65.2 per cent of children aged between 5 and 17 years dedicate their entire time to studying, 11.2 per cent are engaged in some type of work (this includes those who study and work and those who work full-time), and 23.6

per cent neither study nor work. The Report highlights that, out of the 256,526 minors engaged in work or employment, 64.8 per cent are in rural areas. The Committee also notes, from the observations of the COHEP, that in 2020, consultations and tripartite workshops took place for the preparation and approval of a Road map for the elimination of child labour in all its forms 2021–25, containing 10 strategic action points, including: (1) joint efforts with the education system to combat, in a coordinated manner, education exclusion and child labour; (2) the establishment of an inter-institutional and intersectoral common integrated care protocol for child labour and children engaged in hazardous work; and (3) strengthening of the operational and budgetary capacities of key institutions towards the prevention of child labour and protection of adolescent workers.

The Committee notes the Government's information, in its report, on the labour inspections undertaken with regard to child labour: 2 inspections in 2020, 45 inspections in 2021 and 22 inspections between January and March 2022. However, the Committee notes that no information is provided on the findings of these inspections. The Committee further notes, from the Government's third periodic report on the application of the International Covenant on Civil and Political Rights: (1) the reactivation, in 2017, of the National Commission for the Gradual Elimination of Child Labour; and (2) the Protocol for the Organization, Training and Certification of Committees for the Prevention of Child Labour (CCPR/C/HND/3, 9 January 2023, para. 209). **The Committee requests the Government to continue its efforts to ensure the progressive elimination of child labour, including within the framework of the Road map for the elimination of child labour in all its forms 2021–25. The Committee also requests the Government to continue providing information on: (i) the manner in which the Convention is applied in practice, and to include in particular statistics on the employment of children under 14 years of age, extracts from the reports of the labour inspection services and information on the number and nature of the violations detected and penalties imposed; and (ii) the activities of the National Commission for the Progressive Elimination of Child Labour.**

*Article 2(1) and (4). Scope of application and minimum age for admission to employment or work.* With regard to its previous comment, the Committee notes the Government's reply that it adopted Executive Agreement No. STSS-578-2020 on 14 December 2020, which approved the Regulations of protected adolescent work. The Government states that section 3 of the Regulations stipulates that: (1) the Secretary of State in the Offices of Labour and Social Security through the General Directorate of Social Welfare, is the only authority with the capacity to grant authorization for the work of adolescents, in accordance with the provisions of section 119 of the Code for Children and Adolescents; and (2) no authorization will be granted for the work of a minor under the age of 14 years. The Committee notes that the COHEP also refers to the regulations of protected adolescent work to indicate that no child under the age of 14 years is authorized to work in the country. While it welcomes the adoption of the Regulations of Protected Adolescent Work, the Committee notes that the Government has not taken any measures to amend section 2(1) of the Labour Code which excludes from its scope of application agricultural and stock raising undertakings that do not permanently employ more than 10 workers. Nor does it amend section 32(2) of the Labour Code which provides that the authorities responsible for supervising work by persons under 14 years of age could authorize them to engage in an economic activity if they considered it indispensable for their subsistence or that of their parents or brothers and sisters, and provided that it did not prevent them from attending compulsory schooling.

The Committee further notes, from the observations of the COHEP, the reform of section 8 of the Regulations on child labour 2001 by Decree No. 125-2015, published in the *Gaceta* on 28 January 2017, which updates the list of hazardous types of work. The Committee notes however that this update does not change the terms of sections 4 to 6 of the Regulations on child labour of 2001, which continue to provide that these Regulations only apply to contractual labour relations.

The Committee therefore once again recalls that, under the terms of *Article 2(1)* of the Convention, no one under the minimum age specified shall be admitted to employment or work in any occupation, subject to the exemption set out in *Articles 4 to 8* of the Convention. **The Committee once**

**again urges the Government to take the necessary measures to bring the Labour Code and the 2001 Regulations on child labour into conformity with the Code for Children and Young Persons of 1996 and the 2020 Regulations of protected adolescent work so as to ensure coherence in the legislation and that no child under 14 years of age is authorized to work, including children working in agricultural and stock-raising undertakings which do not permanently employ more than ten workers, and those who work on their own account. It once again requests the Government to provide information on the progress achieved in this respect.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

The Committee notes the observations of the Honduran National Business Council (COHEP), received on 31 August 2021 and 30 August 2022.

*Articles 3(a) and (b) and 7(1) of the Convention. Trafficking of children for commercial sexual exploitation, use of children for prostitution or for the production of pornography or pornographic performances, and penalties applied.* The Committee notes with **satisfaction** the adoption of Decree 93-2021 which amended section 291 of the Penal Code to increase the imprisonment sentence from 5 to 8 years to 10 to 15 years in cases of trafficking in persons. The Committee further notes the statistical information provided in the Government's report on the number of complaints of trafficking in persons and commercial sexual exploitation received, as well as the number of convictions and penalties imposed for 2018 to 2021. The Committee notes that according to the statistics provided, in 2021, a total of 75 complaints were received, 68 of which concerned commercial sexual exploitation and 7 related to trafficking in persons for forced labour or begging. A total of 29 persons were convicted to sentences of three to 21 years of imprisonment and fines of between 75 and 221 times the minimum wage for acts of trafficking in persons and commercial sexual exploitation. Among these convictions, the Committee notes that 4 persons were convicted of child pornography and 2 persons were convicted for commercial sexual exploitation of a minor. The Government further indicates that, in 2021, of a total of 101 victims detected, 51 were underaged victims (41 girls and 10 boys), the main crimes related to child pornography (9 girls and 2 boys), begging (3 girls and 5 boys) and sexual exploitation (6 girls). The Committee further notes from the COHEP's observations that, in 2021, public officials were prosecuted for being involved in trafficking of persons and commercial sexual exploitation. The Committee notes the detailed information provided by the Government, which highlights the serious problems of child trafficking prevailing in the country. The Committee welcomes the measures taken by the Government to combat the commercial sexual exploitation of children and their trafficking for that purpose. **It requests the Government to continue to take all measures available to tackle this problem and to provide information on the impact of the measures taken. The Committee further requests the Government to continue to provide up-to-date information, disaggregated by the gender and age of the victims, on the number of investigations conducted, prosecutions launched and convictions and penalties imposed relating to child trafficking and commercial sexual exploitation of children under 18 years.**

*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 takes note of the information provided in the Government's report under the application of the Minimum Age Convention, 1973 (No. 138) on the measures taken to improve the functioning of the education system, with the aim of increasing school attendance, such as: (1) the implementation of the Plan for the protection of educational trajectories of pre-primary, primary and secondary level students (2021–23); (2) the launch of the "Training of the Educator Towards a Sustainable Human Development"; (3) the continuation of the National School Food Programme (PNAE) which provides a supplementary nutritional ration to all children at school; (4) the continuation of the deworming programme for children in private and public schools; and (5) the adoption and implementation of the Strategic Plan for the Education Sector 2018-

2030. The Committee also notes, from the COHEP's observations, that: (1) the Government is working on improving school infrastructures and developing a new enrolment system that will simplify the formalities for parents to enrol their children in school; and (2) in the report on Progress in Education in Honduras (2022) in 2020, the net school attendance rates were at 84.8 per cent for primary education and 46.7 per cent in lower secondary education. In 2021, the net school attendance rates were 77.2 per cent for primary education and 42.2 per cent for lower-secondary education; the report also states that, in 2021, 700,000 children aged between 5 and 17 years were out of the education system.

The Committee welcomes the measures taken but nevertheless notes with **regret** the decrease in the net school attendance in both the primary and lower secondary education between 2020 and 2021. The Committee notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination Against Women, that despite the efforts made to ensure equal access to quality education for all, there is a low enrolment rate among girls compared with boys (CEDAW/C/HND/CO/9, 1 November 2022, para. 34). The Committee further takes note, from the concluding observations of the Committee for the Elimination of Racial Discrimination, of the high school drop-out rate among indigenous and Afro-Honduran children and adolescents (CERD/C/HND/CO/6-8, 14 January 2019, para. 32). ***In these circumstances, the Committee requests the Government to continue to strengthen its efforts to improve the functioning of the education system with a view to achieving an increase in the school attendance and completion rates of children at the primary and lower-secondary level, including of girls and indigenous and Afro-Honduran children. It requests the Government to provide information on the assessment of the above-mentioned measures, as well as the results achieved.***

*Clause (b). Direct and necessary assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Trafficking and commercial sexual exploitation.* The Committee notes the Government's indication that the Rapid Response Team (ERI), a specialized operational body of the Inter institutional Commission on the Commercial Sexual Exploitation and Trafficking of Persons (CICESCT), responsible for providing assistance to victims of trafficking and sexual exploitation, assisted 25 victims of trafficking or commercial sexual exploitation of less than 18 years of age (19 girls and 6 boys) in 2018, 23 victims (21 girls and 2 boys) in 2019, 43 victims (35 girls and 8 boys) in 2020, and 51 victims (41 girls and 10 boys) in 2021. The Committee notes that the intervention of the ERI focuses on the victims, their families and, in some cases, on their community in order to ensure their recovery, rehabilitation and social integration.

The Committee notes, from the 2021 Annual Report of the CICESCT, that: (1) victims who were rescued from trafficking or commercial sexual exploitation received psychological and medical care, as well as legal assistance, social reintegration (with their family), and provision of education or vocational training; (2) victims were provided with food and kits of basic hygiene as well as clothing, and received help to lodge complaints; (3) the CICESCT carried out awareness-raising actions aimed at groups in vulnerable situations, including girls, boys, students, women, people with disabilities, the indigenous population, migrants and the LGBTI population; and (4) in 2021, the CICESCT prepared and approved a Standard Operating Procedure (POE) and developed a road map for the identification, assistance and protection of victims in different municipalities throughout the country.

The Committee notes, from the Government's third report under the International Covenant on Civil and Political Rights that, between 2017 and 2020, the ERI, the inter-agency team of experts and the 24 local committees coordinated more than 500,000 comprehensive primary and secondary assistance services for victims of trafficking and their families. These services encompassed: protection, support, shelter, food, clothing, psychological, social, legal and medical assistance, housing, education, vocational training, documentation, asylum, transportation, employment, family assistance, treatment for addiction, financial loans, entrepreneurships, repatriation, follow-up and family visits (CCPR/C/HND/3, 9 January 2023, para. 196). ***Noting the effective and time-bound measures taken by the Government to remove children from trafficking and commercial sexual exploitation and to ensure***

**their rehabilitation and social integration, the Committee requests the Government to continue to take measures in this regard. It further requests the Government to continue to provide information on the number of children who have been removed from trafficking and commercial sexual exploitation and who have benefited from rehabilitation measures, and the results achieved.**

*Clause (d). Children at special risk. Indigenous children.* The Committee notes the Government's indication that it carried out consultations with the relevant stakeholders regarding the measures to be taken to protect indigenous children against the worst forms of child labour, but that no response was obtained in this regard. **The Committee requests the Government to provide information on the results achieved in the framework of the Vida Mejor Programme and the 20/20 system of grants, which provided grants and conditional cash transfers for children attending school. The Committee also requests the Government to provide information on any other measures taken or envisaged to protect indigenous children from the worst forms of child labour.**

*Clause (e). Special situation of girls. Child domestic workers.* The Committee notes that one of the strategic goals of the road map for the elimination of child labour in all its forms 2021–25 is the formulation of a specific line of work for the prevention of child labour and the protection of adolescent female workers with a focus on domestic work in third-party homes, and in the hospitality and food service industries. **The Committee requests the Government to report on the implementation of the road map for elimination of child labour in all its forms 2021-2025, with an indication of the number of children engaged in domestic work who have been removed from situations of worst forms of child labour and have benefited from rehabilitation and social integration measures.**

*Article 8. International and regional cooperation. Commercial sexual exploitation and trafficking for that purpose.* The Committee notes the Government's indication that it continues to work in cooperation with the United Nations Office on Drugs and Crime (UNODC), for the strengthening of the capacities of officials for the provision of immediate assistance to victims of trafficking and sexual exploitation. The Committee notes the Government's indication that at least five cases of trafficking of persons are being coordinated binationally with Belize, Mexico, Guatemala, Spain and Argentina. The Committee also notes the signature of a cooperation agreement between the CICESCT and the International Centre for Disappeared and Exploited Children (ICMEC), with the aim of strengthening the capacities of the staff from government institutions and civil society organizations, and the cooperation with the countries that make up the northern triangle of Central America, in the fight against trafficking in persons. The Government further indicates that the CICESCT has signed a cooperation agreement with the International Children's Office (IBCR) with which it implemented a strengthening project for the CICESCT, the Supreme Court, the Honduran National Police and civil society organizations between 2019 and 2022, for the prevention of trafficking in children.

In addition, the Government, in cooperation with "End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes" (ECPAT) Guatemala, is undertaking a study of identification of the vulnerabilities of children and adolescents in the countries of the northern triangle and Mexico migrating to the border between the United States and Mexico. The Committee also notes the various strategic alliances formed to strengthen the CICESCT's response in the prevention and attention to victims, including with the CYBERCRIME Programme of the UNODC, the United Nations High Commissioner for Refugees (UNHCR) and UNICEF. The Committee notes, from the observations of the COHEP, that during 2019, among the services provided to victims through the ERI, 120 negotiations were carried out with other countries for the documentation, asylum, repatriation, attention and follow-up of legal cases. The COHEP highlights the effective coordination of the CICESCT and the International Organization for Migration (IOM) which, despite the restrictions due to the COVID-19 pandemic, were permitted the repatriation of 16 victims in 2020 and 20 victims in 2021. **The Committee welcomes the Government's efforts at the international and regional levels to combat the commercial sexual exploitation of children and their trafficking for that purpose, and requests it to continue its efforts in this regard. It requests the Government to continue to provide information on the results achieved in**

***the context of the implementation of these agreements, and particularly on the number of children repatriated to their country of origin, disaggregated by gender, age and nationality.***

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

## Islamic Republic of Iran

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

#### Previous comment

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children and penalties.* Following its previous comments, the Committee notes that the Law on Protection of Children and Adolescents was enacted in 2020 and aims to prevent violence against children and related crimes. Sections 11 to 13 of the Law prohibit the sale and trafficking of children for sexual and labour exploitation and provide for severe penalties against the perpetrators (third degree imprisonment). ***The Committee requests the Government to take the necessary measures to ensure the effective application of the country's anti-trafficking legislation, including the new Law on Protection of Children and Adolescents, as regards the sale and trafficking of children. In this regard, it requests the Government to provide information, in its next report, on the number of persons responsible for the trafficking of children who have been subjected to thorough investigations and prosecutions, as well as the number and nature of penalties imposed in practice.***

*Clause (c). Use, procuring or offering of a child for illicit activities.* In its previous comments, the Committee noted that over 70 per cent of Afghan opiates are trafficked via the Islamic Republic of Iran and Pakistan every year and that children, particularly those living in border areas, were employed by criminal groups and individuals for cross-border trafficking of drugs.

The Committee notes with **regret** the lack of information, in the Government's report, regarding the prosecution and conviction of perpetrators of the use, procuring or offering of a child for illicit activities. It notes, according to the Independent in-depth evaluation of the United Nations Office on Drugs and Crime (UNODC) Country Partnership Programme in the Islamic Republic of Iran, that one of the achievements of the programme is the new training curriculum and breeding programme of the Anti-Narcotic Police K9, as well as the support given to the Customs K9 unit by UNODC. According to the evaluation, however, the implementation of the Programme met with many challenges and its effectiveness was very limited. ***The Committee requests the Government to strengthen its measures to ensure that children are prevented and protected from being used for the purposes of trafficking of drugs, and to provide information on the results achieved. It also once again requests the Government to take the necessary measures to ensure that thorough investigations and prosecutions are carried out against persons who use, procure or offer children under the age of 18 years for trafficking of drugs. The Committee further requests the Government to provide information on the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed in this regard.***

*Article 8. International cooperation and assistance. Regional cooperation concerning the sale and trafficking of children.* The Committee notes that the Government has partnered with UNODC and International Organization for Migration (IOM) in 2020 to launch the European Union-funded Global Action against Trafficking in Persons and Smuggling of Migrants (GLO.ACT – Asia and the Middle East) in the country. The GLO.ACT is a four-year (2018-2022) joint initiative being implemented in four countries: Afghanistan, Iraq, Pakistan, and Iran. Through targeted, innovative and demand-driven interventions, the project will support the selected countries in developing and implementing comprehensive national counter-human trafficking and counter-smuggling responses. By the end of the project, Governments and civil society partners in the target countries should have the skills, capacity, and mechanisms in place to identify and screen victims of trafficking and smuggled migrants,



and to refer them to the relevant service providers for protection and assistance, in line with international standards. The project will also ensure that trained protection actors have access to and understanding of global standards and resources on assistance to vulnerable migrants. **The Committee requests the Government to continue its efforts to enhance international cooperation to combat the sale and trafficking of children for labour and sexual exploitation and to protect and assist the victims of these worst forms of child labour. In this regard, it requests the Government to provide information on the results obtained from the implementation of the GLO.ACT to prevent the trafficking of migrant children.**

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

## Italy

### Minimum Age Convention, 1973 (No. 138) (ratification: 1981)

#### Previous comment

The Committee takes note of the Government's report and of the observations of the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers' Trade Unions (CISL) and the Italian Union of Labour (UIL) of 16 November 2022. **The Committee requests the Government to provide its reply to these observations.**

*Article 1 of the Convention. National policy.* The Committee takes note of the Government's detailed information, in its report, regarding the measures taken to combat school dropouts and focus on school integration, with a view to breaking the cycle between child labour and school disaffection due to various causes, such as poverty, social hardship, immigration status, or belonging to certain categories at risk of social exclusion. A number of measures have also been taken to ensure the integration of pupils with non-Italian citizenship and the inclusion of students with disabilities. Moreover, the Committee notes the detailed information shared by the Government under the Worst Forms of Child Labour Convention, 1999 (No. 182), regarding the measures it has taken to combat poverty. These include the Citizenship Income (*Reddito di cittadinanza* – RdC), which replaced the Inclusion Income (*Reddito di inclusion* – REI) in 2019 as the instrument for combating poverty, inequality and social exclusion and expanded the pool of beneficiaries, as well as the Single Universal Allowance for dependent children (AUUF), instituted by Legislative Decree No. 230 of 29 December 2021, which is a financial contribution to families. Further actions to combat poverty and social exclusion include the implementation of the Council of Europe's recommendation of 14 June 2021, establishing a European Child Guarantee for the effective access of children and adolescents at risk of poverty or social exclusion to effective and free access to high quality early childhood education and care, education (including school-based activities), at least one healthy meal each school day and healthcare, with special attention to gender factors and specific forms of disadvantage.

The Committee takes note of the observations of the CGIL, CISL and UIL according to which attention needs to continue to be paid to situations of marginality and vulnerability of families, which lead to an increased risk for minors to abandon their education before reaching the legal minimum age for work or employment, also giving rise to exploitation due to illegality. Moreover, they indicate that there is a need to take due account of the exponential increase in recent years of child poverty which, already on the rise following the 2007 economic crisis, has had a further upsurge as a result of the COVID-19 pandemic. The percentage of minors in Italy at risk of poverty has risen significantly, the latest data on absolute poverty by the Italian National Institute of Statistics (ISTAT) showing that 1.382 million children do not have the necessary income to live in decent conditions. Furthermore, the CGIL, CISL and UIL indicate that exclusion from education and training is often systemic and is also at the root of child labour. A correlation between early school leaving and child labour exists, which particularly affects 14–15 year-olds, but the CGIL, CISL and UIL indicate that, in general, this phenomenon remains under the radar due to the lack of statistical surveys and administrative data in Italy. **The Committee requests the**

**Government to continue to provide information on the implementation of the measures taken and their impact on the progressive elimination of child labour in the country, including through combating the issues that have been identified as the main drivers of child labour, mainly: poverty, social vulnerability and exclusion, and early school leaving. It encourages the Government to pursue its efforts in this regard and to provide information on the results achieved. Finally, the Committee requests the Government to provide updated statistical information on the employment of children and young persons below the age of 15 in the country.**

Articles 2(1), 3(1) and 7(1). *Minimum age for admission to work, hazardous work and light work.* The Committee notes the Government's information according to which article 3 of Law No. 977 of 1967 on the Protection of Children and Adolescent Labour, amended by Legislative Decree No. 179/2009, provides that the minimum age for admission to work is 15, but that children may be admitted to work in agriculture and family services from the age of 14, provided that this is compatible with the special requirements of health protection and does not lead to a breach of compulsory schooling.

In this regard, the CGIL, CISL and UIL indicate in their observations that special attention must be paid to occupational health and safety also with respect to underage employees, and that according to the most recent statistics, the incidence of accidents in the youngest age groups is very high. Out of a total of 536,002 accident reports submitted to the National Institute for Insurance against Accidents at Work (INAIL) in the first 9 months of 2022, 28,781 were in the age group up to 14 years and 20,927 in the 15–19 age group.

The Committee therefore observes that it appears that the requirements of health protection for children working from the age of 14 to 18 appear either insufficient or not adequately applied in practice. The Committee reminds the Government that pursuant to *Article 3(1)* of the Convention, children from the age of 15 to 18 may only engage in work that is not likely to jeopardize their health or safety. The Committee also reminds the Government that the exception provided for in *Article 7(1)* of the Convention – which allows to set a lower age for admission to certain types of light work from the age of 13 or above – is intended to cover light work which is not likely to be harmful to their health or prejudice their school attendance. **The Committee therefore requests the Government to take measures to ensure that children who are between 15 and 18 years of age are protected from engaging in work that is likely to harm their health and safety. It also requests the Government to take measures to ensure that the employment or work of children from the age of 14 to 15 is permitted only for light work and to ensure that the health and safety of the children who engage in such light work are protected. It requests the Government to provide information on the measures taken in this regard and on the results achieved.**

*Labour inspection and application of the Convention in practice.* The Committee notes the Government's information according to which supervision in the field of labour and social legislation is ensured by the National Labour Inspectorate (INL), established in January 2017. The Government indicates that, while supervisory activities were reduced due to the COVID-19 pandemic, inspections carried out in 2018 identified 263 illegally employed minors; 243 in 2019; 127 in 2020; and 144 in 2021. Violations concerning the employment of minors were found mostly in the following sectors: accommodation and catering services; wholesale and retail trade; vehicle and motorcycle repair; manufacturing; agriculture; art, sport and entertainment; and other service activities. The Government indicates that the percentage of minors found to be employed in violation of the requirements concerning the minimum age for admission to employment in the period 2018–21 was 17.6 per cent of the total number of minors identified through these inspections. **The Committee encourages the Government to ensure that labour inspections are undertaken on an expanded basis, and to provide information on the number and nature of the infringements identified by the INL in relation to the employment of minors under the age of 15 in all sectors, disaggregated by gender and sector to the extent possible. It also requests the Government to provide detailed information on violations identified, penalties imposed and collected, and any prosecutions in this regard.**

## Jamaica

### Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

#### Previous comment

*Article 1 of the Convention. National policy.* The Committee notes that, according to Jamaica's national report of 18 August 2020 submitted to the United Nations Human Rights Council in the context of the Universal Periodic Review (A/HRC/WG.6/36/JAM/1, para. 101), the National Plan of Action (NPA) on Child Labour was developed in 2019, in the context of the Country Level Engagement and Assistance to Reduce Child Labour II (CLEAR II) project. The CLEAR II project is a four-year United States Department of Labor (USDOL)-funded project that aims to support a global reduction in child labour. **The Committee requests the Government to pursue its efforts to combat child labour and to provide information on the specific measures taken, particularly within the framework of the NPA, and the results achieved in this regard.**

*Articles 3(2), 7(3) and 9(3). Determination of hazardous work, determination of light work, and registers of employment.* Following its previous comments, the Committee observes, from the Government's report, that:

- the Hazardous Work List is still being amended, following consultation with stakeholders, and based on feedback received. Subsequently, Cabinet's approval will be sought to append the list to the Child Care and Protection Act (CCPA) or Occupational Safety and Health (OSH) Bill, after which the Parliamentary proceedings will follow.
- amendments to the draft Light Work List, to be adopted pursuant to section 34(1) and (2) of the CCPA, are still being made based on stakeholder consultations and feedback received. Subsequently, Cabinet's approval will be sought to append the list to the CCPA or OSH Bill, pursuant to which the Parliamentary proceedings will follow.
- amendments to the CCPA to 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 on registers of employment, are now at the Legal Reform Department of the Ministry of Justice and at the Chamber of the Attorney General for their review. Parliamentary proceedings will follow.

While it takes note of this information, the Committee notes with **concern** that the Hazardous Work List, Light Work List, and amendments to the CCPA relating to registers of employment, have yet not been adopted, although the Committee has been referring to these issues for many years. **The Committee once again urges the Government to take the necessary measures to ensure the adoption, without delay: (i) of the list of types of hazardous work prohibited for persons under 18 years of age; (ii) of the list of light work activities permitted for children between 13 and 15 years of age; and (iii) of the amendments to the CCPA so as to include provisions prescribing registers to be kept by employers hiring children under 18 years of age. It requests the Government to provide information on any progress made in this regard and to provide copies of the relevant lists and amendments, once adopted.**

*Labour inspection in the informal economy.* In response to its previous comments regarding the challenges faced by the labour inspectorate in monitoring the informal economy, the Committee notes the Government's indication that it continues to engage in the training of the labour inspectorate to better aid inspectors in identifying and reporting cases of child labour. This is also done in the framework of the Transition to Formality Action Plan for Household Workers and Fisher Folks (TFAP) 2021–24, which among its key strategies includes: (1) the improvement of the capacity of staff within the Ministry of Labour and Social Security to undertake inspections in the sectors in question, not being limited to commercial buildings and factories; and (2) building awareness for the elimination of child labour in household work and the fishing industry. **The Committee requests the Government to**

**continue to strengthen the functioning of the labour inspectorate to enable it to effectively monitor and detect cases of child labour, in particular in the informal economy. In this regard, it requests the Government to provide statistical information on the number and nature of violations detected by the labour inspectorate related to child labour, and penalties assessed.**

*Application of the Convention in practice.* The Committee previously took note of the statistics of 2016 according to which 5.8 per cent of children (38,000) between the ages of 5 and 17 years were engaged in child labour. Among these, 68.6 per cent of children (26,000) were involved in hazardous work. A vast majority of children were 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 requests the Government to provide updated statistics on the child labour situation, such as recent statistics disaggregated by gender and age, relating to the nature, extent and trends of work done by children under the minimum age of 15 years.**

**The Committee expresses the hope that the Government will continue to take its comments into consideration during the ongoing revision of the CCPA. It reminds the Government that it can avail itself of ILO technical assistance in this regard.**

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

### **Previous comment**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). Sale and trafficking of children.* The Committee takes note of the information shared by the Government in its report regarding the four cases of child trafficking for sexual exploitation that were prosecuted and convicted between 2016 and 2021, and the three cases of child trafficking for labour exploitation that, in 2022, were still in progress before the courts. The penalties imposed on the perpetrators convicted range from severe fines to three to eight years of imprisonment. **The Committee requests the Government to continue to ensure that sufficiently effective and dissuasive sanctions are imposed in practice for the offence of child trafficking for both labour and sexual exploitation. It also requests the Government to continue to provide information on the number and nature of prosecutions and penalties imposed for these offences.**

*Clause (b). Use, procuring or offering of a child for prostitution.* In its previous comments, the Committee took note of 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. The Government also indicated that amendments to the CCPA would explicitly address children being used for prostitution.

In this regard, the Committee notes that the Government does not indicate whether the amendments to the CCPA have been adopted. Moreover, the Committee observes that the cases of sexual exploitation of children, to which the Government refers in its report, all deal with persons who have recruited, forced or lured children into prostitution, and that the Government does not indicate whether the persons who have used these children for prostitution, that is *the clients*, have been prosecuted and convicted. **The Committee urges the Government to take measures to ensure that persons who use a child under 18 years of age for the purpose of prostitution are submitted to thorough investigations and robust prosecutions, and that sufficiently effective and dissuasive penalties are imposed in practice. In this regard, it requests the Government to take measures to explicitly set out in law the prohibition of the use of children under 18 for prostitution, either through the amendments to the CCPA or otherwise in the country's penal legislation. It requests the Government to provide information on the progress made in this regard.**

*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).**

*Article 5. Monitoring mechanisms. Trafficking of children.* In response to its previous comments, the Committee notes the Government's indication that the National Task Force Against Trafficking in Persons (NATFATIP) has continued its efforts in the areas of prosecution, protection, prevention and partnership throughout 2019 to 2022, resulting in hundreds of investigations regarding trafficking for sexual exploitation and forced labour, and leading to six cases in which the victim was a child. Furthermore, the Government is continuing to build the capacity of its officials, including customs officers and justices, as well as of other stakeholders, including NGOs, foster parents, unions and employer associations, through trainings on anti-trafficking enforcement, policies, laws and standard operating procedures. **The Committee encourages the Government to continue its efforts to ensure the protection of children from trafficking for both labour and sexual exploitation, including through the activities undertaken by NATFATIP. It also requests the Government to continue to ensure that thorough investigations and prosecutions of perpetrators of child trafficking are carried out and to continue to provide information on the measures taken in this respect and on the results achieved.**

*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.* Following its previous comments, the Committee notes the Government's indication that it continues to build the capacity of its workers and other stakeholders to identify and protect victims of trafficking in persons. The Committee notes, however, the Government's indication that the statistical data on the number of children reached by the measures taken are not available, as this information is not being recorded, and that efforts will be undertaken to address the gap. **The Committee encourages the Government to continue its efforts to prevent children from falling victims to trafficking for labour or sexual exploitation and to provide for their removal from such situations and subsequent rehabilitation and social integration, and requests it to provide information on the measures taken in this regard. It also requests the Government to take the necessary measures to ensure that information is available on the results achieved, in terms of the number of children reached through such measures, and to provide this information in its next report.**

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

## Jordan

### Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

#### Previous comment

*Article 1 of the Convention. National policy.* In response to the Committee's previous observation that a significant number of children under the minimum age were engaged in child labour and in hazardous work in Jordan, the Government communicates, in its report, detailed information on the policies it has adopted to combat child labour in the country. The Committee takes note, in particular, of the National Strategy to stop child labour 2022–30 and its 2022 implementation plan, which includes various dimensions and strategic objectives for the prevention of, and protection from, child labour. Its three main components are: (1) prevention, awareness-raising and advocacy, to foster a public attitude that considers child labour as socially unacceptable; (2) interventions aimed at implementing the measures contained within the National Framework to Combat Child Labour and Begging of 2020, according to which the identification of child labourers and their protection is managed on a case-by-case basis; and (3) reintegration of child labourers, through support and social protection for the families of children at risk. **The Committee requests the Government to continue its efforts to combat child labour and to provide information on the specific measures taken, particularly under the framework of the National Strategy to stop child labour 2022–30, and the results achieved in this regard.**

*Article 9(1). Penalties and labour inspection.* Following its previous request that the Government take the necessary measures to strengthen the capacity of the labour inspectorate and to expand the

labour inspection services to all sectors, the Committee takes note of the Government's detailed information regarding the activities of the labour inspectorate, including the establishment of an Inspection Department to Stop Child Labour and the holding of several trainings to develop the capacity of labour inspectors for the identification, prevention and case management of child labour. It notes with **interest** that the Instructions on procedures for inspecting agricultural activity of 2021 – adopted pursuant to the new Agricultural Workers Regulation No. 19 of 2021 that sets a minimum age of 16 years for employment of any kind in agricultural work and of 18 years in hazardous agricultural work (section 6) – establish detailed procedures for labour inspections in the agricultural sector. According to section 6 of the Instructions, labour inspectors are authorized to enter not only the agricultural establishment, but also worker accommodations and private homes within the agricultural holding, if such exists. Labour inspectors are authorized to issue warnings or violation reports to the agricultural employers who are in contravention with the law (section 5). In addition, the Committee notes the Government's information on the other measures taken to strengthen the labour inspectorate, including to monitor recruitment agencies for the potential recruitment of underage non-Jordanian domestic workers and the surveillance of establishments operating in the textile and garment sector to verify their compliance with international labour standards, including on child labour.

The Committee further takes note of the statistics shared by the Government on the number of child labour-specific inspection visits made from 2021 to July 2022 in all sectors, including in agriculture: 36,714 visits revealed 1,291 cases of child labour; 452 warnings were issued to employers and 170 violation reports were issued. It observes, however, that there is an absence of information regarding the application of the penalties provided under the Labour Code (section 77(a)), or any other applicable legislation, on employers who have employed children under the minimum age. The Committee reminds the Government that it is necessary to ensure the application of the Convention by means of penalties set out in the legislation ([General Survey of 2012 on the fundamental Conventions](#), para. 409). **The Committee requests the Government to take the necessary measures to ensure that persons found to be in breach of the provisions giving effect to the Convention are prosecuted and that adequate penalties are imposed. It also requests the Government to pursue its efforts to strengthen the functioning of the labour inspectorate to enable it to effectively monitor and detect cases of child labour, including children working in agriculture, domestic work and in the textile and garment sector. Finally, it requests the Government to continue to provide information on the number and nature of violations detected by the labour inspectorate related to children engaged in child labour, as well as on the penalties applied.**

*Application of the Convention in practice. Statistics on child labour. The Committee requests the Government to continue providing information on the application of the Convention in practice. In particular, it requests the Government to provide statistics on the employment of children under the age of 16, as well as on the employment of children under the age of 18 in hazardous work, disaggregated by age, gender and sector of economic activity.*

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

### [Previous comment](#)

*Article 7(2) of the Convention. Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Refugee children.* Following its previous comments, the Committee takes note of the Government's information, in its report, regarding the measures taken to protect child refugees from the worst forms of child labour. The Government indicates, firstly, that inspection visits do not discriminate between Jordanian and other children and that complaints are followed up regardless of the applicant's nationality. Moreover, the Department to Stop Child Labour, of the Ministry of Labour, oversees and implements various projects, including a project to combat the worst forms of child labour in agriculture and the Case Management Services project for the protection of children in host communities (with the support of UNICEF). The Committee also takes note of the ILO's cross-cutting

development-focused strategy, adopted as part of the wider UN-response to the refugee crisis, which supports both refugees and host community residents in order to preserve social and economic stability as well as realise the rights of both to decent work and social justice.

The Committee notes, however, that according to the UNICEF report on Socio-Economic Assessment and Practices in Jerash Camp of 2021 (which houses over 31,000 refugees), many socio-economic issues are still prevalent among child refugees. The report reveals not only that child labour is a prevalent issue in Jerash Camp (21 per cent of households reporting child labour in the six-months reporting period in 2021), but that all the children working in the camp are involved in some kind of hazardous work: 65 per cent reported that their children are exposed to extreme cold or heat; 62 per cent reported long working hours; 54 per cent are exposed to fumes or dust; 49 per cent have to carry heavy loads; 31 per cent work with dangerous tools; and 31 per cent work on heights. Also, 14 per cent of the households reported that their children were exposed to dangerous chemicals.

Moreover, even in the households where children were not working, 42 per cent reported that they would accept to work, should the opportunity have been offered. As a result, the report indicates that child labour figures, including in hazardous work, were underrepresented during the reporting period. This can certainly be explained by the variety of vulnerability factors which affects the residents of the camp, including particularly high poverty rates due to several legal restrictions related to their non-citizen status that limit their rights and add to the barriers that stand between them and their access to employment opportunities, health care, educational opportunities, and other social services. In fact, nearly 60 per cent of the households reported education as their priority need, and health and child protection are key services that households in the camp prioritize. ***The Committee therefore strongly encourages the Government to continue to take effective and time-bound measures to improve the socio-economic situation of refugees in the country, in order to reduce the vulnerability of refugee children and protect them from the worst forms of child labour. The Committee also requests the Government to provide information on the results achieved, from the various projects being implemented with the support of the ILO and UNICEF, in terms of number of refugee children who have received the necessary and appropriate direct assistance for their removal from the worst forms of child labour and for their rehabilitation and social integration.***

*Children in street situations.* Following its previous comments, the Committee notes with ***interest*** the adoption of the National Framework to Combat Child Labour and Begging of 2020 which aims to identify children who are at risk of engaging in some form of work and/or being on the streets for begging and/or for the purposes of selling, regardless of their affiliation or origin, or whether they are refugee children and/or in host communities and/or other conditions and circumstances, including those who drop out of school. The National Framework defines four response phases to identified cases of child labour: (1) detection and reporting; (2) immediate response; (3) intervention; and (4) procedure of closure of the case file. The National Framework is accompanied by the 2020 Manual on applied measures for its implementation, which sets out the detailed procedures, institutional coordination, referral mechanisms and communication networks for the case-by-case management of child labour and child begging cases and the reintegration of these children into education. ***The Committee requests the Government to provide information on the impact of the measures adopted in the framework of the National Framework to Combat Child Labour and Begging of 2020 on the protection of children in street situations from the worst forms of child labour, including information on the number of such children who have been rescued and provided with assistance.***

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

## Kazakhstan

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

#### Previous comment

The Committee notes the observations of the Trade Union of Workers in the Fuel and Energy Complex, received on 31 August 2022.

*Labour inspection and application of the Convention in practice.* The Committee notes the Government's indication, in its report, that in 2021, nine cases of the use of child labour involving 29 children were identified. The Government further indicates that children involved in child labour usually work as sellers, waiters and at car wash stations. In addition, the Government indicates that in 2022, more than 7,000 raids were carried out during the annual National Information Campaign "12 days against child labour".

The Committee notes from the observations of the Trade Union of Workers in the Fuel and Energy Complex that despite the prohibition in law, child labour continues to exist in practice, particularly due to the lack of effective coordination between state agencies and insufficient trainings of the relevant bodies. The Trade Union of Workers in the Fuel and Energy Complex also refers to the findings of a sociological survey undertaken in the Pavlodar region of Kazakhstan, according to which 50 out of 76 respondents aged 12 years and above were engaged in employment.

The Committee further observes that in its [detailed comments](#) made in relation to the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), it had noted various limitations and restrictions of labour inspections, including the introduction of a temporary moratorium on labour inspections, which applies to private and state-owned enterprises belonging to the categories of small and micro-enterprises. ***The Committee urges the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services to adequately monitor and detect cases of child labour in the country. The Committee requests the Government to provide information in this respect as well as on the number of inspections on child labour carried out by state labour inspectors as well as by other agencies, and on the number and nature of violations detected and penalties imposed in this regard.***

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

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

#### Previous comments: observation and direct request

The Committee notes the observations of the Trade Union of Workers in the Fuel and Energy Complex, received on 31 August 2022.

*Article 3(a) of the Convention. Trafficking of children.* The Committee observes the Government's indication, in its report, that Kazakhstan remains a source, transit, and destination country for victims of trafficking in persons, including children. The Committee also observes that the Plan of Action to Prevent and Combat Trafficking in Persons Offences for 2021-2023 provides for activities to prevent, detect, and suppress offences related to trafficking of children. The Committee further observes from the Government's report that the maximum term of imprisonment for trafficking of children was increased from seven to nine years by the Act No. 292-V of 27 December 2019 amending section 135 of the Criminal Code. The Government indicates that in 2021, there were 10 cases of investigations under section 135 of the Criminal Code resulting in the conviction of 21 persons, out of which 15 persons were sanctioned to imprisonment. The Government also refers to the elaboration of a draft Act on combating trafficking in persons. ***The Committee requests the Government to pursue its efforts to ensure that all cases of child trafficking are subject to thorough investigations with a view to ensuring that perpetrators are prosecuted, and that sufficiently effective and dissuasive penalties are imposed. The Committee also requests the Government to provide information on any developments made in respect***



**of the elaboration and adoption of an Act on combating trafficking in persons and indicate its provisions as regards child trafficking. It also requests the Government to continue to provide information on the application of section 135 of the Criminal Code in practice, including the number of investigations, prosecutions, convictions, and penal sanctions applied.**

*Article 3(c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.* The Committee notes that the Trade Union of Workers in the Fuel and Energy Complex, in its observations, refers to cases of the recruitment of children as distributors of drugs and a lack of information concerning the measures taken by the Government to prevent and suppress such practices. The Committee further notes that according to section 132 of the Criminal Code, the involvement of a child in the commission of a criminal offence is punishable with imprisonment of three to six years. **The Committee requests the Government to indicate the measures adopted or envisaged to ensure the elimination of practices of the use, procuring or offering of a young person under 18 years of age for the production and trafficking of drugs, in accordance with Article 3(c) of the Convention. The Committee requests the Government to provide information on the application of section 132 of the Criminal Code in practice as regards the offences related to the use, procuring or offering of a child for the production and trafficking of drugs, including the number of investigations, prosecutions, convictions, and penal sanctions applied.**

*Article 3(d) and application of the Convention in practice. Hazardous work on tobacco and cotton plantations.* The Committee observes that the Action Plan for the Elimination of Child Labour for 2020-2022 and the Plan of Action to Prevent and Combat Trafficking in Persons Offences for 2021-2023 provide for activities to prevent child labour, including in cotton fields, tobacco plantations, construction and other sectors. The Committee also notes the Government's statement that measures have been taken to eradicate child labour in the tobacco and cotton industries.

The Committee further notes that the Trade Union of Workers in the Fuel and Energy Complex refers to the findings of a sociological survey undertaken in the Pavlodar region of Kazakhstan, according to which 34 per cent of respondents aged of 12 years and above were engaged in the agricultural and construction sectors, including working excessive working hours. The Committee also notes that in its 2019 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) expressed concern that, despite the efforts made by Kazakhstan, child labour by migrant and Kazakh children persists, including in tobacco, cotton and agriculture farms (E/C.12/KAZ/CO/2, para. 38). **The Committee requests the Government to strengthen its efforts to protect children from hazardous work in agriculture, particularly in cotton and tobacco plantations, and provide information on the number of inspections carried out in these sectors. It further requests the Government to provide information on the results of these inspections, including the number of violations detected and penalties applied.**

*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 observes from the Government's indication that children of foreigners and stateless persons permanently residing in Kazakhstan have equal rights to education as citizens of Kazakhstan (section 8(2) of the Act on Education of 2007). The Government also indicates that the local authorities ensure school placement of migrant children. According to the Government, in the 2020-21 education year, 20,367 migrant children studied at schools in Kazakhstan.

The Committee notes that in its 2019 concluding observations, the CESCR expressed concern, while recognizing the efforts made by Kazakhstan, that there are large regional disparities in access to and the quality of education and many children of unregistered migrants do not have access to education or schoolbooks (E/C.12/KAZ/CO/2, paras 48(a)(e) and 49(a)). The Committee further observes from the United Nations Educational, Scientific and Cultural Organization (UNESCO) Institute for Statistics that the total number of out-of-school children of primary and lower secondary school age

increased from 17,080 in 2019 to 145,271 in 2020. **Recalling that access to free basic education is key in preventing the worst forms of child labour, the Committee requests the Government to take the necessary measures to ensure that all children have access to free basic education, including migrant children. It also requests the Government to provide statistical information on school enrolment, completion and dropout rates at the primary and lower secondary levels. To the extent possible, this information should be disaggregated by age, gender and national extraction.**

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

## Kenya

### Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

#### Previous comment

*Article 1 of the Convention. National policy and application of the Convention in practice.* Following its previous comments, in which the Committee had taken note of the Policy on Elimination of Child Labour (NPCL) and of the National Plan of Action for Children 2015–22, the Committee observes that the Government does not provide information, in its report, on the development of a new national policy on child labour. The Government does, however, provide information on measures taken to combat child labour in the country. In particular, the Committee notes the Government's indication that the National Steering Committee, chaired by the Principal Secretary State Department for Labour and Skills Development, in coordination with the Ministry of Labour and Social Protection's (MoLSP) Child Labour Division, and comprising employers' and workers' organizations, is the apex body that formulates policies and monitors the implementation of child labour policies and action plans.

The Committee also takes note of the child protection measures taken by the Government which can contribute to the elimination of child labour by mitigating certain factors that could lead children to work. For instance, the Government indicates that social protection programmes providing cash transfers to some of the most vulnerable families, continue to help preventing children from entering the workforce. In addition, the Committee takes note of the adoption of the Children Act No. 29 of 2022 and of the establishment of the National Council for Children's Services (NCCS), which is its implementing body, which seek to ensure the protection and rights of children, including through such programmes as the National Care Reform Strategy 2022–32.

The Committee notes, however, that according to a press release from 14 March 2023 from the MoLSP, the figures of the last Child Labour Analytical Report developed in June 2008, which then indicated that 1.01 million children were in child labour have likely increased mainly due to the effects of the COVID-19 pandemic and the severe drought being experienced in the Horn of Africa. Indeed, according to a press release published jointly by the ILO and UNICEF on 12 June 2021, data from the Kenya National Bureau of Statistics (KNBS) shows that 8.5 percent of children, or 1.3 million, are engaged in child labour. The highest child labour rates, at more than 30 percent, are in the arid and semi-arid land (ASAL) counties. The COVID-19 pandemic also had an important impact, with a growing number of families at risk of resorting to sending their children to work given massive job losses. In this regard, the Committee notes that the MoLSP announced that, in collaboration with the ILO, Kenya was set to conduct a Child Labour Survey in 2023 in order to produce accurate and reliable data on child labour in the country and ultimately, to inform planning and implementation of targeted programmes. While taking note of certain measures taken by the Government, the Committee must once again express its **concern** at the significant number of children who are involved in child labour, including in hazardous work. **The Committee accordingly urges the Government to strengthen its efforts to improve the situation of children under the age of 16 years and to provide information on the impact of these measures on the progressive elimination of child labour in the country. In this regard, the Committee requests the Government to take measures to develop, adopt and implement targeted plans of action on the elimination of child labour, based on the information collected through the new Child Labour**

**Survey.** *It also requests the Government to communicate the data collected through this survey, in particular on the nature, extent and trends of child labour, and indicating the sectors of economic activity where child labour is most prevalent. The Committee also requests the Government to continue providing information on the impact of its child protection policies on the elimination of child labour.*

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

### Previous comment

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Trafficking of children.* In response to the Committee's previous observation that child trafficking constitutes the main category of trafficking cases reported in the country and that children are trafficked to work as domestic labourers, work in farming, fisheries, begging and for sex work in the coastal region of Kenya, the Government indicates, in its report, that it is instituting stringent measures to dissuade child trafficking. In this regard, the Government indicates that an amendment to the Counter Trafficking in Persons Act was drafted to remove the option of a fine in lieu of imprisonment for the offence of trafficking. According to the Government's information in its report under the Forced Labour Convention, 1930 (No. 29), the review of the Counter Trafficking in Persons Act is in its final stages.

Moreover, the Government indicates that, in 2020–21, the Office of the Director of Prosecution reported 17 cases of child trafficking under the Counter Trafficking in Persons Act, 2010, and that there were six convictions, one acquittal and six withdrawals.

In this regard, the Committee notes that the United Nations Human Rights Committee (UNHCR), in its concluding observations of 11 May 2021, expressed concern about the low rate of convictions for child trafficking (CCPR/C/KEN/CO/4, para. 34(b)). Indeed, the Committee observes that both the number of reported cases of child trafficking and the number of convictions appear to be low considering the prevalence of the phenomenon in the country, and the fact that the incidence of trafficking, including child trafficking, appears to be on the rise in the country (according to the National Council on Children's Services (NCCS), an estimated 17,500 Kenyans are trafficked annually for domestic work, forced labour, and commercial sexual exploitation, of which 50 per cent are likely to be minors). **The Committee therefore strongly encourages the Government to continue to take the necessary measures to ensure that cases of trafficking of children under the age of 18 are detected and that investigations and prosecutions are conducted against the perpetrators. It requests the Government to provide information on the measures taken and the results achieved, including with regard to the number and nature of convictions and penalties imposed. It also requests the Government to provide a copy of the amendments to the Counter Trafficking in Persons Act.**

*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. Commercial sexual exploitation of children.* In response to its previous observation regarding the significant number of children engaged in commercial sexual exploitation, particularly in travel and tourism, the Committee notes that, in the framework of the National Plan of Action against Sexual Exploitation of Children 2018-22 (NAP-SEC), several activities were planned, namely in the focus areas of identification; prevention; protection; and rescue, rehabilitation and reintegration. The Government indicates in this regard that it has sensitized hotel operators in tourist destinations and developed a Tourism Child Protection Code, which binds the 40 signatory hotels to protect children from commercial sexual exploitation. Moreover, the Committee notes the Government's indication that it has established child protection units in police stations to respond to crimes against children and continued to partner with counter-human trafficking NGOs to create awareness, rescue and reintegration of child survivors. **The Committee requests the Government to continue to take targeted effective and time-bound measures to protect children from becoming victims of commercial sexual exploitation, particularly in the coastal regions of Kenya. It requests the Government to provide information on the**

**number of child victims of commercial sexual exploitation who have been reached out to, removed and rehabilitated, as well as on the types of services they have benefited from for their rehabilitation.**

*Article 7(2)(d). Identifying and reaching out to children at special risk. Child domestic workers.* Following its previous comments, the Committee notes the Government's indication that it is taking several measures to protect children from hazardous work, including in domestic work. The Committee observes that the Government refers to measures related to the general protection of vulnerable families, such as cash transfer programmes, and the improvement of education rates.

While such programmes can contribute to preventing the engagement of children in hazardous domestic work, the Committee stresses that the Government should also take measures to identify the children under the age of 18 who engage in such work and remove them and socially integrate them. **The Committee therefore once again 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. It once again requests the Government to provide information on the measures taken in this regard and on the results achieved.**

*Orphans of HIV/AIDS and other vulnerable children (OVCs).* Following its previous comments, the Committee notes the Government's information according to which the Cash Transfer Programme for OVCs continues to be operational and is currently supporting 278,188 beneficiaries across the 47 counties. The Government also indicates that it is allocating a significant budget to education and that it has made gains in reaching remote areas and disadvantaged communities at primary and pre-primary levels.

The Committee observes, however, that according to the UNAIDS 2022 Kenya country factsheet, there remain an estimated 590,000 child orphans of HIV/AIDS in the country. **Once again recalling that OVCs are at a greater risk of being involved in the worst forms of child labour, the Committee requests the Government to pursue its efforts to ensure that they are protected from the worst forms of child labour and to facilitate their access to education. It requests the Government to continue providing information on the effective and time bound measures taken in this regard, as well as the results achieved in terms of number of OVCs who have benefited from such measures.**

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

## Kiribati

### Minimum Age Convention, 1973 (No. 138) (ratification: 2009)

Previous comments: observation and direct request

*Article 1 of the Convention. National policy for the effective abolition of child labour.* In response to its previous comments, the Committee takes note of the information provided by the Government in its report on the measures taken to protect children from child labour. It also notes that Kiribati's Child Labour Task Force, which was established by the Decent Work Advisory Board (DWAB), met in April 2023. The meeting was attended by representatives from the Ministry of Employment and Human Resources (MEHR), the Kiribati Police Service (KPS), the Kiribati Chamber of Commerce and Industry, the Ministry of Justice, the Ministry of Women, Youth, Sport and Social Affairs (MWYSSA), the Office of the Attorney-General, the Ministry of Education and the National Statistics Office (NSO). During the meeting, the priorities identified included the finalization of the terms of reference of the Task Force and the formulation of a National Action Plan against child labour, for which the stakeholders requested ILO technical assistance. **The Committee requests the Government to take the necessary measures to**

**ensure that the National Action Plan against child labour is adopted in the near future, and to provide information on the progress made in this regard.**

*Article 2(2). Raising the minimum age for admission to employment or work.* The Committee previously expressed the hope that the Government would take the necessary measures to ensure that the minimum age for admission to employment or work (which was 14 years of age) was not less than the age of completion of compulsory schooling (15 years of age), in conformity with the Convention.

The Committee notes with **interest** that the section 115(1) of the Employment and Industrial Relations Code (EIRC) was amended in 2021 and raises the general minimum age for employment from 14 to 15 years, thus linking it with the age of completion of compulsory education.

The Committee further notes that Kiribati initially specified a minimum age of 14 years upon ratification. In this regard, it 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 ILO, 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 the possibility of sending a declaration of this nature to the Office.**

*Article 3(2). Determination of types of hazardous work.* Regarding the adoption of the list of hazardous types of work prohibited to children under 18 years of age, the Committee notes the Government's information according to which the Hazardous Work Regulations, elaborated pursuant to section 117 of the EIRC, are currently being finalized at the Office of the Attorney-General and will be endorsed before the end of the year. The Committee further notes that, during its April 2023 meeting, the Child Labour Taskforce identified that the adoption of the Hazardous Work Regulations was an immediate priority. **The Committee requests the Government to ensure that the list of hazardous types of work prohibited for children under 18 years of age will be adopted and enforced without delay, and to provide a copy of the list, once adopted.**

*Article 7. Light work.* Following its previous comments, the Committee notes the Government's information that the Light Work Regulations, elaborated pursuant to section 116 of the EIRC (as amended in 2017), are currently being finalized at the Office of the Attorney-General and will be endorsed before the end of the year.

Regarding the removal of the requirement, in amended section 116 of the EIRC, that light work not prejudice the child's participation in vocational training nor his or her ability to benefit from vocational training, the Government indicates that this is due to administrative directives relevant to prioritizing formal education in lieu of vocational training. Further consultations will be made to consider the re-inclusion of the requirements pertaining to vocational training in this provision of the EIRC. **The Committee trusts that the list of light work will be adopted in the near future. It requests the Government to supply information on the progress made in this regard, as well as on the results of the consultations held to consider the re-inclusion of the requirements pertaining to vocational training in section 116 of the EIRC.**

*Article 9(1). Penalties and labour inspection.* Regarding the Committee's previous request that the Government provide information on the application in practice of the penalties provided for in sections 115(6) (minimum age for employment) and 117(4) (minimum age for hazardous work) of the EIRC, the Committee notes with **regret** the Government's indication that there is nothing to report. In this regard, the Government highlights the need to strengthen the capacities of the law enforcement bodies. It further indicates that there are plans in place to conduct awareness-raising on the EIRC to police stations to ensure better enforcement and monitoring of the application of the provisions of this Convention.

The Committee further notes that, during the April 2023 meeting of the Child Labour Task Force, the MEHR confirmed it still lacks capacity to carry out labour inspections regularly to specifically monitor and eliminate child labour issues. The MEHR has no designated labour inspectors as such. There are only two or three labour officers within the MEHR for the entire country, who are attributed many other

tasks and lack capacity to carry out regular labour inspections. Moreover, the MEHR stated that they have not been able to recruit more labour inspectors who would be able to work throughout the outer islands in Kiribati. The MEHR is talking more closely with other Ministries, including MWYSSA whose social welfare officers have wider reach in the outer islands, so that the issues relating to the Convention, including monitoring and enforcement, can be included in training sessions for social welfare officers. The MEHR also stated that it needs further support to develop labour inspection regulations and systems, including checklists and pamphlets. **While taking note of the challenges encountered by the Government, the Committee requests the Government to indicate the measures taken or envisaged to strengthen the capacity of the labour inspectorate, with a view to effectively implement the penalties under sections 115(6) and 117(4) of the EIRC. It once again 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. It also requests the Government to report on the impact of the awareness-raising conducted on the EIRC to police stations on the better enforcement and monitoring of the provisions giving effect to the Convention.**

*Application of the Convention in practice.* The Committee notes the Government's indication that a recent Child Labour Survey, conducted by the NSO, reveals that one in four children aged 15 to 17 in Kiribati experience child labour. The Government indicates that the NSO is willing to consider amending future National Census questionnaires to cater to the needed data on child labour and include all children up to 17 years of age. It further indicates that the KPS, through funding support from UNICEF and UN Women and the assistance of a technical consultant, are currently working to develop a database that will centralize data on offences and issues reported to the KPS, and that will provide another means to centralize and store data on child labour. Finally, the Committee notes that, during the April 2023 meeting of the Child Labour Taskforce, one of the priorities identified was the collection and collation of data on child labour. **The Committee requests the Government to continue its efforts to develop a statistical database including information on the number of children below the minimum age of 15 engaged in child labour, and requests the Government to continue to provide information on the number of children engaged in child labour in the country, disaggregated by sector.**

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2009)

### Previous comment

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution.* The Committee takes note of the Government's information, in its report, communicated in response to its previous comments regarding the practice of child prostitution and sexual exploitation, in particular on foreign fishing vessels and among vulnerable populations. It notes the Government's indication that, to prevent the exploitation of children in prostitution and to help the Government address this issue, the relevant authorities have initiated certain activities. For example, the Ministry of Fisheries and Marine Resources Development (MFMRD) has recently amended its Fisheries Act to restrict unauthorized personnel from boarding local and foreign fishing vessels licensed in Kiribati, including for prostitution. Moreover, the Ministry of Justice (MOJ) has established the Kiribati National Human Rights Taskforce to monitor the implementation of the Penal Code and other laws against those who facilitate and benefit from the exploitation of girls and young women in prostitution and to ensure that law enforcement officers are in full compliance with the principles and provisions of the law against exploitation of prostitution.

However, the Committee notes with **regret** the Government's indication that there are still no official records of children in prostitution, which the Government acknowledges and points to the need to strengthen and implement its laws and regulations. The Government indicates that recent consultations with relevant authorities such as the Ministry of Women, Youth, Sports and Social Affairs (MWYSSA) and the Kiribati Police Service (KPS) have revealed that one reason for lack of enforcement is due to lack of awareness of the Employment and Industrial Relations Code, 2015 (EIRC), more specifically

on its provisions that are in line with this Convention. Moreover, the Committee observes that the UN Committee on the Rights of the Child, in its concluding observations of 12 September 2022, expressed concern that the commercial sexual exploitation of children, in particular girls, is increasing and that there are no formal procedures to identify children who are victims of trafficking and no information on cases against traffickers (CRC/C/KIR/CO/2-4, para. 55). **The Committee requests the Government to redouble its efforts to strengthen the capacities of the law enforcement bodies in order to ensure the identification, investigation and prosecution of perpetrators of the offences related to the use, procuring or offering of children under 18 years for prostitution. It requests the Government to provide information on the progress made and results achieved in this regard, including the number of investigations, prosecutions and penalties applied.**

*Clause (d) and Article 4. Hazardous work and determination of types of hazardous work. Regarding the determination of hazardous types of work, the Committee refers to its detailed comments on the application of the Minimum Age Convention, 1973 (No. 138).*

*Article 5. Monitoring mechanisms.* Regarding the Committee's previous request that the Government provide information on the establishment of the Child Labour Taskforce, the Committee notes that the Taskforce was established under the authority of the Ministry of Employment and Human Resources (MEHR). A meeting was held in April 2023 gathering the relevant stakeholders, namely the MWYSSA, the KPS, the Ministry of Education and the Office of the Attorney General, during which the adoption of the terms of reference of the Taskforce was identified as a priority.

Regarding the Committee's previous comments on the pilot inspection project throughout South Tarawa with a focus on places of high risk of child labour, the Committee notes that the MEHR stated, during the April 2023 meeting of the Child Labour Taskforce, that the outcome of this project was the confirmation of the prevalence of children working in the worst forms of child labour, including in hazardous work, and the need for increased capacity and awareness for MEHR, the KPS and MWYSSA. In addition, the MEHR stated they require further resources to commit to inspections, to cover allowances (particularly for night-time inspections) and transport. Moreover, while the Government indicates that consultations and awareness-raising on labour laws for concerned law enforcement bodies are anticipated, especially the KPS, the Committee notes that there have not been any specialized trainings for the labour inspectorate to identify the worst forms of child labour. **The Committee once again strongly encourages the Government to take the necessary measures to ensure that the labour inspectors, the KPS and other relevant law enforcement bodies are provided with the appropriate training, sufficient resources and capacities to effectively monitor the worst forms of child labour, including in the informal economy and in areas where there is a high risk of 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.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from these worst forms and ensuring their rehabilitation and social integration. Commercial sexual exploitation.* Following its previous comments, the Committee notes the Government's indication that, while the MWYSSA and other relevant ministries provide support to children who are sexually exploited for commercial purposes and have initiated programmes to prevent this phenomenon, the lack of resources (financial and human) is affecting the motivation of the relevant official personnel from undertaking their role in mitigating the issue of child exploitation and child labour. This is further exacerbated by the lack of data implicating the development of measures and appropriate care and assistance to be provided in this case. **The Committee once again requests the Government to strengthen its measures to prevent the engagement of children in commercial sexual exploitation, and to remove them from this worst form of child labour as well as to rehabilitate and socially integrate them. In this regard, it strongly encourages the Government to take measures to strengthen the capacities of the officials in charge of providing support to the child victims of commercial sexual exploitation, through the provision of**

**financial, human or any other necessary resources. It requests the Government to provide information on the progress made in this regard and on the results achieved.**

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

## Kyrgyzstan

### Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

#### Previous comment

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee notes the indication provided by the Government in its report concerning the elaboration of a draft Program for the Protection of Children for 2023–26 and a plan for its implementation. The Government also indicates that the draft plan contains measures aimed at the elimination of child labour, including awareness-raising activities. The Committee further observes that according to the 2020 publication of the National Statistical Committee of Kyrgyzstan “Monitoring of the Sustainable Development Goal Indicators in the Kyrgyz Republic”, the percentage of children aged 5–17 years engaged in child labour amounted to 26.7 per cent in 2018. The Committee notes with **concern**, from the same publication, that the largest proportion of children engaged in child labour is in the 5–11 years age group (27.9 per cent) in comparison with the 12–14 years age group (23.3 per cent) and the 15–17 years age group (26.6 per cent). **While noting some measures taken by the Government, the Committee strongly encourages the Government to step up its efforts to ensure the progressive elimination of child labour in the country. The Committee requests the Government to provide information on the concrete measures taken in this regard, particularly within the framework of the Program for the Protection of Children for 2023–26, and the results achieved. It further requests the Government to provide information on the application of the Convention in practice, particularly updated statistical data on the employment of children and young persons by age and gender.**

*Article 2(1). Scope of application and labour inspection.* The Committee previously requested the Government to ensure the protection of children in the informal economy and children working on family farms, including by strengthening the labour inspection services. In this respect, the Government refers to the establishment of the Service for Control and Supervision of Labour Legislation (the Service) in 2021. According to the Government, labour inspectors of the Service annually conduct inspections of all enterprises and organizations, regardless of the form of ownership, to ensure compliance with labour legislation relating to the labour of young persons and children. In addition, labour inspectors of the Service, together with officials of district departments of internal affairs and social workers, carry out inspections to detect cases of child labour. The Committee, however, notes the Government’s indication that labour inspectors are not entitled to carry out unannounced inspections since an employer shall be warned in writing about the inspection at least 10 days in advance. Therefore, according to the Government, even in the presence of the use of child labour, by the time of the scheduled inspection, the facts of child labour are almost impossible to detect. **Referring to its detailed comments under the Labour Inspection Convention, 1947 (No. 81), on the various limitations and restrictions of labour inspection, the Committee urges the Government to intensify its efforts to strengthen the capacities of the labour inspectorate in order to effectively monitor and detect cases of child labour, including in the informal economy and on family farms. It requests the Government to provide information on the steps taken in this regard and the results achieved.**

*Article 7. Light work.* The Committee notes with **regret** the absence of information in the Government’s report concerning the measures taken to determine light work activities permitted for children aged 14–16. **The Committee urges the Government to take the necessary measures, without further delay, to determine light work activities permitted for children aged 14–16, as required by Article 7(3) of the Convention. It requests the Government to provide information on any developments in this regard.**



*Article 9(3). Keeping of registers.* The Committee notes the Government's reiterated indication that in Kyrgyzstan, there is no practice of keeping, by employers, of registers of persons under the age of 18 whom they employ. The Government further indicates that this issue will be considered by a tripartite national commission. **The Committee once again urges the Government to take the necessary measures, without further delay, to ensure that employers in all sectors are required to maintain a register containing the names, age (or dates of birth) of all persons under the age of 18 years whom they employ, as required by Article 9(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: 2004)**

### [Previous comment](#)

The Committee notes the observations of the Kyrgyzstan Federation of Trade Unions (FPK), received on 1 November 2022.

*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.* The Committee notes the absence of information in the Government's report regarding the measures and results achieved in preventing and combatting trafficking of children within the framework of the Action Plan to Combat Trafficking in Persons for 2017–2020. The Committee further notes the adoption of the Program to Combat Trafficking in Persons for 2022-2025 (the Program) and the Action Plan for its implementation by the Cabinet of Ministers' Resolution of 15 April 2022, No. 227. As indicated in the Program for 2022-2025, the issues of detection and identification of child victims of trafficking remain a problem due to the low level of knowledge of public officials about the specifics of the identification procedures. The Committee also observes that the Action Plan for 2022-2025 provides for measures to guarantee the rights and interests of child victims of trafficking. The Committee further notes that according to section 167(1) of the Criminal Code adopted in 2021, trafficking of children is punishable with imprisonment of from five to eight years. **The Committee requests the Government to pursue its efforts to prevent and combat trafficking of children, including by strengthening the capacity of law enforcement agencies in identifying child victims of trafficking under 18 years of age. The Committee requests the Government to provide information on the results of the monitoring and evaluation of the implementation of the Program for 2022-2025 in relation to combating trafficking of children, as stipulated in section 9 of the Program. It also requests the Government to supply statistical data on the application of section 167 of the Criminal Code in practice in cases of trafficking of children for the purpose of labour or sexual exploitation, including the number of infringements reported, investigations, prosecutions, convictions, and penal sanctions applied.**

*Clause (b). Use, procuring or offering of children for prostitution.* In its previous comments, the Committee noted that the Criminal Code of 2019 punished the organization or maintenance of dens for prostitution or procuring for debauchery or pimping by persons, with the involvement of children who they know have not reached the age of 16 years. The Committee requested the Government to ensure that the corresponding provisions of the Criminal Code cover children between the ages of 16 and 18 years. The Committee notes with **interest** that the new Criminal Code adopted in 2021, in its section 160(2), read together with section 9 of the annex, punishes with imprisonment from seven to 15 years and confiscation of property, the use of children under 18 years of age in the organization or maintenance of dens for prostitution or procuring them for debauchery or pimping. The Committee further notes that section 159(3) of the Criminal Code sets out imprisonment of 10 to 15 years, with confiscation of property, for the involvement of a child under 18 years of age in prostitution. The Committee however notes once again the absence of the legislative provisions criminalizing clients who use children under 18 years of age for the purpose of prostitution. **The Committee therefore strongly urges the Government to take the necessary measures to criminalize clients who use children under 18 years of age for prostitution, and to establish penal sanctions for this purpose. It further requests the**

**Government to provide information on the application in practice of sections 159(3) and 160(2) of the Criminal Code of 2021, including the number of investigations, prosecutions, convictions, and penal sanctions applied, as well as the number and age of child victims of prostitution who are identified.**

*Clause (d) and Article 4(3). Hazardous work and revision of the list of hazardous types of work. Children working in agriculture.* Further to its previous request to ensure the adoption of a list of types of hazardous work prohibited to children under 18 years of age, the Committee notes with **satisfaction** that such a list was adopted by the Government's Decree of 13 November 2020, No. 565. The Government indicates that the list contains 579 hazardous types of work, including work in agriculture.

The Committee further notes the FPK's observations indicating that, in 2019, 229 children under 18 years of age, including 209 boys and 20 girls, were identified as working in hazardous or arduous conditions during the 64 joint raids by law enforcement and social services agencies. The FPK also indicates that with a view to preventing children from undertaking hazardous work on tobacco plantations, measures were taken to reduce tobacco production and decrease the tobacco-growing areas. As a result, the areas under tobacco cultivation decreased from 2,000 hectares in 2014 to 400 hectares in 2019. **The Committee requests the Government to continue to take the necessary measures to ensure that children under 18 years of age are protected from hazardous work, particularly in the cotton, tobacco, and rice-growing sectors. In this respect, the Committee requests the Government to ensure the effective implementation of the Government's Decree of 13 November 2020, No. 565 issuing the list of hazardous types of work prohibited for young persons under 18 years of age, and to provide information on its application in practice, including statistics on the number and nature of violations reported and penalties imposed for engaging children under 18 years of age in hazardous work.**

*Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Trafficking in children.* **Noting the absence of information in the Government's report, the Committee reiterates its request to the Government to pursue its efforts to provide the necessary direct assistance to child victims of trafficking, and to ensure their rehabilitation and social integration. In this respect, the Committee once again requests the Government to provide information on the number of child victims of trafficking under the age of 18 who have benefited from rehabilitation and social integration assistance and the establishment and operation of specialized shelters for victims of trafficking in persons.**

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

## Lao People's Democratic Republic

### Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

Previous comments: observation and direct request

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee notes the Government's information, in its report, on the various measures taken by the Government to eliminate child labour, including: (1) the publication of posters and brochures on child labour for the general public; (2) capacity-building and training on the implementation of the National Plan of Action on Prevention and Elimination of Child Labour (2014–20) for government organizations, tripartite organizations and the private sector to allow these actors to better recognize and understand child labour; (3) coordination with partners to monitor the implementation of the National Plan of Action on Prevention and Elimination of Child Labour at the central and local levels; and (4) cooperation with the ILO to re-evaluate the implementation of the National Action Plan in the period 2016–20 and jointly create a plan for the period 2021–25. The Government also repeats the information that it has collected data and created a report on the prevention and elimination of child labour, but once again it does not provide the corresponding data. The Committee further notes, from the ILO Decent Work Country

Programme 2022–25, that: (1) overall, women and children in rural areas were most affected by the negative impacts of the COVID-19 pandemic, including increased child labour; and (2) a Labour Force Survey was conducted in 2021–22, which includes a child labour component, but it has not been published yet. **Recalling that, in 2017, 41.5 per cent of children aged 5–14 years were engaged in child labour, including in hazardous work, the Committee requests the Government to pursue its efforts to ensure the progressive elimination of child labour in all economic activities, and to continue to provide information on the measures taken in this respect. It also requests the Government to provide: (i) detailed information on the results achieved through the implementation of the National Plan of Action on Prevention and Elimination of Child Labour (2014–2020); (ii) a copy of the updated National Action Plan once adopted; and (iii) a copy of the updated Labour Force Survey once it is published.**

*Article 2(1). Scope of application and labour inspection.* The Committee notes with **interest** the Government's indication that the Ministry of Labour and Social Welfare adopted the Agreement on Labour Inspectors No. 2803/MoLSW, dated 13 September 2022, which provides for the deployment of a total of 159 inspectors, up from 77 inspectors in 2019. However, the Government also states that child labour inspections at workplaces across the country did not find any cases of child labour. **Recalling the high number of children engaged in child labour in the country, including in the informal economy and in hazardous work, the Committee once again requests the Government to strengthen its efforts, without delay, to adapt and reinforce the capacities of the labour inspection services so that they can adequately monitor and detect cases of child labour, in the formal and informal economy. It again requests the Government to provide information on the practical implementation of inspections conducted by labour inspectors with regard to child labour, including information on the number and nature of offences reported. The Committee reminds the Government of the possibility to avail itself of the technical assistance of the Office in this regard.**

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* With reference to its previous comment, the Committee notes with **concern** the Government's indication that section 4 of the Ministerial Decree No. 4182/MoLSW on the List of Hazardous Works for Young Persons, of 2018, permits children from 14 to 18 years to engage in hazardous work provided they receive sufficient training, technical guidance, instructions and safety tools. It notes the Government's indication that it is working on updating the list of hazardous work. **Recalling that pursuant to Article 3(3) of the Convention, this exemption is only permitted for young persons from 16 years of age, the Committee urges the Government to take the necessary measures to bring the Ministerial Decree of 2018 into conformity with the Convention, by ensuring that children under 16 years of age may not, under any circumstances, be authorized to perform hazardous work. It requests the Government to provide information on the progress achieved to this end.**

*Article 6. Vocational training and apprenticeship.* The Committee notes the Government's indication that section 9.10.11 of the Law on Technical and Vocational Education and Training of 2013 does not set a minimum age for engagement in apprenticeships. In this regard, the Committee emphasizes the importance of setting a minimum age for admission to apprenticeship of at least 14 years to ensure that no child under that age undertakes an apprenticeship, as required by *Article 6* of the Convention. **The Committee therefore requests the Government to take the necessary measures to ensure that the Law on Technical and Vocational Education and Training of 2013 is amended so as to set a minimum age of at least 14 years for entering an apprenticeship programme, in accordance with the Convention.**

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)

### Previous comment

*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 notes the Government's indication, in its report, that section 215 of the Penal Code (as amended) provides a penalty of 15 to 20 years imprisonment and a

fine for the offence of trafficking in children. It notes, from the Government's report on the application of the Forced Labour Convention, 1930 (No. 29) that, between 1 June 2022 and 10 January 2023, 128 cases relating to trafficking in persons were prosecuted, 228 offenders were brought to trial, 56 cases were sent to the prosecutor, 51 cases were received by the people's court and 50 cases were decided. The maximum sentence imposed by the court was 15 years and 3 months, and the maximum fine was LAK600,000,000 (approximately US\$30,000). The Committee notes that this information is not disaggregated by age of the victims.

The Committee further notes, from the Government's report to the United Nations Human Rights Council (HRC) Working Group on the Universal Periodic Review, that the Government is taking measures to strengthen the capacity of law enforcement officers to prevent and combat human trafficking. In this report, the Government also indicates that it is taking measures to raise-awareness of relevant international treaties and domestic law in efforts to strengthen village authorities and those working in the area of anti-human trafficking at the local level, to have a clear and common understanding of the work to be done (A/HRC/WG.6/35/LAO/1, 11 November 2019, para. 35). The Committee recalls that in its conclusions adopted in June 2019, the Conference Committee on the Application of Standards (Conference Committee) urged the Government to establish a monitoring mechanism in order to follow-up on complaints filed and 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 Conference Committee also recalled that the sexual exploitation of children, mainly girls, by both locals and foreigners, and the sale and trafficking of children for sexual and labour exploitation, both internally and externally, are issues of utmost concern in the country. The Committee notes the absence of information from the Government on this point. ***While taking note of certain measures to raise awareness of law enforcement officials about trafficking in persons, the Committee urges the Government to pursue 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: (i) the measures taken to this end; and (ii) the application in practice of the relevant provisions of the Anti-Human Trafficking Law and section 215 of the Penal Code, indicating in particular the number of investigations, prosecutions, convictions and penal sanctions applied for the offences of trafficking and commercial sexual exploitation of children 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 notes the Government's indication that awareness-raising activities were undertaken in Vientiane, Vang Vieng, Savannakhet and Champasak, targeting associations, entrepreneurs, employees working in the tourism sector, hotels, guest houses, restaurants, boat operators, entertainment shops, souvenir shops, tourist transport service units and taxi drivers. The participants were provided with information about the Anti-Human Trafficking Law and a Guide to help victims of human trafficking. The Government further indicates that there is a hotline to report trafficking in persons and another one for the counselling and protection of women and children. To further raise-awareness and prevent children from falling victim to these worst forms of child labour, the Government states that a programme informing of the effects and dangers of human trafficking is regularly broadcast on television and on the radio. The Committee notes, from the Government's report on the application of Convention No. 29, that 277 victims of trafficking were assisted (including 225 women). It notes however that the information is not disaggregated by the age of the victims.

The Committee further notes, from the Government's report to the HRC, that in order to address the root causes of human trafficking, awareness-raising campaigns on the danger of human trafficking were targeted to all members of society, especially women and children, and focused on people living

in border areas and high-risk villages. Campaigns have reached 83 target areas, covering 451 villages, amounting to 17,274 people including 8,805 women. Trainings were organized for the mass media to enhance the effectiveness of advertisements against human trafficking and illegal migration and annual events were held on the World Day against Trafficking in Persons with the participation of government agencies, stakeholders and civil society organizations. The Government adds that it provides all necessary assistance to victims of trafficking. The Lao Women's Union (the Counseling and Protection for Women-Children Centre) is the main organization for the provision of free physical and psychological rehabilitation and phone counselling, and also receives reports of human trafficking cases. The Lao Women's Union also set up Counselling Offices for Women and Children in all 17 provinces and in the capital city of Vientiane, as well as 148 districts across the country. In addition, the Government indicates that it established another temporary Shelter Centre for victims of trafficking in Louangnamtha Province. Furthermore, the Government states that it improved the coordination among state agencies and CSOs in a more harmonious manner in order to provide urgent and timely assistance to the victims (A/HRC/WG.6/35/LAO/1, 11 November 2019, paras 34–36). ***The Committee welcomes the efforts of the Government and requests it to pursue 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 continue to supply information on the measures taken in this regard. It also requests the Government to provide more detailed information on the measures taken to provide child victims of trafficking and commercial sexual exploitation with appropriate services for their rehabilitation and social integration, 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)

#### Previous comment

The Committee takes note of the observations of the General Confederation of Lebanese Workers (CGTL), received with the Government's report.

The Committee notes that the Labour Code of 23 September 1946, as last amended in 2010, is currently in force in the country. The Committee notes the Government's information, in its report, that a new draft law amending the Labour Code (draft Labour Code) has been finalized after several consultative meetings with employers and workers and the participation of the ILO. The draft Labour Code has been sent to the Council of Ministers in April 2022, but its adoption has seen delays due to the ongoing crises in the country, including the persistent changes in governments. The Committee notes with **concern**, however, that the Government has been referring to the revision of the Labour Code for more than a decade. ***In this context, the Committee hopes that the necessary measures will be taken to ensure that the revision of the Labour Code is completed as soon as possible and that it will take into consideration the Committee's comments to give full effect to the provisions of the Convention. It requests the Government to provide full details of steps taken or envisaged in this regard and to provide a copy of the new Labour Code, once adopted.***

*Article 2(1) of the Convention. Scope of application and labour inspection. Children working in the informal economy.* Following its previous comments, in which the Committee had noted that the Labour Code applies only to work performed under an employment relationship (by virtue of sections 1, 3 and 8 of the Code), the Committee notes the Government's indication that most child labourers are either Lebanese or refugees who work in unregulated sectors and secluded places.

In this regard, the Committee notes that the CGTL identifies as a priority the support of bodies responsible for inspection to monitor the employment of young persons, as well as ensuring more rigorous monitoring and inspection of labour.

The Government indicates that while there are general inspections under way, the problem remains that the Labour Code does not give powers to labour inspectors to visit the informal economy, where most child labour is found. Moreover, the Government indicates that there is a grave shortage of inspectors to curb child labour, which has consequently resulted in an upsurge in the number of children engaged in economic exploitation.

The Committee observes that the Government does not provide information regarding whether the new draft Labour Code will apply to children who work outside of an employment relationship, such as self-employed children or children working in the informal economy. The Government indicates, however, that the Committee's comments will be taken into account in the framework of the revision of the Labour Code. ***The Committee expresses the firm hope that the Government will take the necessary steps to: (i) ensure that the draft Labour Code includes provisions ensuring its application to self-employed children and children working in the informal economy; and (ii) strengthen the role and capacities of the labour inspectorate in terms of monitoring and detecting child labour. It requests the Government to provide information on the progress made in this regard in its next report.***

*Article 2(2) and (3). Raising the minimum age for admission to employment or work.* The Committee notes that, pursuant to section 19 of the draft Labour Code, it is prohibited to employ young persons before the age of 15, thus raising the minimum age for employment or work from 14, as was specified by Lebanon at the time of ratification and is provided for under section 22 of the Labour Code in force. Furthermore, the Committee takes note of the adoption, on 7 July 2022, of Decree No. 9706 on regulating and determining the conditions for free compulsory education, which provides for compulsory education from ages 6 to 16.

The Government indicates that, taking into consideration the Committee's previous comments regarding the application of *Article 2(3)* of the Convention, it will raise the minimum age for employment or work to 16 years, instead of the 15 years provided for under section 19 of the draft Labour Code. ***The Committee requests the Government to keep it informed of the provisions envisaged in the new draft law amending the Labour Code regarding the minimum age for employment or work and whether this age will be raised to 15 or 16 years.***

*Article 6. Vocational training and apprenticeship.* The Committee recalls that the current Labour Code provides that "vocational training establishments may derogate from the provisions of articles 22 and 23 on condition that the adolescent is not under full twelve years of age (...)" (section 25). The Committee recalls that sections 22 and 23 of the Labour Code concern the minimum age for employment or work, and the minimum age for hazardous work and that, accordingly, children under the general minimum age for employment or work may engage in vocational training and apprenticeships, even in hazardous conditions, under the conditions provided for in these sections of the Labour Code. The Committee underlines that, under *Article 6* of the Convention, children must be *at least 14 years* of age to undertake vocational or technical training in undertakings (apprenticeships). It also recalls that this exception to the minimum age for employment or work does not apply to hazardous work.

The Committee notes that section 45 of the draft Labour Code provides that "training contracts" whereby "the employer in a commercial, industrial, craft, professional or agricultural establishment shall undertake to provide complete vocational training consistent with the principles of the profession" may be concluded only with persons of *at least 15 years*, provided that the safety and morals of the concerned juvenile are fully safeguarded. ***The Committee expresses the firm hope that section 45 of the draft Labour Code, setting a minimum age of 15 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.* Following its previous comments, the Committee notes the Government's reference to sections 25 and 28 of the draft Labour Code, which provide for certain conditions of working time and occupational safety and health (handling of heavy loads) when employing a young person, that is, over 15 years of age. The Government indicates that, while the Ministry of Labour consulted with occupational safety and health experts regarding the preparation of a list of light work activities, it is of the view that such a list could lead to more hazardous risks than those arising from regulating working conditions. The Committee understands, from this statement and the provisions of the draft Labour Code, that the Government does not appear to envisage regulating light work for children over 13 years of age. **The Committee requests the Government to indicate whether it intends to adopt a statute or regulation formulating the conditions in which and number of hours during which light work may be undertaken as of the age of 13, and determining these types of light work activities.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

#### [Previous comment](#)

The Committee takes note of the observations of the General Confederation of Lebanese Workers (CGTL) received with the Government's report.

*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. Trafficking.* Following its previous comments, the Committee notes the Government's indication, in its report, that the Ministry of Justice does not have the statistical information requested regarding the number of cases, prosecutions and convictions for the offence of child trafficking under the Anti-Trafficking Act No. 164, 2011.

The Government further provides information, in its report under the Forced Labour Convention, 1930 (No. 29), on the measures taken in the area of training as regards trafficking in persons. In particular, the Committee notes that the Directorate of Internal Security Forces delivers training sessions to its personnel on conducting investigations involving women and children, as well as specialized courses on standard operational procedures and tools for protecting children who are at risk. In the area of victim protection, the Government indicates that the Anti-Human Trafficking Bureau collaborates with a number of international organizations and associations to secure extra protection to victims of trafficking in safe shelters in secret locations. **The Committee urges the Government to take the necessary measures to ensure that cases of trafficking of children under the age of 18 are detected and that investigations and prosecutions are conducted against the perpetrators. In this regard, it strongly encourages the Government to strengthen the capacities of law enforcement bodies to combat child trafficking, including the Internal Security Forces, as well as to take measures to ensure that information is compiled on these investigations and prosecutions, as well as on the number and nature of convictions and penalties imposed. Finally, the Committee strongly encourages the Government to strengthen its measures to ensure that child victims of trafficking are provided with appropriate rehabilitation and reintegration services. It requests the Government to provide information on the measures taken and results achieved on all these points.**

*Clauses (b) and (c). Use, procuring or offering of a child for prostitution, the production of pornography or for pornographic performances and for illicit activities, in particular for the production and trafficking of drugs.* Following its previous comments, the Committee notes that, while section 3 of Annex No. 1 of Decree No. 8987 of 2012 on hazardous work prohibits illicit activities (pornography and the production or trafficking of drugs) for minors under the age of 18, the Government indicates that the Ministry of Justice does not have statistical information regarding its application in practice. Yet, the Committee observes that the Government indicates, in its report, that the dire economic situation has increased the likelihood of girls, in particular, being drawn into prostitution and the potential for children in general to be caught up in the sale, spread and use of narcotic substances. **The Committee therefore once again 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 also requests the Government to take measures to ensure that 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 or for illicit activities, is made available and to provide this information with its next report.**

The Committee further notes the Government's information that section 30 of the new draft law amending the Labour Code (draft Labour Code) will prohibit the use, procuring or offering of a child for prostitution, the production of pornography or pornographic performances, as well as for illicit activities. **The Committee requests the Government to keep it informed of the progress made in the adoption of the new Labour Code and to provide a copy of the relevant new provisions prohibiting and penalizing the use, procuring or offering of persons under the age of 18 for prostitution, the production of pornography or for pornographic performances, and for illicit activities.**

*Clause (d). Identifying and reaching out to children at special risk. Refugee children.* Following its previous comments, in which the Committee took note of the many Syrian refugee children who were not enrolled in school and who were working in hazardous conditions in the agricultural and urban informal sectors, the Committee notes the Government's information regarding certain measures taken to protect child refugees from the worst forms of child labour, such as including Syrian children among the commitments of the National Action Plan to Eliminate the Worst Forms of Child Labour (NAP-WFCL) in 2017.

However, the Committee notes that according to the 2019 "Survey on Child Labour in Agriculture in the Bekaa Valley of Lebanon: the Case of Syrian Refugees", undertaken by the American University of Beirut, around 70 per cent of refugee children in the Bekaa Valley between the ages of 4 and 18 are working, and 75 per cent of them are employed in the agricultural sector and prone to the hazardous exposures encountered in agricultural work. Moreover, Syrian and other refugee children are facing important difficulties in accessing education.

The Committee takes note of the Lebanon Crisis Response Plan (LCRP), which is a joint plan launched in 2015 between the Government of Lebanon and its international and national partners and the Government's main response to support displaced Syrians, vulnerable Lebanese and Palestinian refugees. The Committee notes that the LCRP continues to be implemented in a holistic, comprehensive and integrated manner to achieve the following strategic objectives: (1) ensure the protection of displaced Syrians, vulnerable Lebanese and Palestinian refugees; (2) provide immediate assistance to vulnerable populations; (3) support service provision through national systems; and (4) reinforce Lebanon's economic, social and environmental stability. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to continue and strengthen its efforts to 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 once again requests the Government to provide information on the number of refugee children who have benefited from the initiatives taken in this regard, including those who have been supported through education. To the extent possible, please provide such information disaggregated by age, gender and country of origin.**

*Children in street situations.* Following its previous comments, the Committee takes note of the existence of the National Action Plan to End Street Begging by Children (NAP-ESB) of the Ministry of Social Affairs (MSA), which seeks to end child begging by ensuring legal protection for children on the streets, building capacity to protect them, rehabilitating and reintegrating them, and conducting outreach regarding the problem. The Government indicates that the latest census on children in street situations dates back to 2016 and was conducted by the MSA as part of the NAP-ESB, which shows that



there were more than 15,000 children in the streets, 65 per cent of whom were Syrian, 5 per cent Lebanese, and 30 per cent of various nationalities or undocumented origins.

The Committee takes notes in this regard that a form was developed and is being used and submitted to the MSA every six months by all local and international associations working to address the issue of child begging, in which is indicated the number of children that have been supported. The Government states that such associations have succeeded in removing from the streets 9 per cent – out of a total of 6,000 children across the country who have been reached – and return them to school or enrol them in non-formal education. The Government also indicates that a study has been prepared that proposes solutions to constrain and prevent parents from sending their children on the streets. Proposals include such ideas as making cash assistance to families in need conditional upon their children's education, or providing a practical and effective foster environment or a family that might serve as an alternative for any child who has been subjected to exploitation. The Committee also takes note of the Government's detailed information regarding the measures that the MSA continues to implement in the field of child protection, including within the Strategic Plan for the Protection of Women and Children that is being implemented since 2014 and has been extended until 2027 in partnership with UNICEF. ***The Committee once again urges the Government to strengthen its efforts to protect children in street situations from the worst forms of child labour, and to provide for their rehabilitation and social reintegration, in the framework of the NAP-ESB and of general child protection measures adopted by the MSA. It requests the Government to provide information on the results achieved, including the number of children in street situations who have been provided with educational opportunities and social integration services through these or other measures.***

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

## Liberia

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

#### Previous comment

*Article 4(1) of the Convention. Determination of hazardous work.* The Committee notes with **satisfaction** the adoption, on 15 June 2022, of the Hazardous Work List for Children in Liberia, adopted pursuant to section 21.4(b) of the Decent Work Act, 2015. This comprehensive list defines the sectors and tasks in which children under 18 years of age may not be engaged in, and the tasks in which children aged 16 and 17 years may engage in, provided safety measures are in place including adequate training and supervision. ***The Committee requests the Government to provide information on the implementation of the Regulation setting the Hazardous Work List for Children, including the number and nature of violations regarding young persons engaged in hazardous work.***

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee notes with **concern**, from the 2022 Education Sector Analysis, published by the Government in collaboration with UNESCO, that both overall enrolment and the proportion of learners in public schools have decreased. The Education Sector Analysis highlights that net enrolment: (1) decreased at the primary level from 49 per cent in 2015 to 43 per cent in 2020; and (2) stayed the same for the lower secondary level, at 14 per cent. The Committee notes, from the 2021 United Nations Entity for Gender Equality's (UN Women) Country Profile on Gender Equality, 2021, that: (1) the civil wars and consequent economic crises (specifically the Ebola crisis in 2014 and the COVID-19 pandemic) have led to the persistence of obstacles for girls and women's access and participation in education; (2) in 2019, one-third of the population had no access to education, 31 per cent of the population attained primary education, and 36 per cent attained secondary and tertiary education, a gap which deepens in relation to geographic location (urban versus rural areas) and gender. In 2019–20, 52 per cent of children in urban areas and 32 per cent of children in rural areas were attending primary school. For secondary school, 34 per cent of children were attending in urban

areas compared to 12 per cent in rural areas; (3) when working in rural areas, teachers endure challenging working conditions and limited support that is reflected in the lack of infrastructure and teaching materials, as well as disproportionate student-teacher ratios and multi-age and multi-level learners; and (4) the long distances required for children to attend schools in rural areas is a hindering factor that prevents them from accessing education.

The Committee notes the Government's indication that it has experimented with partnership schools as a way of improving school enrolment and attendance. The partnership schools have given attention to digitization and standardization, while raising external funds to help bolster teacher salaries in the schools they run. The Committee also notes, from the Government's report to the United Nations Human Rights Committee (HRC) Working Group on the Universal Periodic Review, that the Ministry of Education provided hot meals to 280,709 school children in 1,316 pre-primary, primary, and community schools across the 15 counties (A/HRC/WG.6/36/LBR/1, 24 August 2020, para. 58). The Committee also notes the 2022 Annual Reports of the United Nations Development Programme and UNICEF, from which it notes that: (1) the Government launched in October 2022 the Accelerated Community Development Programme (ACDP) to help reduce poverty and inequalities by creating employment opportunities for persons helping to build or repair basic infrastructures such as schools and health centres. The ACDP will help reduce inequalities that exist between urban and rural areas by improving access to basic social and economic infrastructures such as health and education; (2) following the Transforming Education Summit (TES) and a follow-up conference on national education in December 2022, the Government expressed its commitment to increase the budget for education; and (3) a new Education Sector Plan (ESP 2022-2025) was developed. **While noting certain measures taken by the Government, the Committee once again strongly encourages the Government to intensify its efforts to improve the functioning of the education system and to facilitate access of all children to free basic education. It requests the Government to provide: (i) information on the concrete measures taken or envisaged in this regard, aimed, in particular at increasing the school enrolment and attendance rates at the primary and lower secondary levels, and reducing school drop-out rates; (ii) information on the impact of the new Education Sector Plan 2022-2025; and (iii) updated statistical information on the results obtained, disaggregated by age and gender.**

*Application of the Convention in practice.* The Committee notes from the 2019-2020 Demographic and Health Survey of the Liberian Institute of Statistics and Geo-information Services, that 32 per cent of children aged 5 to 17 years were engaged in economic activities or domestic work, at or above the threshold defined for their age group. Among those, 30 per cent of children worked in dangerous conditions. The most frequently reported hazardous condition was carrying heavy loads (15 per cent), followed by working with dangerous tools or operating heavy machinery (7 per cent). The Survey indicates that the percentage of children engaged in hazardous work grows with the age of the child, from 21 per cent among those aged 5 to 11 years to 48 per cent among those aged 15 to 17 years. The Government indicates that, through partnerships, including with the United States Department of Labour ATLAS Project, the number of children engaged in child labour, including in hazardous work, is expected to decrease. **Considering the large number of children under 18 years of age who are engaged in hazardous work, the Committee once again urges the Government to intensify its efforts to protect children from these worst forms of child labour. It requests the Government to continue to provide up-to-date statistics and other information on the nature, extent, and trends of the worst forms of child labour. Noting that the Government does not provide information in this regard, the Committee once again requests the Government to provide information on the number and nature of reported violations, investigations, prosecutions, convictions and penalties imposed. To the extent possible, all information should be disaggregated by age and gender.**

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

## Maldives

### Minimum Age Convention, 1973 (No. 138) (ratification: 2013)

#### Previous comment

*Article 2(3) of the Convention. Age of completion of compulsory education.* Regarding the Committee's request that the Government take the necessary measures to ensure compulsory education up to 16 years, in line with the minimum age for admission to employment or work in the country, the Committee notes with **satisfaction** that, in accordance with section 14 of the new Education Act, 2020, every child between 4 and 16 years of age living in the Maldives is required to complete compulsory education. In addition, section 21(b) of the Child Rights Protection Act 19/2019 provides that parents and the State must ensure the provision of compulsory primary and secondary education to all children.

*Article 3(2). Determination of types of hazardous work.* The Committee notes with **satisfaction** the adoption of the detailed list of hazardous types of work that children under 18 are not allowed to participate in under any circumstances, adopted through the General Regulation on Child Rights Protection (R70-2020) of 2020 (section 10). These include, for example, any work that may have a negative impact or pose a threat to their health, physical, mental or spiritual development; construction work; work involving hazardous chemicals and explosives; work in garages, carpentries and warehouses; mechanized fishing activities; selling products that contain tobacco; work at an operating port; and certain jobs in the tourism sector.

*Article 6. Vocational training and apprenticeship.* Following its previous comments, the Committee notes that section 26(b) the Child Rights Protection Act 19/2019, like section 6 of the Employment Act, provides that children under 16 years of age may be employed in connection with training associated with their education or development. The Committee notes that no minimum age is specified in this regard. The Committee recalls that, under *Article 6*, while the Convention does not apply to work done by children or young persons in schools for general, vocational or technical education or in other training institutions, it applies to work done by children under the age of 14 years in undertakings in the context of an apprenticeship. **The Committee requests the Government to take the necessary measures to ensure that the minimum age for entering into an apprenticeship is not below 14 years. It requests the Government to provide information in this regard.**

*Article 9. Penalties and labour inspection.* Following its previous comments, the Committee notes the Government's information that the Labour Relations Authority (LRA) identified 26 cases of child labour in 2019, 35 cases in 2020, 25 cases in 2021 and 39 cases in 2022. The Government indicates that all cases had "parental consent", except for one case identified in 2021. Employers who are found to be in violation are advised to comply within a specified time frame. If the employer fails to comply by the deadline, the LRA will take administrative action against the employer. A referral letter is also sent to the Ministry of Gender, Family, and Social Services (MGFSS) if any child under the age of 18 is working in violation of the Employment Act and the General Regulation on Child Rights Protection (2020/R-70). The Committee notes the Government's indication that only one case identified without parental consent in 2021 was referred to the MGFSS. The employer in question was asked to comply with the Employment Act. As the employer complied within the time frame specified, no further administrative action was taken.

While taking note of this information, the Committee stresses: (1) that violations of the Employment Act regarding the minimum age for admission to work and employment should not be contingent upon the consent of the parent; and (2) that *Article 9(1)* of the Convention requires Member States to take all necessary measures, including the provision of appropriate penalties, to ensure the effective enforcement of its provisions. The Committee also recalls that even the best legislation only takes value when it is applied effectively ([General Survey on the fundamental Conventions](#), 2012, para. 410). **The Committee therefore requests the Government to take the necessary measures to ensure**

**that persons found to be in breach of the provisions giving effect to the Convention are prosecuted and that adequate penalties are imposed, regardless of parental consent. It requests the Government to provide information on the progress made in this regard, as well as to continue to provide information on the application in practice of section 12 of the Employment Act, including the number and nature of violations identified and the penalties imposed.**

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2013)**

### Previous comment

*Article 3(b) and 7(1) of the Convention. Use, procuring or offering of a child for prostitution, pornography or pornographic performances and penalties. Prohibition.* The Committee previously noted that the Special Provisions Act to Deal with Child Sex Abuse Offenders, 2009, provided for a penalty of up to 25 years of imprisonment for the use, procuring or offering of a child for prostitution, pornography or pornographic performances (sections 17 to 19). It also noted that the Penal Code of 2014 provides for a penalty of imprisonment of not more than eight years for soliciting or facilitating child prostitution (section 621) and of not more than two years for child pornography (section 622). The Committee notes, according to the Crime Statistics communicated by the Government, that there were 145 cases of sexual offences in the third quarter of 2020, which include one case of prostitution and 128 other sexual offences. It is indicated that victims include 80 children under the age of 14 and 43 children aged 15 to 17. In the fourth quarter of 2020, there were 130 sexual offence cases, including six cases of prostitution and 89 other sexual offences, implicating approximately 64 children under the age of 14 and 29 children aged 15 to 17 years. **The Committee requests the Government to take the necessary measures to ensure that thorough investigations and prosecutions are conducted of persons who have used, procured or offered a child under 18 years of age for prostitution, and that sufficiently dissuasive penalties are imposed in practice. It requests the Government to provide information on the results achieved, as well as to continue providing information on the number of cases pertaining to sexual offences, while indicating more specifically the number of cases relating to the use, procuring or offering of children for prostitution or pornography, in application of the sections of the Special Provisions Act mentioned above.**

*Criminal responsibility of children.* The Committee previously noted that children who had been victims of sexual offences might be criminalized according to Shariah Law, including the charges of *zina*, which signifies voluntary sexual intercourse outside a marriage relation. In this regard, section 7 of the Special Provisions Act to Deal with Child Sex Abuse Offenders, 2009, (“sexual offences carried out by children”) provides that sexual offences carried out by a child remain an offence, and that a child over 13 years of age who commits such an offence is liable to detention for a period of up to five years. While noting that section 53 of the Penal Code provides that children aged 15 to 18 are presumed to comply with the defence of immaturity in sexual offence cases, the Committee requested the Government to take the necessary measures to ensure that child victims of sexual exploitation are treated as victims and not criminals.

The Committee notes that section 11 of the Child Rights Protection Act 19/2019 provides that every child under 18 years of age shall have the right to protection from sexual exploitation, which includes protection from being “forced into prostitution” and other acts of exploitation and being used in the creation or production of pornographic material. It observes, however, that children could still be treated as offenders in cases where they are used, procured or offered for prostitution, if they are not “forced” to do so. The Committee once again refers to its [General Survey of 2012 on the fundamental Conventions](#) and underlines that children who are used, procured or offered for prostitution should be treated as victims, and not as offenders who have committed a criminal offence (para. 510). **The Committee urges the Government to take the necessary measures to ensure that all child victims of commercial sexual exploitation who are under the age of 18 years are treated as victims rather than**

**offenders. To this end, the Committee requests the Government to take the necessary measures to ensure that section 7 of the Special Provisions Act to Deal with Child Sex Abuse Offenders, 2009, is amended so that children under 18 years of age who are victims of prostitution or other types of commercial sexual exploitation are not criminalized and/or imprisoned.**

Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Committee previously requested the Government to provide information on the application in practice of section 133 of the Drugs Act, according to which any person who causes a child below 18 years of age to participate in the commission of an offence under the Act should be punished by the maximum penalty determined for that offence, which could be life imprisonment. The Committee notes with **regret** an absence of information on this point. It notes the Government's information that if a child is used for the purpose of drug trafficking, the Maldives Police Service (MPS) will refer the case to the Child and Family Protection Service (CFPS), and the person who has engaged the child faces criminal charges under section 133 of the Drugs Act. The Committee notes, however, that according to the 2019 UNDP report on "Youth vulnerability in the Maldives", drugs are a serious and growing problem in the country. **The Committee therefore requests the Government to take the necessary measures to prevent the involvement of children in drug-related activities and to ensure the effective enforcement of the Drugs Act. It once again requests the Government to provide information on the application in practice of section 133 of the Drugs Act, with regard to the number of investigations, prosecutions, convictions and penalties which have been applied for the offence of the use, procuring or offering of a child for illicit activities, in particular for the production or trafficking of drugs.**

Clause (d) and Article 4. Hazardous work and determination of types of hazardous work. **With regard to the adoption of the list of hazardous types of 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).**

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

## Mexico

### Minimum Age Convention, 1973 (No. 138) (ratification: 2015)

#### Previous comment

Article 2(1) of the Convention. Scope of application. Children working in family enterprises. **Recalling that under Article 2(1) of the Convention, no children under the minimum age (15 years) shall be admitted to employment or work in any occupation, and in the absence of information from the Government, the Committee once again requests the Government to amend section 23 of the Federal Labour Act, which prohibits the employment or work of children under the age of 15 years for work outside the family, to also apply to all children working within family enterprises or performing domestic work within the family.**

Article 3(1) and (2). Minimum age for admission to hazardous work and determination of hazardous types of work. **Regarding the determination of hazardous types of work, the Committee refers to its detailed comments on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182).**

Article 7(1) and (3). Minimum age for admission to light work and determination of light work. The Committee notes, from the 2019 National Survey on Child Labour (ENTI), that 19.3 million children aged 5 to 17 years perform domestic chores in their family. It also notes the Government's reiterated statement, in its report, that there is no exception to the minimum age for admission to work, set at 15 years. **Noting the high number of children under the age of 15 years engaged in family and domestic work who are often not remunerated, the Committee encourages the Government to regulate light work, in conformity with Article 7(1) and (3) of the Convention, which provides that national laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which**

***is not likely to be harmful to their health or development, and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.***

*Labour inspection and application of the Convention in practice.* The Committee notes, from the 2019 ENTI Survey that: (1) a total of 3.3 million children aged 5 to 17 years are engaged in child labour, representing 11.5 per cent of children; (2) 900,000 children aged 5 to 14 years are working; (3) child labour is prevalent in agricultural activities, forestry, hunting and fishing (31.6 per cent), mines, construction and industry (24.5 per cent), commercial and sale activities (14 per cent), and street selling (7.9 per cent); and (4) despite a steady decrease in the number of children aged 5 to 15 years working since 2007, it increased in 2019 (6.9 per cent of children aged 5 to 15 years were working in 2007, 4.6 per cent in 2013, 3.6 per cent in 2017 and 4.1 per cent in 2019).

The Committee notes the Government's indication that, between December 2018 and June 2022, the Decent Work Unit of the Labour Inspectorate carried out 111,847 inspections relating to general working conditions, which included child labour inspections, and it detected no cases of child labour. The Committee notes with **concern** that despite the recent increase in the number of children working under the minimum age of 15, no cases of child labour were detected by the labour inspectorate. **Noting that while the ENTI Survey indicates an increase in child labour and that the labour inspections have not detected cases of child labour, the Committee requests the Government to follow-up on the information derived from the Survey by taking the necessary measures to monitor and identify cases of child labour and to provide information on the results achieved in this regard. It also requests the Government to provide updated information on the number of children under the age of 15 years engaged in child labour and those under 18 years of age engaged in hazardous work, as well as the number and the nature of the violations detected and the investigations conducted. In so far as possible, the information provided should be disaggregated by age and gender.**

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

### [Previous comment](#)

The Committee notes the observations of the Confederation of Workers of Mexico (CTM) and the Authentic Workers' Confederation of the Republic of Mexico (CAT), communicated by the Government in its report.

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children.* The Committee takes due note of the Government's indication, in its report, that the National Guard benefitted from a wide range of training activities to improve its skills and detection capabilities of crimes of sale and trafficking of minors, including for purposes of commercial sexual exploitation. The Committee takes note of the annual reports of the Secretariat of Security and Civil Protection (SEGUR) on the crime rate at the national level, in which it notes that: (1) in 2022, there were 802 investigations relating to the crime of trafficking in persons and 13 cases of trafficking of minors. Of these 13 investigations, eight convictions were handed down; (2) in 2021 there were 625 investigations for alleged trafficking in persons and 29 investigations for trafficking of minors; and (3) in 2020 there were 558 investigations for trafficking in persons and 21 investigations for trafficking of minors.

From the Government's report on the application of the Forced Labour Convention, 1930 (No. 29), the Committee notes the actions of the Office of the Special Prosecutor dealing with violence against women and trafficking in persons (FEVIMTRA) to improve the detection, care of victims and prosecution for crimes of trafficking in persons in general. These actions include, the adoption and implementation of: (1) the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention Against Transnational Organized Crime; (2) the Protocol for the Use of Procedures and Resources for the Rescue, Assistance, Care and Protection of

Victims of Human Trafficking; and (3) the National Protocol for Inter-institutional Coordination for the Protection of Girls, Boys and Adolescents Victims of Violence.

The Committee further notes, from the Government's report to the United Nations Committee on the Rights of the Child (CRC) that, in collaboration with the United Nations Office on Drugs and Crime (UNODC), it is developing a National Information System on Human Trafficking (SINTRA), which will allow the registration, consultation, monitoring and analysis of information on cases of trafficking in persons (CRC/MEX/6-7, 18 December 2020, para. 240). **Noting the various measures taken by the Government, including within the framework of the SEGUR and the FEVIMTRA, the Committee requests it to: (i) continue its efforts; (ii) carry out an evaluation of all these measures; and (iii) provide information on their impact. The Committee encourages the Government to pursue its efforts to ensure that any person who engages in the trafficking of children is subject to in-depth investigations and robust prosecutions. Noting the absence of information on the penalties imposed, it also requests the Government to provide information on the criminal penalties imposed for the crime of trafficking of children.**

*Article 3(b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* The Committee notes the Government's indication that: (1) in December 2019, the Ministry of Tourism, the Ministry of Interior, and the Ministry of Labour and Social Welfare, adopted the road map for the prevention and fight against sexual exploitation of children and adolescents, trafficking of minors and child labour in the travel and tourism industry. The road map is a commitment to develop actions aimed at strengthening the tourism industry and promoting mechanisms to identify cases, promote and implement effective responses to guarantee a compliance framework in the travel and tourism sector, as well as to comply with the Government's international commitments on this issue; (2) the Strategy for the Care and Protection of Indigenous Children and Children of Afro-Mexican Descent 2022-2024 includes a strategic component focused on protecting children against all forms of discrimination and violence, including sexual exploitation. It further notes that the Government provides data disaggregated by type of offence and by gender, on 101 convictions, between July 2018 and June 2022, for crimes relating to the corruption of minors, child prostitution and child pornography, with sentences ranging from 2 to 43 years imprisonment; and (3) in 2021, investigations were carried out on 149 cases of child pornography, 64 cases of trafficking for sexual exploitation, and 10 cases of prostitution of minors and persons with disabilities, but it is not clear if these cases were prosecuted and if convictions were handed down. **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 requests the Government to provide detailed information on: (i) the impact of such measures; and (ii) the number of reported violations, investigations, prosecutions, convictions and criminal 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.* The Committee notes the Government's indication that section 47(VI) of the 2014 General Act on the rights of girls, boys and young persons was amended by a 2022 Decree to provide that the central, federal and municipal authorities shall: "take the necessary measures to prevent, address and penalize cases in which children over 15 years of age are engaged in work that may harm their health, education or impede their physical or mental development, labour exploitation, the worst forms of child labour, forced labour and slavery". The Committee also notes with **interest** the amendment by Decree of 2022 of section 176(II)(8) of the Federal Labour Law, which considers as hazardous work the following activities: "Agriculture, forestry, sawing, hunting and fishing, use of chemicals, handling of machinery, heavy vehicles, and those determined by the competent authority".

The Committee notes the Government's indication that, in 2019, 1.1 million children aged 5 to 17 years were working in hazardous activities, of whom 72.9 per cent were boys and 27.1 per cent girls. It

notes the Government's statement that between 2017 and 2019, there was a decline in the number of children engaged in hazardous work of 138,645 children. However, the Committee notes from the 2019 National Survey on Child Labour (ENTI) that, in 2019, there were: (1) 1.1 million children aged 15 to 17 years engaged in hazardous work; (2) 0.7 million children aged 5 to 15 years engaged in hazardous work; and (3) 1.2 million children aged 5 to 17 years engaged in unpaid domestic work in their own homes under inadequate conditions. **The Committee requests the Government to provide information on the root causes of the engagement of children in hazardous work. It also again requests the Government to strengthen its efforts to ensure that no children under 18 years of age are engaged in work likely to harm their health, safety or morals. It once again requests the Government to provide detailed information, disaggregated by gender, age and sector of activity, on the number of violations detected and the penalties imposed in this respect.**

*Article 6. Programmes of action. Trafficking.* The Committee notes the observations of the CTM and the CAT in which they express the need for the Government to intensify its efforts in the detection of and fight against the worst forms of child labour. The Committee notes the Government's information on: (1) the adoption of the National Programme to prevent, punish and eradicate crimes relating to trafficking in persons and to protect and assist victims of these crimes 2022–24; and (2) the continued actions taken by FEVIMTRA in accordance with the four objectives of the National programme.

With regard to prevention, the Government provides detailed information on the FEVIMTRA's awareness-raising activities to the general public and its action to strengthen the capacities of the personnel responsible for dealing with the victims of trafficking in persons. **The Committee requests the Government to continue taking measures, including within the framework of the National Programme to prevent, punish and eradicate crimes relating to the sale and trafficking of children and to protect and assist the victims of these crimes.**

*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.* The Committee welcomes the adoption of the National Project for the strengthening of shelters that provide assistance to victims of trafficking, in collaboration with the UNODC. The Committee notes the Government's indication that: (1) between 2018 and 2022, it was possible to provide comprehensive support to 93,780 children in 460 municipalities; (2) there is no precise data indicating how many children were removed from the worst forms of child labour and socially reintegrated with their families, but the vast majority of these children were reintegrated in the education system; (3) the FEVIMTRA, through its Specialized Shelter for women victims of violence and crime assisted 167 children between 2015 and 2020; and (4) the Specialized Shelter offers a multidisciplinary care scheme that guarantees coverage of the basic needs of its residents and assists each victim in a personalized manner for their recovery.

The Committee further notes the Government's indication that, in July 2021, the Additional Protocol for the Search of Children and Adolescents was approved, a tool to allow authorities to coordinate their efforts in the search of disappeared children, which: (1) includes actions for the search of children deprived of liberty for the purpose of trafficking, exploitation and recruitment; and (2) mandates the authorities to search for children in this situation and ensure their protection and physical and emotional integrity. **Noting the time-bound and effective measures taken by the Government to remove children from trafficking and commercial sexual exploitation and to ensure their rehabilitation and social integration, the Committee encourages the Government to continue taking measures in this regard. It also requests it to continue providing information on the number of children removed from these worst forms of child labour and then rehabilitated and socially integrated.**

*Article 8. International cooperation.* The Committee notes the adoption of the Action Plan of Mexico, in the framework of the Global Alliance to put an end to all forms of violence against children. The Action Plan envisages actions for the protection of children against commercial sexual exploitation



through the development of a strategy involving all three levels of Government (central, federal and municipal), the private sector and civil society organizations with eight strategies: (1) interinstitutional coordination; (2) legislative harmonization; (3) training to strengthen the protection; (4) data generation; (5) campaigns and awareness actions; (6) safe environments; (7) complaint services and attention to victims; and (8) prevention of the Commercial Sexual Exploitation of Girls, Boys and Adolescents.

The Committee notes that, in December 2020, the Executive Secretariat of the National Protection System of Children and Adolescents (SIPINNA), in cooperation with the Programme of the European Union for social cohesion (EUROSociAL) began working on the design of the Strategy for the Prevention of Sexual Exploitation of Children and Adolescents (ESCNNA) in Mexico, a process that materialized with the signature between both instances in November 2021 and the publication of the Strategy in April 2022, which has the objective of implementing intergovernmental actions in collaboration with families, communities, the media and private sector, to eradicate the commercial sexual exploitation of girls, boys and adolescents.

The Committee also notes the Government's participation in: (1) the Regional Initiative for a Latin America and Caribbean Free from Child Labour; and (2) meetings and commissions of the Regional Action Group of the Americas for the prevention of sexual exploitation of children in travel and tourism (GARA). ***The Committee welcomes the Government's efforts and encourages it to pursue international cooperation with neighbouring countries to eliminate the commercial sexual exploitation of children and trafficking for that purpose. It also requests the Government to provide information on the impact of the measures taken in terms of the number of children removed, 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)

#### Previous comment

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee notes the Government's information on the implementation of the National Programme for the Development and Protection of Children for 2017–21, communicated in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182). Achievements include the adoption of a decree pursuant to which enterprises are implementing child-friendly policies, such as day care options or parents' councils, and several training initiatives on child labour either aimed at empowering children and parents or benefiting labour or state inspectors and crime prevention officials. The Committee also takes note of the Government's information that, in 2019, it expanded the coverage of the "Child Money Programme", which contributes to income poverty reduction. In 2021, the programme covered a total of 1.2 million children.

The Committee notes that, in the framework of the EU-funded ILO Trade for Decent Work (T4DW) project, both a qualitative (2022) and a quantitative (2021–22) studies on child labour were conducted. According to these studies, 207,951 children aged 5–17 years were engaged in economic activities, representing approximately 24.3 per cent of the total population of children of this age. Of these children, 138,500 (16 per cent of all children) were found to be in situations of child labour: 78,268 were aged 5 to 12 years; 2,049 were aged 13–14 years and working 14 hours or more per week; and 58,183 were in hazardous work. The quantitative study reveals that children in child labour are mostly found in the agricultural sector and rural areas fetching water and gathering firewood. The qualitative study reveals that parents of children in hazardous work are often not aware of the conditions in which their children are found working, and that the most common hazards reported include exhaustion, heavy lifting, extreme temperatures, and injuries. ***The Committee therefore encourages the Government to***

**redouble its efforts, in collaboration with the social partners, for the elimination of child labour in all sectors, and requests it to provide information on the progress made in this regard and the results achieved. The Committee also requests the Government to continue providing updated information on the nature, extent and trends of child labour in the country, especially in the agricultural sector.**

*Article 2(1). Scope of application. Informal economy.* Regarding the Committee's previous request that the Government modify its draft Labour Law to ensure that the protections provided are extended to children working outside of an employment relationship, the Committee notes with **interest** that the scope of application of the revised Labour Law of 2021 has been extended to employment relations beyond the formal economy. The revised Labour Law provides that all workers in the formal and informal economy, job seekers and trainees at work including self-employed, herders, members of a partnership or a cooperative, apprentice and interns shall enjoy the basic rights set out in section 5.1, which includes the prohibition of child labour and elimination of the worst forms of child labour. It further provides that a state labour inspector is obliged to supervise and ensure compliance with labour law provisions on the employment of minors (section 162.3.1), while guaranteeing labour inspectors' power to freely access enterprises, organizations and workplaces that are subject to inspection without prior notice (section 162.2.1) and supervise the employment conditions of employees in the formal and informal economy (section 162.2.7).

The Committee further notes the Government's information that, following the adoption of the revised Labour Law, public awareness-raising and training of relevant civil servants, including child protection and labour inspectors, employers and trade union representatives were conducted with the support of the ILO, benefiting 1,092 officials in 2021. The Committee also takes note of the information provided by the Government in its report under Convention No. 182 regarding the inspections carried out by inspection and investigation agencies. It notes in particular that, from May to November 2022, joint inspections organized for early identification and prevention revealed 14 children found engaging in child labour, who then received child protection services. **The Committee requests the Government to continue its efforts to strengthen the labour inspection services to enable them to effectively monitor and detect cases of child labour, including children working on their own account or in the informal economy, including in agriculture. It also requests the Government to continue providing information on the number and nature of violations found related to child labour, including in the informal economy.**

*Article 2(3). Age of completion of compulsory schooling.* Following its previous comments, the Committee notes the Government's indication that the revised Labour Law has not established a link between the minimum age for admission to employment and the age of completion of compulsory schooling. While section 142.1 of the revised Labour Law sets the minimum age for employment at 15, in line with Mongolia's specified minimum age for work and employment, the Law on Education, 2002, provides that the age of completion of compulsory basic education is 16 years (section 46.2.3). On the other hand, the Law on Primary and Secondary Education, 2002, sets the length of compulsory education at nine years, starting from the age of six (sections 7.2 and 12.4). This would make education compulsory up to the age of 15 years. The Committee once again recalls that, pursuant to *Article 2(3)* of the Convention, the minimum age for admission to employment (currently 15 years) should not be lower than the age of completion of compulsory schooling. **The Committee requests the Government to take measures to ensure that the age of completion of compulsory schooling is harmonized throughout its national legislation. If the age for completion of compulsory schooling retained is higher than 15 years, the Committee requests the Government to raise the minimum age for admission to employment or work accordingly.**

*Article 7(1) and (3). Light work and determination of light work activities.* Following its previous comments, the Committee notes with **satisfaction** that the revised Labour Law regulates light work by permitting children aged 13 and above to engage in light work with the consent of their legal representatives, and provided that such work does not negatively affect the child's health, growth and

development or hinder their education (section 142.3). Moreover, pursuant to section 142.4 of the revised Labour Law, the Ministry of Labour and Social Protection has defined the types and conditions of light work permissible for children aged 13 years or above by Order of the Minister for Labour and Social Protection No. A/123 dated 10 June 2022, with the support of the ILO T4DW project.

*Article 8. Artistic performances.* The Committee notes with **satisfaction** that the revised Labour Law provides that a person under the age of 15 years may only be employed in artistic performances, sports and advertisements with an individual permit issued by a child rights inspector and based on the written consent of the child's legal representatives (parents, guardian), hours of work and other conditions of employment (section 142.5). Moreover, new amendments to the Law on Child Protection provide that a child's participation in cultural and sports events, artistic performances and sports competitions must be in circumstances where the child's growth, development, health and moral development are not negatively affected (section 9.1); and require measures to not interrupt the child's schooling and address any learning gaps resulted from such participation (section 9.2).

*Article 9(3). Keeping of registers.* Following its previous comments, the Committee notes with **satisfaction** that section 142.6 of the revised Labour Law requires an employer to keep a register of employees under the age of 18 years by recording their parent's names, and their first name, date of birth, assigned duties, expected duration of employment and conditions of work; and to notify respective local government bodies in charge of labour issues and labour inspection within 10 days from the date of establishing such employment relationship.

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

### **Previous comment**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Child trafficking.* The Committee notes that, as opposed to previous years when it was not able to identify cases of child trafficking, the Government indicates that between the beginning of 2017 and July 2022, 237 victims of trafficking were identified, among which 95 were children under the age of 18, under section 13.1 of the Criminal Code. The Government specifies that, in 2020, the police investigated 14 human trafficking cases with 18 defendants and 40 victims, and in 2021, 9 cases with 19 defendants and 20 victims (19 children). Of those, 5 cases are in investigations, 2 cases in prosecutions and 2 cases in judicial process. **The Committee requests the Government to continue taking all the necessary measures to ensure that thorough investigations and effective prosecutions of individuals who engage in the trafficking of children are carried out. It requests the Government to continue providing information in this respect, including statistical information on the number and nature of offences reported, investigations, prosecutions, convictions and penalties imposed on perpetrators.**

*Article 3(d). Hazardous work. Horse jockeys.* Following its previous comments, the Committee notes the Government's detailed information, in its report, regarding the measures it continues to take in order to improve the protection of the rights and safety of child jockeys, including the updating of standards on protective equipment, the registration of child jockeys, and the allocation of accident insurance payouts. The Committee also notes the Government's indication that it is taking measures of identification, investigation and referral to legal authorities to implement Resolution No. 57 of 2019, which prohibits the organization of horse races from 1 November to 1 May every year, and that state child rights inspectors have been monitoring the implementation of the Resolution and that fines were imposed on those who have held horse races in violation of its provisions. The Committee also notes that the Minister of Labour and Social Protection adopted the "List of jobs prohibited to minors under 18 years of age" by Order No. A/122 of 2022, which provides that children under the age of 18 cannot be engaged in "professional horse racing" (section 2.1.14.1) and in "horse racing, horse race short distance and long-distance pre-training from the 1st of November to the 1st of May every year".

However, the Government indicates that the Law on Naadam Festival was amended in June 2022 to raise the minimum age for jockeying from 7 to 8 years of age.

In this regard, the Committee notes that, according to the 2022 qualitative Child Labour Study published by the National Human Rights Commission of Mongolia in collaboration with the ILO EU-funded Trade for Decent Work Project, while it has been claimed that the prohibition of horse racing from 1 November to 1 May each year is strictly adhered to, child jockeys and horse trainers have confirmed that short-distance races, training races and horse racing for betting are still organized throughout the year. Moreover, the quantitative Child Labour Survey 2021-22, the key findings of which were launched in June 2023, indicate that 1,200 children took part in races and help trainers take care of the racehorses. In its report, the Government also indicates that children continue to be used as child jockeys, with 3,814 child jockeys found in 82 horse races nationwide as at June 2022; 27 of these races were organized by provincial and *soum* governors and 50 were organized for special occasions and offering ceremonies without permission from the authorities.

The Committee further observes the detailed information contained in the 2022 qualitative child labour study regarding the conditions of child jockeying, which illustrate its inherently hazardous nature. For instance, while statistical data showed a decreased number of injuries due to falling off horses, fatalities and injuries remain a matter of concern. On average, 34.6 children per month were injured due to falling off horses from January to April and September to December in 2019 and 2020, while this number increased to 1,282 children per month from May to October. Out of those children injured due to falling off horses, 46.5 per cent fell off so-called ordinary horses and 53.5 per cent fell off racehorses in 2019 and 2020. The study also indicates that child jockeys are not brought to the hospital for what are considered “minor” injuries, such as concussions, skin tears and bleeding, as a result of which many injuries are not reported. Similarly, while the Government indicates that there were 2.8 times less horse races in 2019 than 2018, and that the number of injured child jockeys decreased accordingly, the Committee observes that the Government itself reports that there were still 448 injured child jockeys in 2019.

The Committee notes with **deep concern** that, despite the health and safety measures adopted by the Government, children under 18 years of age continue to be engaged in work which is clearly harmful to their health and safety, as reflected by the number of child jockeys who continue to suffer serious injuries. While taking note of the measures taken by the Government to prohibit professional horseracing to children under the age of 18, the Committee notes with **regret** that children from the age of 8 years can still legally race horses in short distance and long-distance pre-training from 1 November to 1 May every year.

The Committee therefore once again draws the Government’s attention to *Article 3(d)*, which states that work which, by its nature and the circumstances in which it is carried out, is likely to harm the health, safety or morals of children *under 18*, constitutes one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to ensure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Committee also recalls that Paragraph 4 of Recommendation No. 190 addresses the possibility of authorizing the employment or work of young persons as from the *age of 16* under strict conditions that their health and safety be protected and that they receive adequate specific instruction or vocational training in the relevant branch of activity. In this regard, the Committee must emphasize that measures should be taken to raise the minimum age for admission to hazardous work to *16 years*, even if the required protective conditions are adequately provided ([General Survey of 2012 on the fundamental Conventions](#), para. 380). **The Committee therefore once again urges the Government to take measures, as a matter of urgency, to ensure that the Law on Naadam Festival is amended to prohibit the engagement of children as child jockeys until at least 16 years of age in all circumstances and throughout the year. Where jockeying is performed by young persons between 16 and 18 years of age, the Committee urges the Government to take the necessary measures to ensure that such work is**

**only carried out in accordance with the strict conditions set out in Paragraph 4 of Recommendation No. 190, namely that the health and safety of such young persons be protected and that they receive adequate specific instruction or vocational training in that activity. Finally, the Committee requests the Government to take measures to ensure that these laws are effectively applied in practice through rigorous inspections, effective prosecutions and penalties against those engaging children in horse jockeying, and to provide information in this regard.**

Article 7(2). *Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee, having previously noted that school dropouts affected children from rural areas more than children from urban areas, notes the Government's information according to which it is taking several measures to combat and prevent school dropouts. Such measures include: (1) the plan to eliminate learning loss of students 2021-22 by the Ministry of Education and Science; (2) the training of school teachers to accommodate different learning styles and needs of students at risk of dropping out; (3) the operationalization of the Education Management Information System which monitors students' learning outcomes and tracks their transfers; and (4) the implementation of the "Green light" action guideline to support children alienated from the classroom and who have suffered physically or mentally during the COVID-19 pandemic. Furthermore, the Committee takes note of the programmes adopted by the Government to improve its education system, in particular Mongolia's Long-Term Development Policy Vision 2050 to advance education equity, efficiency and outcomes, and the Education Sector Mid-Term Development Plan 2021-30, two policies of which are to enhance the quality and relevance of the education system and to increase equal access and inclusiveness.

While taking note of this, the Committee observes that new challenges are emerging regarding access to education in Mongolia, in particular due to the effects of climate change. A 2019 UNICEF report on "The impact of climate on education in Mongolia" indicates that climate trends, including more extreme winter conditions, heavier summer precipitation (leading to flash floods), and more extreme summers all have a significant impact on Mongolia's education sector. The main impacts include reduced access to education – especially in the harsh, cold winters when roads are impassable or too dangerous, and after flash floods when roads are destroyed – as well as missing school or dropping out of school due to health complications (particularly in winter). These trends result in lower attendance rates, and potentially impact learning outcomes. Livelihood concerns are also widespread with herding families being particularly dependent on favourable weather conditions to make a living and obtain sufficient income to send children to school. In addition to these concerns, schools have also reported insufficient access to water and sanitation facilities, food insecurity and access to energy as important issues that affect students' well-being during climate-related disasters. **Considering that education is key to preventing the engagement of children in the worst forms of child labour, the Committee strongly encourages the Government to continue to adopt and effectively implement the necessary measures to improve the functioning of the educational system, in order to ensure that all children have equal access to free basic education, in particular those impacted by climate trends, and continue reducing the risk-factors leading to school dropouts. It requests the Government to continue providing 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 lower secondary education.**

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

## Morocco

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

#### Previous comment

*Article 2(1) of the Convention. Minimum age for admission to employment or work and application of the Convention in practice. Children working in informal artisanal activities and other sectors.* The Committee recalls that informal artisanal activities and formal artisanal activities involving five employees or fewer, are excluded from the application of the Labour Code under section 4. Therefore, section 143 of the Labour Code, which sets a minimum age of 15 years for employment or work, does not apply to these sectors. In this regard, the Committee notes the information provided by the Government, in its report, indicating that the bill concerning conditions of work and employment in activities of a purely traditional nature, prohibiting work for children under 15 years of age in this sector, was amended and referred to the Secretariat-General of the Government in 2017. It indicates that in 2022, consultations on the bill were resumed by the Department of Economic Inclusion of Small Enterprises and Employment, with the Department responsible for handicrafts and the Moroccan Federation of Chambers of Handicrafts. However, the Government indicates that the adoption process has been delayed by another bill concerning the exercise of artisanal activities, as well as the exceptional circumstances imposed by the COVID-19 pandemic.

The Committee also notes the Government's indication that one of the conditions for obtaining the national quality label for handicrafts is the non-employment of children under 15 years of age. This measure seeks to promote quality among craftworkers and enterprises in the artisanal sector. The Government also indicates that it will continue to fund the apprenticeship training programme, in accordance with the provisions of section 6 of Act No. 12-00 on vocational training, which requires beneficiaries to be over 15 years of age. ***The Committee reiterates the firm hope that the bill concerning conditions of work and employment in activities of a purely traditional nature will be adopted in the very near future and requests the Government to send a copy when it has been adopted. It requests the Government to continue its efforts to combat child labour, especially in the artisanal sector.***

*Child domestic workers. As regards the issue of child domestic labour, the Committee requests the Government to refer to its detailed comments on the Worst Forms of Child Labour Convention, 1999 (No. 182).*

*Article 9(1). Penalties.* Further to its previous comments, the Committee notes the Government's information that labour inspectors recorded 509 observations relating to child labour and removed 13 children under 15 years of age from child labour and 37 children aged 16 to 18 from hazardous work. Moreover, in 2021, the Department responsible for labour signed eight partnership agreements with civil society associations in this regard. As part of the implementation of these agreements, a total of 332 children under 15 years of age were removed from child labour and 180 children aged 16 to 18 were removed from hazardous work.

However, the Committee once again notes with ***regret*** that the Government has not sent any information on the number of persons prosecuted and the penalties imposed on persons violating provisions giving effect to the Convention. Furthermore, the Committee notes with ***concern*** that, despite the fact that it has been raising this issue since 2005, the penalties for violating the prohibition on the employment of children under 18 years of age in hazardous work still do not constitute an adequate deterrent to ensure the application of the provisions of the Convention concerning hazardous work. ***The Committee urges the Government to take the necessary measures, without delay, to ensure that all persons who employ children under 18 years of age in hazardous work are prosecuted and incur penalties that constitute an effective and adequate deterrent, in accordance with Article 9(1) of the Convention and in line with the more severe penalties envisaged in section 151 of the Labour Code. The Committee also encourages the Government to address the root causes of child labour in the country.***

**The Committee also requests the Government to provide information on the type of violations of the Convention detected by the labour inspection services, the number of persons prosecuted for each type of violation and the penalties imposed, particularly in relation to the provisions giving effect to the Convention.**

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

### [Previous comment](#)

*Articles 3(a) and (d) and 7(1) of the Convention. Forced or compulsory labour, hazardous work and penalties. Child domestic labour and penalties. Begging.* Further to its previous comments, the Committee notes that the Government's report does not contain information on the number and nature of violations detected, the number of prosecutions and the penalties imposed on persons who engage children under 18 years of age in domestic work in hazardous or abusive conditions. **The Committee requests the Government to take appropriate measures to combat child domestic labour, including through the effective implementation of section 6 of Act No. 19-12, which establishes 18 years as the minimum age for employment as a domestic worker, and that sufficiently effective and dissuasive penalties are imposed in practice against persons who subject children under 18 years of age to domestic labour in hazardous or abusive conditions. It once again requests the Government to provide information on the number and nature of violations detected, the number of prosecutions and the penalties imposed.**

*Article 3(a). Trafficking of children.* Further to its previous comments, the Committee takes due note of the information provided by the Government with regard to the adoption of Decree No. 2-17-40 of 6 July 2018, establishing the composition and operating procedures of the National Commission for the Coordination of Measures to Combat and Prevent Trafficking in Human Beings.

The Committee also notes the Government's information that between 2017 and 2020, a total of 723 individuals were prosecuted for trafficking in persons, of whom 523 were men and 200 women, and among whom 626 were Moroccan and 97 foreigners. In 2019, a total of 68 persons were sentenced to imprisonment, including: 7 persons for more than 10 years; 17 persons for 6–10 years; 19 persons for 3–5 years; 8 persons for 1–2 years; and 17 persons for less than 1 year.

The Committee notes, from the 2022 report of the National Commission for the Coordination of Measures to Combat and Prevent Trafficking in Human Beings, that between 2017 and 2020, a total of 719 victims of trafficking in persons were recorded, of whom 414 were men and 305 women. Among these victims, 536 were Moroccans and 183 foreigners. A total of 367 persons were victims of sexual exploitation, 44 of forced labour and 63 of begging, among other forms of exploitation. However, the Committee notes the absence of specific data on the age of the victims of trafficking in persons. **The Committee requests the Government to continue to provide information on the implementation in practice of Act No. 27-14 concerning action against trafficking in persons, including information on the number of child victims of trafficking, disaggregated by gender and by age, as well as the number and nature of convictions and criminal penalties imposed.**

*Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Child domestic labour.* The Committee notes the Government's indications that in 2021, the Ministry for Economic Inclusion, Small Business, Employment and Skills (MIEPEEC) concluded eight agreements with associations with a view to combating the worst forms of child labour. In this regard, a total of 180 children of 16 to 18 years of age were removed from hazardous work, of whom 45 (38 girls and 7 boys) were removed from domestic labour. The Government also indicates that MIEPEEC has stepped up its actions to promote decent work in Morocco through the "MAP16 Maroc" project, which focuses on child labour in domestic and hazardous work at the national level, as well as in the regions of Rabat/Salé, Marrakesh/Safi and Kenitra/Gharb. These actions include awareness-raising and advocacy campaigns,

the dissemination of tools summarizing rights and obligations under Act No. 19-12 establishing the conditions of work and employment of domestic workers, as well as training for MIEPEEC partner associations in the area of action against child labour between 2018 and 2020, to improve their methods of working with target groups. Furthermore, in 2021, the General Confederation of Moroccan Enterprises, with the ILO, created an online platform, "Iltesam", as part of the Moroccan Private Sector Initiative to Combat Child Labour. ***The Committee encourages the Government to continue its efforts with regard to the identification, removal and reintegration of children under 18 years of age working as domestic servants who are victims of economic or sexual exploitation. It requests the Government to continue to provide information on the number of children removed, rehabilitated and socially integrated.***

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

## Myanmar

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2013)

#### Previous comment

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Compulsory recruitment of children for use in armed conflict.* Following its previous comments, the Committee notes the military authorities' information, in their report, that a Committee and Working Committee on the Prevention of the Six Grave Violations were established to prevent those six grave violations against children in armed conflict, including the recruitment or use of children as soldiers. It also notes the military authorities' indication that it has implemented the National Action Plan on the Prevention of Killing, Maiming and Sexual Violence against Children in Armed Conflict (2020-2021), and that this National Action Plan has been renewed and is being implemented in 2022-2023. Moreover, the Committee notes that the Child Rights Law, 2019, contains a chapter (XVII) on children and armed conflict, in which the measures that should be taken by the governmental departments, governmental organizations, armed forces and armed groups, to respect, protect and fulfil the rights of children affected by armed conflict are enumerated (section 60). Section 61 of the Law provides that anyone who recruits or uses children in armed conflict or coerces or summons children by force to transport food, weapons and supplies, commits an offence. Moreover, sections 63 and 64 prohibit the recruitment and use of children under 18 into military service by the Tatmadaw (Myanmar military) or into other groups. Penalties for these offences, both imprisonment and fines, are provided for under sections 103(b) and 104 of the Act.

The Committee notes, however, that several UN sources point to the continued use and recruitment of children by armed forces and groups. According to the Report of the Special Representative of the Secretary-General for Children and Armed Conflict of 4 January 2022, until the end of January 2021, the Special Representative was accelerating her engagement with the Government, led by the National League for Democracy, and the Tatmadaw armed forces on ending and preventing the recruitment and use of children. The Tatmadaw had issued four military directives prohibiting the use of children in armed conflict, and developed a roadmap with UN support to end and prevent this practice, but dialogue between the Special Representative and the Tatmadaw was halted after the military takeover on 1 February 2021. Moreover, in March 2021, the de facto authorities announced their intention to revise the July 2019 Child Rights Law, thereby risking an erosion of current protection standards. In the most recent annual report of the Secretary-General on children and armed conflict, the Tatmadaw, including the integrated border guard forces, was relisted for the recruitment and use of children, following its failure to end and prevent the ad hoc use of children in non-combat roles (A/HRC/49/58, paras 10-11).

Furthermore, in his 14 June 2022 report entitled "Losing a generation: how the military junta is devastating Myanmar's children and undermining Myanmar's future", the Special Rapporteur on the



situation of human rights in Myanmar indicates that he has received various reports that the recruitment and use of children by the Myanmar military has indeed increased since the coup (A/HRC/50/CRP.1, para. 61). Second-hand accounts suggest that, at least in certain parts of the country, junta officials and junta-aligned armed groups have placed demands on villages or households to produce a certain number of recruits, without safeguards to ensure that children are not enlisted. The Special Rapporteur also received credible reports of the recruitment of children by some ethnic armed organizations since the coup, as well as of the use of children as forced labour by these armed groups, including to carry military supplies in conflict zones (paras 65 and 66). The Special Rapporteur also received reports from several sources that many children are living, working, and fighting with units from the newly formed People's Defense Forces (PDFs). Often these children are making weapons, serving food, or acting as lookout guards. It is also likely that children have been involved in fighting with PDFs (para. 67).

In this regard, according to the most recent report of the Secretary General on children and armed conflict of 23 June 2022, the United Nations verified 503 grave violations against 462 children (390 boys, 69 girls, three of unknown gender) in Myanmar. Among other grave violations, the United Nations verified the recruitment and use of 280 children (260 boys, 20 girls), some as young as 12, attributed to the Tatmadaw (222), Kachin Independence Army (KIA) (50), Restoration Council of Shan State/Shan State Army – South (RCSS/SSA-South) (6), Shan State Progress Party/Shan State Army (SSPP/SSA) (1), and the Arakan Army (AA) (1), in Rakhine (203), Kachin (40), Shan (16), Mon (13), Chin (2), Kayah (1), Magway (1), Mandalay (1), Sagaing (1), Taninthayi (1) states and regions and in Yangon (1) (A/76/871 – S/2022/493, paras 131 and following). While the Secretary General noted the intention of the Tatmadaw to continue implementing the 2012 joint action plan on the recruitment and use of children, he was extremely concerned by the continued high number of children used, predominantly in Rakhine (para. 140). The Secretary General also took note of, and expressed his concern about, other grave violations being perpetrated against children in the context of armed conflict in Myanmar, such as killings and maiming, abductions, attacks on schools and hospitals, and detention and denial of due process.

The Committee must **deeply deplore** the recruitment and use of children in armed conflict in Myanmar, 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. ***The Committee urges the military authorities to take the necessary measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age by armed forces and armed groups in Myanmar. The Committee also urges the military authorities to take immediate and effective measures to ensure the thorough investigation and prosecution of all persons found guilty of recruiting children under 18 years of age for use in armed conflict and to ensure that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to the Child Rights Law, 2019. The Committee requests the military authorities to provide information on the number and nature of investigations carried out against the perpetrators of these crimes, as well as on the number of prosecutions conducted, and the number and nature of penalties imposed.***

*Sale and trafficking of children.* The Committee notes that, in addition to the provisions of the Anti-Trafficking in Persons Law of 2005 (Anti-Trafficking Law) criminalizing the sale and trafficking of children and youth, the Government has adopted the Child Rights Law, 2019, section 48(a) of which provides that no child shall be forced to work or be employed in the worst forms of child labour, which include the sale and trafficking of children. The military authorities indicate, in this regard, that, between January 2017 and May 2022, there were 278 cases of child trafficking, and that the trafficking of children is being prosecuted both under the 2005 Anti-Trafficking in Persons Law and the 2019 Child Rights Law.

The Committee observes, however, that the military authorities do not provide statistics on the number of prosecutions, convictions and penalties applied. It also points out that humanitarian crises, such as armed conflicts can lead to an increase in trafficking in persons (Inter-Agency Coordination Group against Trafficking in Persons (ICAT), "Trafficking in persons in humanitarian crises", Issue brief #2, 2017). **Taking into consideration the current situation of protracted conflicts in Myanmar, the Committee therefore urges the military authorities to intensify their efforts to combat child trafficking and to ensure, in this regard, that in-depth investigations and prosecutions are conducted against the perpetrators. It once again requests the military authorities to provide information on the number of investigations, prosecutions, convictions and penalties imposed pursuant to section 24 of the Anti-Trafficking Law, as well as pursuant to section 48(a) of the Child Rights Law.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* Following its previous comments, the Committee notes the military authorities' information that, in 2019, the enrolment rates in the age group 10–15 years was 68.69 per cent for boys and 75.59 per cent for girls.

The Committee notes in this regard that, according to a report of the Global Partnership for Education of 4 January 2022 on continuing education for crisis-affected children in Myanmar, despite implementing the National Education Strategic Plan (NESP) (2016-21) with a focus to undergo major transformation, Myanmar is continually facing challenges in ensuring quality education for all children. Moreover, three factors have been adding fuel to a long-standing crisis: (1) the protracted conflicts in various parts of the country that have been ongoing for decades; (2) the COVID-19 crisis which the Ministry of Education has not yet been successful in addressing; and (3) the military takeover which has had immediate impacts and will continue to plague an already dire learning crisis.

Months into the COVID-19 crisis which resulted in nation-wide school closures, it was quite evident that long-term impacts on education would be faced by children throughout the country, especially for those already marginalized. In December 2020, the World Bank reported that less than 40 per cent of children enrolled in school in February 2020 had been engaged in learning activities with lower rates for children in the bottom wealth quintile. The military takeover has further derailed the return to school, and no doubt increased the negative impacts on learning. The report further reveals that school closures are most risky for children from marginalized households who are more likely to be drawn into child labour, and that fears for the safety of children going to school have been heightened by the ongoing conflict, leading to education stakeholders observing unprecedented levels of school dropouts.

Similarly, the Special Rapporteur on the situation of human rights in Myanmar notes, in his report of 13 June 2022, that the combined effect of the COVID-19 pandemic and the military coup have massively disrupted education in Myanmar (A/HRC/49/76, paras 71, 72). In May 2021, 12 million children were estimated to have missed more than a year of schooling because of the COVID-19 pandemic. Moreover, even after pandemic restrictions were lifted in late 2021, many teachers stayed away from the classroom as part of the civil disobedience movement, and many families made the decision to not send their children to government-run schools. Armed conflict, displacement and other security concerns have also impeded access to education. Attendance rates for government schools are estimated to be below 50 per cent. Junta forces have also occupied and attacked schools in conflict areas, further disrupting education and threatening the lives of student and teachers.

The Committee must therefore express its **deep concern** at the significant number of children who are deprived of basic education due to the many crises affecting the country. **Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the military authorities to take measures to improve the functioning of the education system and to facilitate access for all children to free basic education. In this regard, the Committee requests the military authorities to take the necessary measures, to increase school enrolment, attendance and completion rates at the primary and secondary levels. It requests the military authorities to continue**

**to provide information on the concrete measures taken in this regard and to provide updated statistical information on school enrolment, attendance and completion rates.**

*Clause (b). Provide 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. Children in armed conflict.* The Committee notes with **regret** that the military authorities do not provide any information on the removal of children from the armed forces or groups and their rehabilitation and social integration. It notes that, according to the report of the United Nations Secretary-General on children and armed conflict of 23 June 2022, the detention of children for alleged association with armed groups continues: the United Nations verified the detention of 87 children (75 boys and 12 girls) by the police and the Tatmadaw for their alleged association with armed groups. In addition, a boy who had been detained by the Tatmadaw since September 2020 was released in 2021 (A/76/871 – S/2022/493, para. 133). The Secretary-General expressed concern at the increase in the number of cases of detention of children, and their being denied due process, called for the implementation of the 2019 Child Rights Law, and urged the Tatmadaw to immediately release detained children and recalled that children should be treated primarily as victims. In this regard, the Committee observes that the Child Rights Law calls for all charges against children involved in armed conflict (except serious offences) to be dropped immediately, and for these children to be handed over to the Department of Social Welfare for reformation and care at a Training School, Shelter or Temporary Care Station (section 60(e)). The Law also requires measures to be taken to provide appropriate assistance for the education, rehabilitation and reintegration of children recruited or used in armed conflict, in order to restore their physical and psychological well-being (section 60(h)). **The Committee therefore urges the military authorities to take effective and time-bound measures to remove children from armed forces and armed groups and ensure their rehabilitation and social integration. It asks the military authorities to provide information on the measures taken in this regard and on the number of children removed from armed forces and armed groups and socially integrated.**

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

## Namibia

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

#### Previous comment

*Article 3(2) of the Convention. Determination of types of hazardous work.* Following its previous comments, the Committee notes with **regret** that the list of types of hazardous work prohibited to children under 18 years, which the Government has been referring to since 2011, has not yet been adopted. The Government indicates, in its report, that the list will be gazetted once the amendments to the Labour Act are completed. **The Committee once again urges the Government to take the necessary measures to ensure that the list of types of hazardous work is adopted without further delay. It requests the Government to provide a copy of the list, once adopted.**

*Article 7. Light work.* Following its previous comments, the Committee notes that the regulations on the light work activities permitted to children between 12 and 14 years of age have not yet been adopted. The Government indicates that the list will be gazetted once the amendments to the Labour Act are completed. **The Committee requests the Government to take the necessary measures to ensure that the above-mentioned regulations are adopted soon, so as to determine the light work activities permitted to children between 12 and 14 years of age, as well as the number of hours during which and the conditions under which such employment may be undertaken. It requests the Government to provide a copy of the regulations on light work, once adopted.**

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

## Nepal

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

#### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2023.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the [detailed discussion](#) that was held by the Committee on the Application of Standards (Conference Committee) at the 111th Session of the International Labour Conference (June 2023), regarding the application of the Convention by Nepal.

*Articles 3(a), (b) and (d) and 7(2)(a) and (b) of the Convention. Worst forms of child labour and time-bound measures to provide direct assistance for their removal and rehabilitation and social integration.* The Conference Committee requested the Government to eliminate the worst forms of child labour, notably in bonded labour in agriculture, commercial sexual exploitation in the entertainment industry and bonded labour in the brick kiln industry. It further requested the Government to take effective and time-bound measures to remove children from these worst forms of child labour and provide adequate assistance for their rehabilitation and social integration, including through access to free, basic and quality education.

Similarly, the IOE, while commending the efforts made by the Government to provide assistance, observed that the Government should continue its efforts to ensure that all child victims of forced labour, exploitation in brick kilns or commercial sexual exploitation, receive appropriate rehabilitation and social integration services, including access to education.

*Child bonded labour (in agricultural-based bonded labour practices and domestic work).* The Committee takes note of the information shared by the Government in its report according to which an integrated act on forced labour has been drafted, and that it will come into force in the near future. In addition, in the framework of the Five-Year Strategic Plan (2021/22-2026/27) of the Ministry of Labour, Employment and Social Security (MoLESS), regular labour inspections will be undertaken to ensure that no child is employed in forced labour. Regarding the reintegration of former victims of forced or bonded labour, the Government indicates that families living in the far West of Nepal have been prioritized. In the framework of the ILO project "A Bridge to Global Action on Forced Labour" (Bridge Project II), the Government has supported 1,115 former bonded labourers and also supported the rehabilitation and education of their children. The Ministry of Education, Science and Technology also continues to provide scholarships to freed *Kamaiyas*, *Haliyas* and *Haruwa-Charuwas* (agricultural-based bonded labour practices), while residential support was provided by this Ministry to 3,421 marginalized students, including freed *Kamlari* girls (offering girls for domestic work to families of landlords). The Government indicates that such actions will continue to be implemented. ***The Committee encourages the Government to pursue its efforts to ensure that all child victims of bonded labour receive appropriate services for their rehabilitation and social integration, including access to education, and to continue providing information on the measures taken in this regard and on the results achieved.***

*Commercial sexual exploitation.* Regarding the Committee's previous observation that an estimated 13,000 people engaged in the adult entertainment sector started working as children under 18 years of age, the Committee notes the Government's indication that statistics on this issue are unavailable and that a data system will be developed to monitor and report on the exact number of children in the entertainment industry. ***The Committee requests the Government to take the necessary measures to develop and put in place as soon as possible a data system on children engaged in commercial sexual exploitation, including in the entertainment industry, and to provide the statistics collected, once they are available. The Committee also requests the Government to take effective and time-bound***

**measures to eliminate this worst form of child labour, to remove the identified child victims of commercial sexual exploitation and to provide them with the appropriate assistance to ensure their rehabilitation and social integration, as a matter of urgency.**

*Hazardous work in brick kilns.* The Committee notes the Government's indication that children in this worst form of child labour continue to be identified and rescued through the interventions of various sectors, and that these interventions will continue in the future. For instance, the Government indicates that the joint efforts of the local governments and of a non-governmental organization led to six children (two girls and four boys) being rescued from the brick kiln industry, reintegrated with their families and given support for their education.

While taking note of the measures taken by the Government, the Committee recalls that a 2021 report on the employment relationship survey in the brick kiln industry in Nepal exposed that 10 per cent of workers in brick kilns were children (approximately 17,738 child workers), as well as the prevalence of labour exploitation in this sector. **The Committee therefore urges the Government to redouble its efforts to prevent all children under 18 years of age from working in the brick kiln industry and remove child victims from this worst form of child labour and provide for their rehabilitation and social integration. The Committee requests the Government to continue providing information on the measures taken, as well as on the number of inspections undertaken in brick kilns, violations detected with regard to children engaged in hazardous work in this sector, and penalties assessed.**

*Articles 5, 7(1) and 7(2)(b). Monitoring mechanisms, penalties and direct assistance for child victims of the worst forms of child labour. Trafficking.* The Conference Committee requested the Government to redouble its efforts to combat the trafficking of children and to provide information on the activities undertaken by the Nepal Police and the High-level task force to prevent and control the incidence of trafficking and illegal migration.

Similarly, the IOE states in its observations that the Government must continue its efforts to combat the trafficking of children because of its extreme seriousness and provide information on the actions taken and their results.

In this respect, the Committee notes the Government's indication that 422 police personnel were capacitated as regards combating human trafficking in 2022–23. The Government also indicates that the Anti-Trafficking Bureau of the Nepal Police is preparing to establish offices in all seven provinces, and that it is developing awareness-raising measures to sensitize communities of the risks and consequences of child trafficking through, for example, informative documentaries. As regards the withdrawal of children from trafficking, the Government indicates that bi-monthly coordination meetings between governmental and non-governmental organizations have been taking place with a view to ensuring effective interventions, and that 152 victims of trafficking, including 12 children, were rescued in 2022–23. In addition, the Child Helpline, which provides counselling, legal aid, information, rescue and temporary shelter facilities for child victims of trafficking and vulnerable children, and the Missing Children Service Centres (MCSCs) which operate in partnership with the Nepal Police and provide support and services to child victims of trafficking and exploitation, continue to be operational. The Government indicates that the expansion of the MCSCs to all provinces is planned, in collaboration with the National Child Rights Council. **The Committee requests the Government to continue its efforts to combat trafficking in children and to rescue child victims of trafficking and rehabilitate and socially integrate them. It requests the Government to continue providing information on the measures and activities undertaken in this regard by the Nepal Police, the High-level task force, the Child Helpline and the MCSCs, and on the results achieved.**

*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 Conference Committee requested the Government to improve the functioning of the education system to facilitate access to free, basic and

quality education for all children, particularly girls and indigenous children, and to take measures to increase the school enrolment, attendance and completion rates and reduce school dropout rates.

The Government indicates in this regard that the Ministry of Education is continuing to implement programmes to provide free meals and textbooks, as well as to offer residential scholarships. The Government indicates that the basic level (grades 1 to 8) enrolment rate has reached 96.1 per cent and that 77.1 per cent of students have completed basic level education in 2022. The Government intends to continue implementing all current actions, increase the Girls Scholarships and conduct campaigns to promote girls-friendly and violence-free schools. In addition, in the framework of the second National Master Plan on the Elimination of Child Labour (2018-2028) of the MoLESS, actions are planned with regard to improving education, such as ensuring the prevention of dropouts through bridging programmes and the expansion of vocational education. ***The Committee encourages the Government to pursue its efforts to facilitate access to free, basic and quality education for all children. It requests the Government to continue providing information on the measures taken and the results achieved with regard to increasing the school enrolment, attendance and completion rates and reducing the school drop-out rates, as well as specific information as concerns girls and indigenous children.***

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

## Niger

### Minimum Age Convention, 1973 (No. 138) (ratification: 1978)

#### Previous comment

*Article 1 of the Convention. National policy.* Further to its previous comments, the Committee notes that the National Plan of Action to Combat Child Labour has still not been adopted and that the process is still receiving technical and financial support from the ILO through the MAP16 project on measurement, awareness-raising and policy engagement to accelerate action against child labour and forced labour. The Government indicates in its report that a national consultant has been recruited to support the process and a number of workshops are planned which will contribute to the finalization, validation and adoption of the Plan of Action. In this regard, the Committee notes that in May 2023 the consultant undertook a documentary analysis of national sectoral policies and programmes contributing to action on the root causes of child labour, which should serve as a framework for discussion with key actors to update the set of public policies and related legislative texts and identify the strategic pillars of the National Plan of Action to Combat Child Labour. The analysis also indicates that several public policies exist and are being implemented in Niger which should contribute to combating the deep-rooted causes of child labour in the country. These include the Economic and Social Development Plan 2022–26, the Agricultural Policy 2016 and the National Population Policy 2019–35. However, the Committee observes that these policies do not specifically address child labour and that, according to the analysis, the complexity of the phenomenon of child labour in Niger requires relevant strategic planning to guarantee the intersectionality of interventions and allow the identification of priorities and the roles and responsibilities of institutional actors in action to combat child labour in order to make it more dynamic and better adapted to the national context.

In this regard, the Committee notes that, according to the analysis, the determining factors of child labour in Niger include the poverty and vulnerability of households, demographic pressure on the school system and other factors, such as traditional practices which are prejudicial to children. The Committee also notes that a 2022 UNICEF report analysing risks and impacts on children in Niger sets out in detail the risks that affect or could affect the well-being and development of children, and which could potentially be an obstacle to the achievement by Niger of its international commitments, including the Sustainable Development Goals (SDGs). These risks include the impact on children and services of climate change, environmental risks (and particularly floods, desertification, epidemics and storms) and conflict, internal and external displacement, shocks and stress. The Committee observes that climate

change and other risk factors can increase the incidence of child labour, and the circumstances in which it occurs. **The Committee therefore urges the Government to take the necessary measures to ensure that the Plan of Action is prepared and adopted in a manner that takes into account and addresses the root causes of child labour in the country, namely: the poverty and vulnerability of households, demographic pressure on the school system, traditional practices that are prejudicial to children, as well as other risk factors, such as the impact of climate change, conflict and migratory movements. The Committee also requests the Government to provide information on the measures taken and the results achieved in terms of the progressive elimination of child labour in the country.**

*Article 2(1). Scope of application, labour inspection and application of the Convention in practice.* Further to its previous comments, in which the Committee expressed deep concern at the number of children who have not reached the minimum age for admission to employment or work of 14 years who are working in the informal agricultural sector, often in hazardous conditions, the Committee notes the Government's indication that, although the Labour Code does not cover informal work or own account work, nothing prevents labour inspectors from intervening in these sectors and that in practice they are increasingly active in the informal economy. The Government adds that, within the framework of the project to provide support and advice for migration policy (APM/GIZ) negotiated by the Ministry of Employment, Labour and Social Protection, resources and equipment have been provided to the labour inspection services (IT equipment, computers, vehicles, and so on) and labour inspectors have benefited from training on international legal instruments protecting human rights.

The Committee also notes the information provided by the Government on the results achieved within the framework of the project to reduce child labour through sustainable agriculture in Niger, including: (1) the establishment of regional dialogue frameworks for the actors involved on child labour in agriculture in four regions; (2) capacity-building for actors at the communal, departmental and regional levels in relation to action to combat child labour in agriculture through awareness-raising and training activities; and (3) the preparation of a study on occupational risks and health in agricultural work, which led to the development of a guide with recommendations relating to a list of hazardous types of work in agriculture, stock-raising and the environment (fishing). The Committee further notes that the activities of the MAP16 project in Niger include not only those related to the adoption of the Plan of Action, but also the strengthening of action to combat child labour in agriculture and the building of the institutional capacities of the principal stakeholders (National Steering Committee, child labour cells, labour inspection and the social partners). **The Committee once again requests the Government to continue taking the necessary measures to ensure that all children who work, including work outside a formal employment relationship, as is the case of children who work in the informal economy, benefit from the protection afforded by the Convention. In this regard, the Committee strongly encourages the Government to continue its efforts to strengthen the capacities of the labour inspection services, as well as any other supervisory bodies involved, so as to improve their direct interventions in the informal economy, particularly in the agricultural sector, and to provide information on the measures adopted and the results achieved in this context.**

*Article 2(3). Age of completion of compulsory schooling.* Further to its previous comments, in which it drew the Government's attention to the fact that the age of completion of compulsory schooling of 16 years in Niger is higher than the minimum age for admission to employment of 14 years, the Committee notes the Government's indication that it undertakes to take the Committee's comments into account in the revision of Act No. 2012-45 of 25 September 2012 issuing the Labour Code. The Committee once again emphasizes that *Article 2(3)* of the Convention provides that the minimum age for admission to employment shall not be less than the age of completion of compulsory schooling and that, 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 they are allowed by law to work ([General Survey of 2012 on the fundamental Conventions](#), para. 370). **The Committee therefore urges the Government to take the necessary measures to raise the general minimum age for admission to employment or work in order**

**to link it to the age of completion of compulsory schooling, in accordance with the requirements of the Convention. It requests the Government to provide information on the progress achieved in this respect.**

The Committee is raising another matter in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

#### Previous comment

*Articles 3(a) and 7(1) of the Convention. All forms of slavery or practices similar to slavery. Sale and trafficking of children.* Further to its previous comments, the Committee notes the information provided by the Government, in its report, relating to the activities implemented as part of the ILO Bridge Project, *From Protocol to Practice: A Bridge to Global Action on Forced Labour*, in place since 2015. This project has, inter alia, supported the development of training modules and the organization of training workshops for various officials of the judicial system (justice system officials, police and gendarmerie). The Committee notes, in this regard, that according to a 2022 outlook report of the International Organization for Migration (IOM), the IOM and the National Agency to Combat Trafficking in Persons (ANLTP) – a key organization at the national level working against trafficking in persons – worked together to ensure that three decentralized ANLTP offices in the cities of Zinder, Koni and Diffa were operationalized. IOM's support of these offices enabled the ANLTP to advance with its national strategy of operational presence in these three cities, with a view to establishing its operational presence in Niger's eight regions, which facilitates its interventions to prevent and combat trafficking in persons throughout the country, while prosecuting perpetrators.

The Committee notes that the Government included with its report the 2020 edition of the yearbook of statistics for 2015–19 of the Ministry of Justice, which covers statistics on the number of victims of trafficking and of perpetrators prosecuted, which were gathered during the years mentioned. According to the statistics, 54 perpetrators of child trafficking were brought before the courts and tried in 2017 but a ruling was handed down for only one of these perpetrators. The Committee notes, however, that 147 child victims of trafficking were registered in 2017, as well as 57 in 2015, 30 in 2016 and 31 in 2018. In this regard, the Committee notes that, in its concluding observations of 16 May 2019, the United Nations Human Rights Committee (HRC) expressed its concern at the low rate of application of the legal provisions relating to the sale and trafficking of persons (CCPR/C/NER/CO/2, para. 34), in particular Ordinance No. 2010-086 of 16 December 2010 on combating trafficking in persons in Niger, which prohibits all forms of sale and trafficking and establishes prison sentences of from ten to 30 years in cases where the victim is a child.

The Committee is therefore bound to note with **deep concern** the low number of persons prosecuted given the extent of the trafficking phenomenon in the country. **Recalling that the penalties provided for are only effective if they are enforced, the Committee urges the Government to take the necessary measures, as soon as possible, to ensure that in-depth investigations and thorough prosecutions are conducted against perpetrators of violations relating to the sale and trafficking of children. It requests the Government to continue to provide information on the progress made to this end, and to provide updated statistics on the number and nature of the violations reported, investigations, prosecutions, convictions and penal sanctions imposed in cases of child victims of trafficking.**

*Articles 3 and 7(1). Sanctions. Clause (a). All forms of slavery or practices similar to slavery. Forced or compulsory labour. Begging.* Further to its previous comments, the Committee notes that, according to the 2020 edition of the yearbook of statistics for 2015–19 of the Ministry of Justice, nine perpetrators of the exploitation of begging were brought before the courts and tried, and rulings were handed down to 15 such perpetrators in 2018. The Committee notes, however, that the HRC, in its concluding observations of 16 May 2019, said that it was concerned about the specific situation of *talibé* children handed over to marabouts in Qur'anic schools and forced to beg (CCPR/C/NER/CO/2, para. 44). The



Committee also notes that, according to the 2022 IOM report, of the 565 victims of trafficking identified between January 2017 and July 2021, 23 per cent were cases of the exploitation of begging, all of which involved children. The Committee is therefore bound to note that the exploitation of children remains a problem in practice. **The Committee therefore urges the Government to strengthen its efforts to ensure that thorough investigations are followed through, prosecutions are carried out and that sufficiently effective and dissuasive sanctions are imposed upon marabouts who use children under 18 years of age for purely economic purposes. It requests the Government to provide information on the progress made in this respect and the results achieved.**

*Clause (d) and Article 4(1). Hazardous work and the determination of hazardous types of work. Children working in mines and quarries.* The Committee, having previously noted Decree No. 2017-682-PRN/MET/PS of 2017, which contains a revised list of dangerous types of work prohibited for children under 18 years of age, including a prohibition on employing children under 18 years of age in gold panning and other artisanal mining, notes the Government's indication that Order No. 070/MME/DM of 2004 defining the code of conduct on artisanal mining exploitation sites also prohibits children under 18 years of age from being engaged in the worst forms of labour in the artisanal mining exploitation sites. However, the Committee notes that, in its concluding observations of 4 June 2018, the United Nations Committee on Economic, Social and Cultural Rights said that it was concerned about the number of children who are economically exploited in mines, in particular in hazardous conditions (E/C.12/NER/CO/1, para. 46). Additionally, in its concluding observations of 21 November 2018, the United Nations Committee on the Rights of the Child (CRC) also said that it was seriously concerned that child labour continues to be widespread, including in quarries and gold mines (CRC/C/NER/CO/3-5, para. 43). **The Committee once again urges the Government to take immediate measures to ensure the effective implementation of the national legislation protecting children against underground work in mines and against work in gold panning and other artisanal mining, and to provide information on the progress made in this regard, and the results achieved.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (e). Preventing children from being engaged in the worst forms of child labour and taking account of the special situation of girls. Access to free and universal basic education.* Further to its previous comments, the Committee notes the Government's information relating to the measures taken to increase school enrolment rates, particularly for girls, such as the adoption in 2019 of several orders aimed at improving school conditions for girls and their protection. Other measures reported by the Government include a remedial programme at both primary and secondary level, which should benefit 250,000 pupils, and an accelerated catch-up programme for young people not in school and refugees (at least 45 per cent girls) through bridging classes and alternative education centres.

The Committee also notes that Niger has also adopted the sectoral plan for education and training for 2014–24, within the framework of which it reaffirms its commitment to prioritize education and training. The plan sets out a series of priorities, including improving basic quality education, recruitment of teachers and the development of incentive programmes to encourage girls to go to and remain in school.

The Government has also adopted the national strategy for the acceleration of education and training for girls and women in Niger 2020–30, the aim of which is to address the challenge of girls' education in rural areas, where the proportion of girls in school is small. To that end, there are plans to promote girls' attendance in school and completion of schooling, combat gender-based violence in schools, and take in the children who are not in school. According to a literature review of the national sectoral programmes and policies that help to tackle the root causes of child labour of 2023, conducted by a consultant as part of the ILO's MAP16 project, it is expected that the percentage of girls enrolled in primary school will rise from 45.9 per cent in 2018 to 50 per cent in 2030, that the rate of girls who complete primary school will rise from 62.2 per cent in 2018 to 74.2 per cent in 2030, and that girls' dropout rate in the first year of secondary school will decrease from 28.7 per cent in 2018 to 5 per cent

in 2030. The Government also indicates that the strategy provides for the building of boarding schools in rural areas and that, in this regard, the President of the Republic has committed to building 100 boarding schools by 2026.

While noting the measures taken by the Government, the Committee notes with **concern** that the school enrolment rates remain low and the dropout rates high. The Committee also notes that the CRC, in its concluding observations of 21 November 2018, expressed concern about the disparities between girls and boys in terms of rates of enrolment in and completion of primary school, despite the recent progress; the high percentage of out-of-school children; and urban and rural disparities in access to school (CRC/C/NER/CO/3-5, para. 38). Furthermore, according to the United Nations Human Rights Office of the High Commissioner's quarterly public note on trends in the human rights situation in Niger, 1 September–31 December 2022, a lack of safety has jeopardized the right to education and pushed thousands of children in Niger outside the school system (para. 12). For example, as of 12 September 2022, according to the departmental authorities, 240 schools accommodating at least 21,637 pupils in the Tillabéry region had already been closed in the department of Téra. **Considering that education is key in preventing the engagement of children 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, taking into account the special situation of girls. In this regard, it also once again requests the Government to ensure the increase in school enrolment rates and the reduction of school dropout rates, and to adopt further measures to re-enrol in school the thousands of children pushed outside the school system due to a lack of safety. The Committee requests the Government to provide updated information on the measures taken and the results achieved.**

*Article 7(2). Clause (d). Identifying and reaching out to children at special risk. Children in street situations.* Further to its previous comments, the Committee notes the Government's indication that the protection of children in street situations is provided through the Framework Document on Child Protection (DCPE) and that these children are among those who have received protection services. The Committee notes, however, that children in street situations cannot be clearly identified in the categories of children having received protection services, according to the statistics provided by the Government for 2021.

In this regard, the Committee notes that the CRC, in view of the reports of large numbers of children in street situations, recommended that Niger undertake a systematic assessment of the situation of children in street situations and take measures to ensure their protection, including a comprehensive policy to address the root causes of the phenomenon, define preventive and protective measures that establish annual targets to reduce the number of children in street situations (CRC/C/NER/CO/3-5, para. 45). **The Committee once again recalls that children in street situations are particularly vulnerable to the worst forms of child labour, and requests the Government to take measures to protect them and to ensure their rehabilitation and reintegration in a targeted manner. It requests the Government to provide specific information on the results achieved in this regard.**

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

## Nigeria

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

#### [Previous comment](#)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2023. The Committee also notes the International Trade Union Confederation (ITUC) observations received on 20 September 2023. **It requests the Government to provide its reply to these observations.**

### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the [detailed discussion](#) that was held by the Committee on the Application of Standards (Conference Committee) at the 111th Session of the International Labour Conference (June 2023), regarding the application of the Convention by Nigeria.

The Committee further notes, from the Government's report, that the Government, Nigeria Employers' Consultative Association (NECA), Nigeria Labour Congress (NLC) and Trade Union Congress (TUC) met on 4 October 2023 to deliberate the conclusions of the Conference Committee. The Government and social partners were in consensus that the issues raised by the Conference Committee needed to be addressed and indicated that their recommendations will be submitted to the National Labour Advisory Council (NLAC) in its next meeting. **The Committee requests the Government to provide information on the progress made by the NLAC regarding the implementation of the recommendations of the Conference Committee.**

*Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery and practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for use in armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration.* While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups in the country, the Conference Committee deeply deplored the current situation where children were being forcibly recruited by armed groups for use in armed conflict. It urged the Government to put a stop, in law and practice, to the forced recruitment or use of children into armed groups and to ensure the full and immediate demobilization, rehabilitation and integration of all children who are forced to join armed groups. It also urged the Government to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children for use in armed conflict are carried out.

In its observations, the ITUC expresses deep concern about the grave violations and abuses against children in conflict areas in Nigeria, including child abductions and the use of children as carriers of person-borne improvised explosive devices. It notes that the situation of conflict and insecurity instigated by Boko Haram and other terrorists and vigilante groups is responsible for exposing children to the menace. The ITUC takes note of the action taken by the Government to address the recruitment and use of children in armed conflict but encouraged the Government to do its utmost in addressing its obligations in this regard under the Convention. The IOE shares the concern expressed by the Conference Committee.

The Government indicates, in its report, that: (1) it takes due note of the conclusions of the Conference Committee and that it is improving the enforcement of existing laws and policies and putting in place measures to prevent children under the age of 18 from being admitted into the armed forces; (2) the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (TPPEA Act), prohibits and penalizes the forced or compulsory recruitment of children for use in armed conflict (under section 19, perpetrators of trafficking of persons for the purpose of forced or compulsory recruitment for use in armed conflict are liable to no less than seven years of imprisonment and a fine of not less than one million Nigerian Naira (approximately US\$1,300)); and (3) child victims of forced recruitment are adequately rehabilitated and socially integrated through the assistance of the Ministry of Humanitarian, Disaster Management and Social Development and the Ministry of Women's Affairs, which ensure the provision of access to mental healthcare and psychological support services to support conflict affected children and their families.

While taking due note of this information, the Committee observes that in the latest conclusions on children in armed conflict in Nigeria of the United Nations Security Council of 29 September 2023, the Working Group on Children and Armed Conflict made a public statement in which it strongly condemned the continued recruitment and use of children, and strongly urged armed groups to

immediately and without preconditions release all children associated with them and to hand them over to the relevant civilian child protection actors in coordination with the respective Nigerian authorities. It urged all parties to end and prevent the further recruitment and use of children in armed conflict, including the re-recruitment of children who have been released (S/AC.51/2023/2, para. 4(f), (n)). **Accordingly, the Committee urges the Government to pursue and strengthen its measures to put a stop to the forced recruitment of children under 18 years into armed groups and ensure the thorough investigation and prosecution of all perpetrators of this worst form of child labour. The Committee requests the Government to provide information in this regard, as well as on the number and nature of penalties applied, including through the implementation of section 19 of the TPPEA Act. The Committee further requests the Government to ensure the full and immediate demobilization of all children who have been forcibly recruited into armed groups, to strengthen its measures to provide for their rehabilitation and social integration, and to provide concrete information on the results achieved.**

*Articles 5 and 7(1). Monitoring mechanisms and penalties.* The Conference Committee expressed concern at the persistence of child trafficking, particularly of girls for the purpose of domestic servitude and sexual exploitation and boys for the purpose of child begging. It urged the Government to combat child trafficking by ensuring that the perpetrators of these acts are identified and prosecuted, and that sufficiently effective and dissuasive sanctions are imposed in law and practice.

In its observations, the ITUC highlights concerns that Nigeria remains a source, transit and destination country for victims of trafficking, with the internal trafficking of girls for the purposes of domestic servitude and sexual exploitation and boys for the purpose of child begging remaining rampant. Both the ITUC and the IOE request the Government to strengthen its efforts to combat child trafficking.

The Committee takes note of the data shared by the Government regarding the number of cases of trafficking, apprehended suspected traffickers and victims rescued. In particular, it notes that from January 2022 to September 2023, 1,577 child victims of trafficking were rescued, while 1,607 suspected traffickers were apprehended, and 132 perpetrators were convicted. The Committee observes that this data does not show, however, how many cases, prosecutions and convictions concerned child trafficking specifically.

The Committee further takes note of the detailed information on the measures taken to combat trafficking, including child trafficking. It notes that the institutional organ which coordinates actions to combat trafficking in Nigeria, the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), intervenes through a five-pronged strategic approach, including policy and prosecution. In this regard, the Committee takes note of the development and implementation of the National Action Plan on Human Trafficking 2022-26 (NAP-HT), which contains a component on prosecution, law enforcement and access to justice. Objectives under this component include improving the capacity of prosecutors and the knowledge of judges on human trafficking; strengthening the collaboration among law enforcement agencies to improve detection and response to cases; and strengthening joint investigations and intelligence gathering between foreign intelligence agencies and NAPTIP. Moreover, the Government indicates that it is strengthening NAPTIP through the inauguration of State Task Forces against human trafficking in 23 states and the establishment of NAPTIP offices in 28 states. **The Committee requests the Government to continue its measures to combat child trafficking by pursuing its capacity-building efforts by the NAPTIP and under the NAP-HT with a view to ensuring that the perpetrators of these acts are identified and prosecuted. It requests the Government to provide information on the concrete measures being implemented in this regard, and on the results achieved regarding child trafficking cases specifically, including the number and nature of penalties applied to the perpetrators.**

*Article 7(2)(a) and (e). Preventing the engagement of children in the worst forms of child labour. Access to free basic education and special situation of girls.* The Conference Committee urged the Government to

take effective and time-bound measures to improve the functioning of the education system to facilitate access to free quality basic education for all children, particularly girls and children in street situations. It also requested the Government to take measures to increase the school enrolment and attendance rates at the primary and secondary levels and to decrease the school drop-out rates.

The ITUC observes that the Government must do all in its power to prevent the engagement of children in the worst forms of child labour by expanding access to free basic education and paying particular attention to girl child education in that regard. While taking note of the initiatives to improve enrolment of children in schools as a preventative measure, it notes that there are still major challenges with net attendance which was still low at about 70 per cent and 10.5 million out-of-school children, 60 per cent of them in northern Nigeria where children's access to free basic education is seriously being hampered due to conflict.

The Committee takes note of the Government's detailed information on the measures taken in this regard and the results achieved. As regards ongoing programmes, the Committee notes that the Universal Basic Education Commission (UBEC) of the Federal Ministry of Education carries out various activities and programmes aimed at enhancing the enrolment of children in schools. These include:

- With regard to improving access to education for girls: the Adolescent Girls Initiative for Learning and Empowerment (AGILE) project, a new initiative of the Government, supported by the World Bank, aimed at improving secondary education opportunities for girls aged 10 to 19, and the Second Chance Programme, to address some of the challenges faced by girls due to the conflict;
- With regard to safety in schools: the National Policy on Safe School Initiative to protect school children in war-torn areas and the National Policy on Safety, Security and Violence-Free Schools and its implementing guidelines to set a standard for comprehensive school safety plans; and
- With regard to out-of-school children: the Framework of Action on Out-of-School Children, adopted in 2022 to address the challenge of the increasing number of out-of-school children, and the Open Schooling Programme (OSP) to address this challenge by promoting enrolment, retention and completion of basic education in a flexible education system. The OSP is about to be piloted in 18 states and the Federal Capital Territory.

The Committee notes that, according to information available on the UNICEF website, the Government is indeed taking measures to improve access to education and learning opportunities for children, with tangible results. Nevertheless, according to the Nigeria Multiple Indicator Cluster Survey (MICS), published in 2022, about seven out of every ten children (68 per cent) of intended age for primary education are attending primary school or higher, while about five out of every ten children (47 per cent) of intended age for senior secondary education are attending senior secondary school or higher. Completion rates are at 73 per cent in primary education and 68 per cent in junior secondary education, and the percentage of out-of-school children at primary and junior secondary levels remain at an approximate 25 per cent. ***The Committee therefore strongly urges the Government to pursue its efforts to improve the functioning of the education system, to facilitate access for all children to free basic education and to ensure that children remain in school. The Committee requests the Government to continue to provide information on the implementation and results of the measures taken, in particular as regards increasing the school enrolment and attendance rates and decreasing the school drop-out rates.***

*Clause (d). Identifying and reaching out to children at special risk. Children in street situations.* The Conference Committee urged the Government to provide for the rehabilitation and social integration of children in street situations, including *almajiri* children (children in Islamic schools who are also sent out to beg). The Conference Committee asked the Government to provide information on the measures taken in this regard, including by the Almajiri Special Education Project.

Regarding the Almajiri Special Education Project, the Government indicates that the Federal Ministry of Education has conducted a regional stakeholder meeting to ascertain the number of *almajiri* and street children who were returned to their states of origin, but that the statistics and information regarding what was done for their reintegration have yet to be released. In addition, the Committee takes note of the adoption of the National Commission for Almajiri and Out-of-School Children Education Act, 2023, which establishes this National Commission. The objectives of the National Commission include the formulation of policies and guidelines in all matters related to *almajiri* and out-of-school children and the provision of funds for research and the preparation of reliable statistics. Moreover, the National Commission shall establish *almajiri* and out-of-school children education centres at such places as the Commission may determine. ***The Committee urges the Government to take the measures necessary to ensure the effective implementation of the National Commission for Almajiri and Out-of-School Children Education Act, 2023, and to provide information on the progress made and the number of almajiri and other children in street situations who, as a result, have been rehabilitated through education. It also requests the Government to provide information on the statistics obtained through the regional stakeholder meeting regarding the number of almajiri children who have been returned to their state of origin, and on the measures taken to ensure their reintegration into society, through the Almajiri Special Education Project.***

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

## North Macedonia

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

#### Previous comment

*Article 7(2) of the Convention. Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Children in street situations.* Following its previous comments, the Committee notes the Government's indication that the problem of children in street situations is still current. According to the Government, these children do not live in the streets, but the economic situation of their families and lack of parental care is such that they beg, wander and work on the streets. The largest percentage of children found in the streets are Romas, followed by children of Macedonian, Albanian, Turkish and other nationalities. Their most common activities include collecting objects and other small work-related activities, but also begging, theft and prostitution.

The Government shares information on the measures taken to address this issue. Firstly, it is taking measures to improve the well-being of children generally, which includes children in street situations, through a comprehensive reform of the social and child protection systems 2018–19, which includes the preparation of a new Law on Social Protection and amendments to the Law on the Protection of Children, aimed at redesigning the social protection system and reducing poverty, especially child poverty. The Government is also taking measures to protect children in street situations by helping their parents through awareness-raising, education and employment. Moreover, the Government indicates that a Protocol for intersectoral cooperation for dealing with street children was adopted in 2022, the preparation of which was led by the Ministry of Labour and Social Policy (MoLSP), along with the Ministries of Interior, Justice, Education and Science, and Health, and non-governmental organizations. In addition, the Government indicates that the MoLSP, in coordination with the Ministry of Interior, formed mobile teams within the centres for social work that prepared monthly plans to conduct field visits in order to suppress the phenomenon of begging. The Government indicates that, in 2022, 90 new cases of children in street situations were registered, 22 warnings to parents issued, and 60 children placed in day care centres while 4 were placed in small group homes.

The Committee notes, however, that according to the report of the Group of Experts on Action against Trafficking in Human Beings on North Macedonia of 2023 (GRETA report, para. 173), the work of the mobile teams and day care centres and other programmes to reduce the school dropout and

increase the number of children enrolled in school have not significantly reduced child begging or the number of children in street situations, especially among Roma children. **While taking due note of the measures taken by the Government, the Committee requests the Government to continue its efforts to protect children in street situations from the worst forms of child labour. It requests the Government to continue to provide information on the results achieved, particularly in terms of the number of children removed from the streets and who have benefited from rehabilitation and social integration.**

*Roma children.* Following its previous comments, the Committee notes the Government's information regarding the measures it is taking to promote the right to education of the Roma community. In particular, the Committee notes that the Government has developed and adopted the new Strategy for Inclusion of Roma 2022-2030, in the framework of which national action plans were drawn up for the realization of their most pressing rights, such as education, health, housing and employment. The Government also indicates that the Ministry of Education continues to increase funds for the support and implementation of Roma educational policies through its two- budget programme, which ensures an increase in the coverage of Roma children in primary education; a reduction in the number of students who drop out of school; a reduction in the number of Roma students enrolled in schools for children with special needs; a fight against social exclusion; and the promotion of intercultural education. Other measures shared by the Government, in its report, include the increase of Roma educational mediators and the awarding of scholarships to Roma high school students (5,122 in total between 2017-18 and 2022-23).

While taking note of these measures, the Committee takes note of the 2018-19 UNICEF Multiple Indicator Cluster Survey, according to which, while primary and secondary school attendance rates are high among the general population, only 39 per cent of Roma children were attending secondary education. According to a 2020 UNICEF Analysis on the situation of women and children in North Macedonia, children from Roma communities continue to face barriers to regular and quality education and training: an estimated 10 per cent of children from Roma communities do not regularly attend primary school. **Taking due note of the measures taken by the Government, the Committee encourages the Government to continue taking measures to ensure the protection and social inclusion of Roma children, and to facilitate their access to free basic education. In this regard, it requests the Government to provide information on the results and assessment of the implementation of the Strategy for Inclusion of Roma 2022-2030. It also requests the Government to continue providing information on the results achieved through its various measures related to education, particularly with regard to increasing school enrolment rates and reducing school drop-out rates for Roma students.**

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

## Pakistan

### Minimum Age Convention, 1973 (No. 138) (ratification: 2006)

#### [Previous comment](#)

The Committee notes the observations of the All Pakistan Federation of Trade Unions (APFTU) received on 31 August 2023. **It requests the Government to reply to these observations.**

*Article 2(1) of the Convention. Minimum age for admission to employment or work.* The Committee notes with **interest** the Government's indication, in its report, that the Balochistan Employment of Children (Prohibition and Regulation) Act was adopted on 5 May 2021. It prohibits the employment of a child (defined as a person under 14 years) in employment, whether paid or unpaid or in any economic activity (section 3(3)). The Committee further notes that the Islamabad Capital Territory (ICT) administration is continuing its efforts to revise the provisions of the Employment of Children Act, 1991, with the ILO's support, to introduce a minimum age of 14 years for admission to employment or work.

**The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the revised Employment of Children Act, 1991, of the 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.* The Committee notes with **satisfaction** that section 3(1) of the Balochistan Employment of Children (Prohibition and Regulations) Act, 2021, prohibits the employment of persons under 18 years of age in hazardous occupations. Parts I and II of the Schedule also set out non-exhaustive lists of prohibited hazardous occupations and processes. The Committee notes the Government's indication that in Punjab and Sindh, work is underway to consolidate all labour laws into a labour code. In the framework of this labour law review, the Committee notes that efforts are underway to update the current list of hazardous occupations and work in these provinces. **The Committee requests the Government to provide information on the implementation of the existing laws prohibiting the employment of young persons under the age of 18 years in hazardous types of work and occupations in Balochistan, Sindh, Punjab and Khyber Pakhtunkhwa (KPK), including the number and nature of violations regarding young persons engaged in hazardous work, as well as the convictions and penalties imposed. With regard to the revision of the Employment of Children Act, 1991, of the ICT, the Committee requests the Government to take the necessary measures to ensure that the draft law prohibits the work of young persons under the age of 18 years in hazardous types of work and to provide information on any progress made on its adoption.**

*Article 9(1). Penalties and labour inspection.* The Committee notes the Government's statement that in ICT, labour inspectors require comprehensive training on child labour issues and that it is seeking ILO technical assistance in this regard. The Government further indicates that in Punjab and Sindh, labour inspectors receive regular trainings to enhance their capacities, including on child labour laws. In Punjab, in 2022, labour inspectors carried out 67,930 inspections of factories, shops and establishments to identify child labour and bonded labour, out of which 1,067 cases were reported to the police. The Committee notes the Government's information that 897 cases of forced labour were investigated by the Punjab Prosecution Department and that 664 cases were prosecuted, out of which 60 individuals were convicted. However, it notes that the Government does not indicate how many of these cases involved child victims. In Sindh, a total of 10,927 inspections were conducted under the Sindh Prohibition of Employment of Children Act, 2017, out of which 60 cases of child labour were found and prosecuted.

The Committee further notes the Government's indication that, under section 17 of the Balochistan Employment of Children (Prohibition and Regulation) Act, 2021, whoever employs a child or permits a child, adolescent or young person to work in contravention of the Act shall be punishable by imprisonment for a term which may extend to one year or a fine which may extend to PKR 100,000 rupees (approximately US\$350) or both. The Government indicates that three cases were tried on the basis of section 17 and that two of them were dismissed and a fine of PKR 2,200 was imposed (approximately US\$7) for the other case. The Committee further notes the Government's information that, in Balochistan: (1) the number of child labour inspectors will be increased; (2) labour inspectors received training on child labour and forced and bonded labour by the ILO in March 2022; and (3) further training was provided by UN Women in May 2022.

The Government indicates that, in KPK, to strengthen the labour inspection mechanism, various initiatives were undertaken, including: (1) the creation of new Labour Offices and new posts. Since 2010, the number of Labour Offices has increased from 9 to 34 and the number of labour inspectors increased from 40 to 133, whereas the total staff of the labour inspectorate increased from 165 to 591; (2) the creation of seven new offices for tribal districts with a total of 70 staff; (3) an ongoing Annual Development Schemes, "Enabled Directorate of Labour Khyber Pakhtunkhwa for Better Service Delivery" to strengthen the Labour Department and the labour courts for better and efficient service



delivery; and (4) training of labour inspecting staff on various labour issues including child labour and forced labour as well as international labour standards. Finally, the Government indicates that under the Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015, in 2022, 368 cases of violations were found which resulted in various penalties being imposed for a total of PKR 385,862 (approximately US\$1,300).

Once again, 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 observations of the APFTU made under the Worst Forms of Child Labour Convention, 1999 (No. 182), that child labour legislation is often violated because of the poor labour inspections and enforcement, and that the limited resources of the labour inspectorate do not permit the proper detection of forced and child labour. **The Committee urges the Government to redouble its efforts to strengthen the capacity of the labour inspectorate, and requests it 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 notes that Pakistan participated in the Asia Regional Child Labour (ARC) ILO Project which aims to reduce vulnerability to child labour and enhance the protection of children from exploitation through, inter alia, the collection of data on child labour, capacity-building of stakeholders for the enforcement of relevant laws and advocating with businesses to eliminate child labour from supply chains. The Committee further notes the Government's indication that child labour surveys are in progress in Balochistan and KPK. The Committee takes note of the Gilgit-Baltistan Child Labour Survey (CLS) 2018–19 Report and the Punjab CLS 2019–20 Report, published by the Pakistan Bureau of Statistics. The Gilgit-Baltistan CLS Report shows an overall child labour incidence of 13.1 per cent. More specifically, child labour is at: (1) 4.2 per cent among children aged 5 to 9 years, including 2.6 per cent in hazardous work; (2) 16.4 per cent among children aged 10 to 13 years, including 12.4 per cent in hazardous work; and (3) 23.7 per cent of children aged 14 to 17 years are engaged in hazardous work. The Gilgit-Baltistan CLS Report also highlights that: (1) most children in child labour work in the agricultural, forestry and fishing industry and are employed in elementary occupations; (2) industry wise, for boys, construction is the industry with the largest share of children exposed to health hazards, while for girls it is highest in the agriculture, forestry, and fishing industry; and (3) the most reported reason of the main respondents for letting their child work is to support household needs. From the Punjab CLS Report, the Committee notes that: (1) overall 13.4 per cent of children aged 5 to 14 years are engaged in child labour and 47.8 per cent of these children are working under hazardous conditions; and (2) 30.8 per cent of children aged 15 to 17 years are engaged in hazardous work. The Committee also notes the Sindh Multiple Indicator Cluster Survey 2018–19 which shows that: (1) 9.7 per cent of children aged 5 to 11 years are engaged in child labour; and (2) 20.6 per cent of those aged 12 to 14 years are engaged in child labour.

Once again, the Committee must express its **deep concern** at the significant number of children under the minimum age who are still engaged in child labour, including in hazardous work. **The Committee therefore urges the Government to take all 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 requests the Government to continue to provide updated statistical information on the nature, extent, and trends of child labour, including the child labour surveys for Balochistan and KPK 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)

### Previous comments: observation and direct request

The Committee notes the observations of the All Pakistan Federation of Trade Unions (APFTU) received on 31 August 2023. The Committee also notes the observations of the Pakistan Mine Workers Federation (PMWF) received on 7 September 2023 relating to the alleged absence of implementation of the laws on the worst forms of child labour. **It requests the Government to provide its comments in this respect.**

*Articles 3(a) and 5 of the Convention. Debt bondage and monitoring mechanisms.* The Committee recalls that the main implementation mechanisms for the laws on the abolishment of bonded labour are through District and Provincial Vigilance Committees (DVCs and PVCs) which aim to enforce the legislation, oversee rehabilitation of victims and to aid district and provincial administrations in implementing the relevant legislation. The Committee notes that the Government provides a copy of the newly adopted Balochistan Forced and Bonded Labour System (Abolition) Act, 2021, and that it indicates that the draft Balochistan Forced and Bonded Labour System (Abolition) Rules, 2023, are under notification process; once notified, DVCs in Balochistan will be created. The Government explains that, in the meantime, the Provincial and District Anti-Human Trafficking and Anti-Bonded Labour Monitoring Committee operates in Balochistan and monitors the implementation of the laws on the abolition of bonded labour. The Committee notes, from the Government's report under the Forced Labour Convention, 1930 (No. 29), that: (1) in Khyber Pakhtunkhwa (KPK), DVCs have been established in every district of the province (members are composed of the police department, labour department, social welfare and a representative of the prosecution) and that no bonded labour was identified in 2022; (2) in Punjab, 27 complaints of bonded labour were lodged in DVCs by aggrieved brick kilns workers, all of which were resolved amicably through the DVCs; (3) in Punjab, a PVC was established to monitor the work of DVCs; and (4) in Sindh DVCs were established in every district.

The Committee notes the Government's indication that in Punjab, 170 First Investigation Reports (FIRs) were registered by the police on the basis of sections 3 and 7 of the Trafficking in Persons Act, 2018, relating to bonded child labour. The Committee notes with **regret** however that no information is provided on whether the FIRs lead to prosecutions. The Committee notes, from the information provided by the Government, that labour inspections in Balochistan and KPK have not found any case of forced labour or bonded labour in 2022, and that there is no information provided for Sindh, Punjab or the Islamabad Capital Territory (ICT).

The Committee also notes, from the 2023 Report of the National Commission for Human Rights of Pakistan (NCHR) on "The Issue of Bonded Labour in Pakistan", that: (1) bonded labour is especially prevalent in the rural and agricultural sectors, particularly in the brick kiln sector in Punjab and the tenant farms in Sindh; (2) many brick kilns continue to function without registration, contrary to the Factories Act, 1934, which negatively impacts workers and encourages the misuse and exploitation of the poor; (3) existing laws regarding bonded labour, including the Bonded Labour System (Abolition) Act, 1992, and subsequent provincial legislation, fail to protect labourers due to weak implementation; (4) the primary hope for change lies in the implementation of judicial rulings and the passing of new legislation, particularly with regard to agricultural tenancy rights and brick kilns; and (5) the NCHR formulated detailed recommendations such as the need to improve access to justice for bonded labourers, revising the brick kiln registration process, enhancing the capacities of the DVCs and prohibiting the work of children in brick kilns. With regard to the issue of registration of brick kilns, the Committee takes due note of the Government's information that, in Sindh, 746 brick kilns have been registered under the Sindh Factories Act, 2015, employing 14,352 workers, and that 16 unions of brick kiln workers have also been registered. **In light of this information, the Committee once again requests the Government to intensify its efforts to eliminate child debt bondage, including: (i) through the effective implementation of the laws abolishing bonded labour; (ii) 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; and (iii) by continuing its efforts to ensure that all operating brick kilns are registered. 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. Finally, the Committee requests the Government to provide information on the measures taken to implement the detailed recommendations of the National Commission for Human Rights in its 2023 report.**

Articles 3(d) and 7(2). *Hazardous work and effective and time-bound measures. Child domestic workers.* The Committee notes with **interest** the adoption of the ICT Domestic Workers Act, 2021, which: (1) prohibits the engagement children of less than 16 years in domestic work (section 3); (2) prohibits the employment of a domestic worker under the bonded labour system or forced labour system (section 4(a)); and (3) imposes the respect of other child labour laws. The Committee notes the proposed ICT Domestic Workers Amendment Bill, 2022, in which it is proposed that the minimum age for domestic work be raised to 18 years. The Committee further notes with **interest** that the Balochistan Employment of Children (Prohibition and Regulation) Act, 2021, includes child domestic work in the list of hazardous occupations prohibited to children under the age of 18 years. The Government also indicates that the draft Sindh Domestic Workers Act is under preparation.

The Committee notes, from the Punjab Child Labour Survey, that 1.8 per cent of children aged 5 to 14 years and 2.6 per cent of children aged 15 to 17 years are engaged in domestic work. The Committee further notes with **concern**, from the ILO Publication *Research Brief: Child labour in domestic work in Pakistan* (June 2022), that although there are no reliable statistics on child labour in domestic work in the country, a research study undertaken by the ILO determined that one in every four households in Pakistan employs a child in domestic work, predominantly girls, aged 10 to 14 years. The study further determines that children engaged in child labour in domestic work are frequently exposed to hazards including electrical shocks, dust, noise, heat, allergens, etc. Those engaged on a live-in basis are likely to face the most hazards, be called on at any time and work continually with no fixed hours. Finally, the Committee notes the recommendations made, including: (1) articulate a strategic plan or roadmap to eliminate child labour in domestic work; (2) raise awareness of the legislation on domestic work; (3) gather reliable data; and (4) provide rehabilitation services for children and their families. **The Committee expresses the firm hope that the Sindh Domestic Workers Bill will be adopted in the near future. It also requests the Government to indicate the measures taken or envisaged to regulate domestic work in the KPK province. The Committee further requests the Government take the necessary measures to raise awareness of the newly adopted legislations on domestic work and protect and withdraw child domestic workers from exploitative and hazardous work. It requests the Government to provide information on the results achieved to this end, as well as on the application in practice of these laws, including by indicating the number of cases detected as well as the number of prosecutions, convictions and penalties imposed.**

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 notes, from the APFTU's observations, that although the Constitution provides for free and compulsory education for all children, there are not enough schools and too many children. The Committee notes the Government's indication that in Punjab, it launched the pilot project "Disengaging children from labour and referring to school", under which 5,000 children will be removed from the worst forms of child labour and reintegrated into school. The Committee also notes, from the 2023 ILO Publication *Results from the CLEAR Cotton Project* that 1,600 children were withdrawn or prevented from entering child labour through accelerated schooling programmes to eventually reintegrate mainstream schools. It also notes, from the Government's report to the United Nations Committee on the Rights of

the Child (CRC), the various measures taken to improve access to education for all, including: (1) the preparation of a uniform education system for all to ensure equitable access to quality education across the country; (2) the increase of expenditures in the education sector in Balochistan; (3) the launch of the Waseela-e-Taleem Programme, a conditional cash transfer programme for poor families; (4) the adoption and implementation of the Punjab Education Sector Reforms Programme, which aims to provide missing facilities for girls, such as toilets and free textbooks, and offers stipends to girls from grades 6 to 10; (5) in Sindh, the Government provided stipends to 420,000 girls to encourage their education; and (6) Balochistan developed its second Education Sector Reform Plan 2025 and is introducing a school nutrition programme in 132 primary schools in remote areas (CRC/C/PAK/6-7, 3 August 2023 paragraphs 5, 27, 43, 44, 230, 232).

The Committee notes, from the Punjab Child Labour Survey 2019-2020 that 84.6 per cent of children aged 5 to 14 years attend school (86.1 per cent of boys and 82.8 per cent of girls); 9.8 per cent have never attended school (8 per cent of boys and 11.7 per cent of girls). According to the Gilgit-Baltistan Child Labour Survey 2018-2019, 82.3 per cent of children aged 5 to 17 years attend school (87.5 per cent of boys and 76.8 per cent of girls). The Sindh Multiple Indicator Cluster Survey 2018-2019 shows that the net attendance rate of children in primary school is 40.4 per cent (42.6 per cent for boys and 38.1 per cent for girls). The Committee further notes, from the UNICEF Country Office Annual Report 2022, that despite significant improvements in overall school participation, an estimated 22.8 million children aged 5 to 16 years are out of school (representing 44 per cent of children). More girls are out of school than boys at every level. Only 70 per cent of children entering primary school are estimated to reach Grade 5, with considerable provincial differences. The 2022 floods damaged or destroyed 48,259 schools, which resulted in more than 12 million children's education being interrupted. The Committee notes that the Federal Education Ministry, in cooperation with UNICEF, finalized the Education Cannot Wait Multi-Year Response Plan (2022-2024) which works to ensure improved access to education at all levels, increase the resilience of the infrastructure and provide special support for girls.

While noting certain measures taken by the Government, the Committee must express its **concern** at the significant number of children, especially girls who are out of school. **Recalling that education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to strengthen 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.**

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 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.* In its previous comments, the Committee noted the observations of the International Trade Union Confederation indicating the existence of child labour in agriculture, street vending, tourism and entertainment. The Committee also noted that according to the rapid assessment conducted by the ILO in Port Moresby, children as young as 5 and 6 years of age were working on the streets under hazardous conditions. In this regard, the Committee urged the Government to strengthen its efforts to improve the situation of working children and to ensure the effective elimination of child labour.

The Committee notes from the Government's report the adoption of the National Action Plan to Eliminate Child Labour in Papua New Guinea 2017–2020 (NAP), which is based on four strategic objectives: (i) mainstreaming child labour and worst forms of child labour in social and economic policies, legislation and programmes; (ii) improving the knowledge base; (iii) implementing effective prevention, protection, rehabilitation and reintegration measures; and (iv) strengthening the technical, institutional and human resource capacity of stakeholders. The NAP envisages the establishment of a National Coordinating Committee on Child Labour and a Child Labour Unit within the Department of Labour and Industrial Relations to provide institutional oversight and the coordination and management of child labour. The Committee notes the Government's indication that it is currently working towards the establishment of a National Steering Committee under a government funded child labour project. This project is focused on delivery of the key target outcomes of the NAP. **The Committee requests the Government to indicate how, following the adoption of the NAP, child labour has been mainstreamed in national social and economic policies and programmes with a view to achieving its progressive elimination. The Committee also requests the Government to provide information on the progress made in relation to the establishment of a Child Labour Unit within the Department of Labour and Industrial Relations, as well as the National Coordination Committee as envisaged by the NAP.**

*Article 2(1). Minimum age for admission to employment.* In its previous comments, the Committee noted that, even though the Government had declared a minimum age for admission to employment of 16 years upon ratification of the Convention, section 103(4) of the 1978 Employment Act permits the employment of children above 14 years of age during school hours when the employer is satisfied that the person no longer attends school. The Committee also noted that section 6 of the 1972 Minimum Age (Sea) Act permits children above 15 of age to be employed at sea. In addition, according to section 7 of that Act, the Director of Education can grant an approval for the employment of a child above 14 years of age for service at sea when it is considered that such work will be for the immediate and future benefit of the child. The Committee noted the Government's indication that it was undertaking a review of the Employment Act and the Minimum Age (Sea) Act to address issues related to the minimum age. In this respect, the Committee notes the Government's indication that it aims to complete the reform by finally adopting the Employment Act. **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 strongly urges the Government to take the necessary measures without delay to ensure that section 103(4) of the 1978 Employment Act and sections 6 and 7 of the 1972 Minimum Age (Sea) Act are harmonized with the minimum age declared at the international level, which is 16 years of age.**

*Article 2(3). Age of compulsory education.* In its previous comments, the Committee noted the absence of legislation making education compulsory. The Committee also noted the absence of a provision in the Education Act 1983 specifying the age of completion of compulsory education. The Committee notes with **regret** an absence of information from the Government concerning measures taken to provide for compulsory education. **The Committee urges the Government to take the necessary measures 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.* The Committee had previously noted that according to section 104(1) of the 1978 Employment Act, no person under 16 years of age shall be employed in any employment, or in any place, or under working conditions that are injurious or likely to be injurious to his health. In this regard, the Committee recalled that according to *Article 3, paragraph 1*, of the Convention, the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years. The Committee notes from the Government's report under Convention No. 182 that issues relating to the minimum age for hazardous work, as well as the determination of types of hazardous work prohibited to children under the age of 18 years will be addressed during the review of the Employment Act and the consideration of the proposed Occupational Safety and Health (OSH) legislation. The Committee also notes that the NAP included among the relevant actions and outputs the development and dissemination of a list of hazardous work or occupations that is culturally sensitive and practical. **The Committee urges the Government to ensure, within the framework of the review of the Employment Act and adoption of OSH legislation, that hazardous work is prohibited for children under the age of 18 years. The Committee also requests the Government to take the necessary measures,**

**without delay, to ensure the adoption of a list of hazardous work prohibited for persons under 18 years of age, in consultation with the organisations of employers and workers concerned. The Committee requests the Government to provide information on any progress made in this respect.**

*Article 3(3). Admission to hazardous work from the age of 16 years.* The Committee had previously requested the Government to take the necessary measures to ensure that the authorization of the performance of hazardous types of work for persons between the ages of 16 and 18 years is subject to the conditions established under *Article 3(3)* of the Convention, namely that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity. The Committee noted the Government's indication that the conditions of work for young people would be examined through the Employment Act review and that the legislation relating to occupational safety and health would be reviewed to ensure that hazardous work does not affect the health and safety of young workers. **Noting the absence of information on this point, the Committee requests the Government to take the necessary measures to ensure that the employment of young persons between 16 and 18 years to perform hazardous types of work is subject to the conditions laid down in Article 3(3) of the Convention. The Committee requests the Government to provide information on the progress made in this regard.**

*Article 9(3). Registers of employment.* In its previous comments, the Committee had noted the absence of a provision in the 1978 Employment Act requiring the employer to keep registers and documents of employed persons under the age of 18 years. It also noted that section 5 of the Minimum Age (Sea) Act requires the person in charge of a vessel to register the name, birth and terms and conditions of service of persons under 16 years of age that are employed on board. In this regard, the Committee had recalled that *Article 9(3)* of the Convention requires employers to keep registers containing the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ or who work for them and who are less than 18 years of age. The Committee also noted the Government's indication that this issue would be addressed within the review of the Employment Act. The Committee notes with **regret** an absence of information on this point. **The Committee requests the Government to take the necessary measures to ensure that employers are obliged to keep registers of all persons below the age of 18 years who work for them, including of those working on ships, in conformity with Article 9(3) of the Convention.**

**While noting the Government's indication that it is focusing on a labour law reform to ensure consistency and conformity of its national legislation with international labour standards, the Committee strongly encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. In this regard, the Committee invites the Government to consider technical assistance from the ILO to bring its legislation 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.**

### **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.

*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 exploit 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.

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

## Paraguay

### Minimum Age Convention, 1973 (No. 138) (ratification: 2004)

#### Previous comment

The Committee notes the observations of the Central Confederation of Workers Authentic (CUT-A), received on 29 August 2023. **It requests the Government to provide its comments in this respect.**

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee notes the Government’s detailed information, in its report, on the measures taken to ensure the progressive elimination of child labour, including: (1) digitalization of the register of working adolescents, to allow for real-time data on the activities of adolescent workers, hours of work and enterprises employing adolescents. This new system, according to the Government, has also prevented the engagement of adolescents in hazardous work in some cases; (2) development of a model for the identification of risks of child labour (MIRTI), a tool which allows for the identification of the territories most vulnerable to child labour, in order to define in which areas to concentrate preventive efforts; (3) in 2021, 61.2 per cent of children in situation of poverty benefitted from the *Tekopora* programme by receiving conditional cash transfers; and (4) implementation of “20 Commitments for Children and Young Persons”, in which Commitment No. 15 aims to eradicate child labour, its worst forms, and protect adolescent work.

The Committee notes, from the observations of the CUT-A, the concerns that the Government has not provided information on the implementation and results of the National Strategy for the Prevention and Elimination of Child Labour and the Protection of Young Workers 2019–24 (ENPETI).



The Committee notes the Government's information that, according to the permanent household survey of 2022, 6 per cent of children aged 10 to 17 years are engaged in child labour, with a higher percentage of children in child labour in rural areas (8.3 per cent in rural areas and 4.5 per cent in urban areas), and more boys than girls engaged in child labour (8.5 per cent of boys and 3.3 per cent of girls). The Committee welcomes the significant decrease in child labour, from 22 per cent in 2015 to 6 per cent in 2022. ***The Committee requests the Government to pursue its efforts towards the progressive elimination of child labour and to provide information in this regard. It also requests the Government to provide specific information on the implementation of the ENPETI and the results achieved.***

*Article 3(1). Minimum age for admission to hazardous types of work. Domestic work. **With regard to the engagement of children in hazardous domestic work, the Committee refers to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).***

*Article 8. Artistic performances.* The Committee notes that the CUT-A once again insists that: (1) labour inspection controls are not effective with regard to young persons whose work involves sports and artistic performances; and (2) the Government continues to not follow the recommendations of the Southern Common Market (MERCOSUR) relating to the prevention and elimination of child labour in artistic settings. The Committee notes with **regret** that the Government does not provide information on this point. ***It therefore requests the Government to take the necessary legislative measures to ensure 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. The Committee requests the Government to provide information on any progress achieved 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)**

### [Previous comment](#)

The Committee notes the observations of the Central Confederation of Workers Authentic (CUT-A), received on 30 August 2023. ***It requests the Government to provide its comments in this respect.***

*Articles 3(a) and (b), and 7(1) of the Convention. Sale and trafficking and commercial sexual exploitation of children, and penalties.* The Committee notes, from the Government's report, the adoption of the National Plan for the Prevention and Fight against Trafficking in Persons 2020-2024 (through Decree No. 4473 of 2020). From the National Plan, the Committee notes that children continue to be trafficked, and in 2019, 177 child victims were identified (144 girls and 33 boys). The Committee also notes, from the website of the Public Ministry, that during 2020, the Prosecutor's Office received 915 reports of child pornography. The Committee notes, from the website of the National Observatory for Childhood and Adolescence (ONNAP), that in 2022, the ONNAP recorded 7,327 cases of violations against children, including 1,861 cases of child pornography, 138 cases of pimping and 66 cases of child trafficking.

The Committee takes note of the detailed activity report in the framework of the national coordination of the Inter-institutional Table for the Prevention and the Fight Against Trafficking in Persons provided by the Government. The activity report provides information relating to trainings, seminars and awareness-raising activities provided to Government officials and the general public, undertaken between 2019 and 2022. The Government further indicates that, in 2020, the Ministry of Women published a "Guide for addressing information on trafficking in persons", to raise awareness on the definitions and concepts of trafficking in persons contained in Act No. 5788/2012. The Committee further takes note of the summaries of judicial decisions provided by the Government, with details of convictions and penalties imposed. With regard to child trafficking, the Government indicates that 16 convictions were handed down in 2019, 3 convictions in 2020, 26 convictions in 2021 and 2 convictions

in 2022. The Committee notes the observations of the CUT-A indicating that the number of convictions is extremely low. The CUT-A also indicates that the number of investigations of trafficking cases is decreasing: 53 investigations were initiated in 2021, compared to 106 investigations in 2020 and 141 investigations in 2019.

The Committee notes, from the concluding observations of the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), the following concerns: (1) that the Government has not yet achieved satisfactory standards in its fight against trafficking in persons; (2) that children, especially those living on the street in the tri-border area, continue to be subjected to exploitation; and (3) over the small number of convictions for trafficking in persons, particularly trafficking for purposes of sexual exploitation (CMW/C/PRY/CO/2, 3 June 2022, para. 67). **While noting the measures taken by the Government, the Committee requests it to strengthen its efforts and to continue taking immediate and effective action to ensure the elimination in practice of the sale, trafficking and commercial sexual exploitation of children under 18 years of age, including within the framework of the National Plan for the Prevention and Fight against Trafficking in Persons 2020-2024. It requests the Government to continue to provide information on the measures taken to this end, and on the results achieved. The Committee also requests the Government to continue providing information on the number of offences reported, investigations conducted, prosecutions, convictions and penal sanctions imposed regarding trafficking and commercial sexual exploitation of children.**

*Article 5. Monitoring mechanisms. Trafficking.* The Committee notes the Government's indication that the National Plan for the Prevention and Fight Against Trafficking in Persons 2020-2024, aims to strengthen institutions and improve inter-institutional coordination. The Committee takes note of the Government's information on trainings provided to the Public Ministry, the National Police, the Directorate of Migrations, the Ministry of Women, the Ministry of Children and Young Persons (MINNA) and the Ministry of Labour, Employment and Social Security (MTESS), with the aim of strengthening the capacities of law enforcement agencies to detect cases of trafficking. The Committee further notes the Government's reiterated information on existing complaints mechanisms, including: (1) a toll-free hotline "Fondo Ayuda 147" of the MINNA; (2) an online complaints procedure; and (3) the possibility of reporting trafficking in persons to the Ministry of Women via a hotline, email or online.

Moreover, the Committee notes that the CUT-A: (1) once again expresses concerns that government controls are still very weak in the face of the trafficking in children phenomenon; (2) reiterates that the secure online complaint system is not operational and that the Government has not provided information on the number of reports received and dealt with; and (3) indicates that reports of child trafficking received through these complaint mechanisms do not lead to investigations and prosecutions, and are thus insufficient to protect children from trafficking. Referring to paragraph 626 of its [General Survey on the fundamental Conventions of 2012](#), the Committee observes that, due to the multidimensional nature of child trafficking, several different monitoring institutions play an important role in this regard. The Committee considers that collaboration and information sharing between these various institutions is essential for preventing and combating trafficking in children. **The Committee therefore requests the Government to take the necessary measures, including within the framework of the National Plan 2020-2024, to improve the cooperation between different national agencies to combat trafficking in children. It also requests the Government to provide information on the measures taken to this end, including to ensure the proper cooperation between law enforcement agencies and the ministries running the various complaints mechanisms.**

*Articles 6 and 7(2). Programmes of action and 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.* The Committee notes the Government's indication that the National Plan for the Prevention and Fight

Against Trafficking in Persons 2020-2024, aims to: (1) prevent trafficking and commercial sexual exploitation; (2) provide assistance to persons affected; and (3) prosecute and convict perpetrators.

The Committee further notes the Government's reference to Resolution MDS No. 837/2021, which approves the protocol for responding to requests from other public institutions to include persons and families who are in a vulnerable situation in the programmes and projects of the Ministry of Social Development, as a preventive measure. The protocol provides detailed information on the steps that should be taken when caring for persons in situations of vulnerability, including victims of trafficking and children in street situations (reception, placement and follow-up action to ensure the social integration of the concerned people). The Committee notes the information provided on the actions of the Ministry of Women to ensure the rehabilitation and social integration of women victims of trafficking. The Committee also notes that the MTESS provides detailed information on the training provided to four adolescent victims of trafficking, to facilitate their entry in the labour market. The Committee notes, from the 2022 Annual Management Report of the MINNA, that the Comprehensive Care Programme for Victims of Trafficking and Sexual Exploitation (PAIVTES), implemented in collaboration with the Public Ministry and shelter homes, educational institutions and other stakeholders, provided assistance to 67 child victims of trafficking and sexual exploitation in 2022.

The Committee notes the observations of the CUT-A indicating that child victims of trafficking do not receive the proper and necessary assistance and that many of them are re-victimized. In this regard, the CUT-A refers to 24 Paraguayan child victims of trafficking identified in Brazil between March and July 2020 who were revictimized due to the lack of proper assistance by authorities. **The Committee requests the Government to pursue its efforts to prevent the trafficking of children and their commercial sexual exploitation. It requests the Government to continue taking effective and time-bound measures to this end, including within the framework of the National Plan for the Prevention and Fight against Trafficking in Persons 2020-2024, and to provide information on the impact of such measures. The Committee also requests the Government to provide information on the measures taken to provide the necessary and appropriate direct assistance to remove children from these worst forms of child labour, including within the framework of the PAIVTES, with an indication of the number of children who were removed, rehabilitated and socially integrated.**

*Article 7(2)(d). Children at special risk and labour inspection. Children engaged in hazardous domestic work – the “criadazgo” system.* The Committee previously noted that 11 per cent of children between 10 and 17 years of age worked in domestic service, two-thirds of them under the *criadazgo* system (children living and working in domestic service in the houses of others in exchange for food, board and education), making them very vulnerable to exploitation and work in hazardous conditions. The Committee notes the Government's indication that: (1) in 2020, it launched a campaign to raise awareness against the *criadazgo* system (*El criadazgo #NoEsNormal*); and (2) it adopted, in 2022, Act No. 6881 regulating the modalities of alternative care of children in residential entities and residences with educational purposes of a private nature in the Western Region (Chaco), which requires educational entities to protect children from all forms of exploitation to refrain from entrusting them with domestic tasks. The Committee further notes, from the Government's report on the application of the Minimum Age Convention, 1973 (No. 138), that the MTESS provides regular awareness-raising sessions for the benefit of domestic workers on their labour rights, including through the publication of an informational pamphlet on domestic work. However, the Committee notes that neither the awareness-raising sessions nor the pamphlet address the issue of the *criadazgo* system nor the prohibition of child domestic work of Act No. 5407/15, which sets the minimum age for domestic work at 18 years.

With regard to labour inspection, the Government provides a copy of Memorandum DGIF 306/2023 summarizing inspections undertaken in 2021 in the Chaco region. However, the Committee notes with **concern** that, once again, the Government fails to provide information on actions taken by the labour inspectorate and the specific penalties imposed in the context of the *criadazgo* system, as previously requested. The Committee notes the reiterated observations of the CUT-A indicating that the

use of children, especially girls, as domestic workers remains widespread throughout the country, especially in remote regions such as Chaco and the northern region. The CUT-A further indicates that: (1) the Government has so far not adopted any measures or taken any action to improve the working conditions of these children; and (2) there needs to be effective labour inspection to ensure the application of Act No. 5407/15. **The Committee therefore urges the Government to take the necessary measures to adapt and strengthen the capacities of the labour inspectorate to effectively detect situations of child domestic work, including in the *criadazgo* system. The Committee further requests the Government to provide information on: (i) the application of Act No. 5407/15 in practice, including by indicating the number of reported violations relating to the engagement of children under 18 years in domestic work and the penalties imposed; and (ii) the measures taken or 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.**

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)

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

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2023. **It requests the Government to provide its comments in this respect.**

*Articles 3(a) and (b), 5, 7(1) and 7(2)(a) and (b) of the Convention. Worst forms of child labour,, penalties, programmes of action 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. Sale, trafficking and commercial sexual exploitation of children.* The Committee notes the Government's information, in its report, that Supreme Decree No. 008-2022-MINCETUR amends the Regulations of Act No. 28868 to introduce higher fines for tourist establishments (hotels and restaurants) and travel agencies who fail to take appropriate actions to prevent and report cases of children being subjected to commercial sexual exploitation and trafficking. The Committee also notes the Government's indication that the National Policy Against Trafficking in Persons and its forms of exploitation up to 2030 was approved by Supreme Decree No. 009-2021-IN and seeks to guide the Government's actions at all three levels (national, regional and municipal) in the development of interventions against trafficking in persons.

The Committee notes, from the Analysis Report No. 5 of the Public Ministry "The response of the Public Ministry to human trafficking", published in collaboration with the ILO, that between 2015 and 2021, 375 child victims of trafficking were identified, most of them aged between 13 and 17 years (317 children), with a higher proportion of girls than boys (227 girls and 141 boys). The Committee notes that this report sets out the modalities of recruitment of the victims (parents, seduction, job offer), how the victims were detained (locked-up, physical and psychological violence, retention of identification papers), as well as the locations of exploitation (bars, public streets, night clubs, factories). The Committee further notes the Government's indication that the Office of Rationalization and Statistics of the Public Ministry, in 2022, registered 40 cases of sexual exploitation of a child, 43 cases of benefitting from the sexual exploitation of a child, 17 cases of management of the sexual exploitation of a child, 13 cases of use of a child for commercial sexual exploitation, 7 cases of promotion of sexual exploitation of a child, and 146 cases of child pornography. The Committee takes note of the list of judicial cases relating to trafficking in persons and commercial sexual exploitation, which includes information about the convictions handed down and the penalties imposed, but it notes that this information is not disaggregated by the age of the victims.

The Government indicates that the Ministry of Foreign Trade and Tourism (MINCETUR), intervenes in the field of prevention of sexual exploitation of children and adolescents in tourism, and that, in collaboration with regional entities, it organizes awareness-raising events on the issue and encourages the subscription of the Code of Conduct for the prevention of sexual exploitation of children among tourism service providers. The Government also reports that, in 2021, four preventive actions on trafficking for the purpose of sexual exploitation were undertaken and benefitted 251 persons. In 2022, 235 preventive actions were undertaken, in the form of talks and workshops on trafficking in persons, reaching 6,000 persons. In 2023, 14 preventive actions were undertaken, benefiting 350 persons.

With regard to the rehabilitation of child victims of trafficking, the Government indicates that, in 2022, Special Protection Units elaborated and approved 21 individual work plans with a component of reintegration of a child or adolescent victim of trafficking. The Government adds that the Protection and Assistance Programme for Victims and Witnesses of the Public Ministry, in addition to providing support for prosecutorial work, also provides a number of services to victims of trafficking, including meals, clothing, medical services and accommodation. In the framework of this programme, between 2019 and 2022, 3,154 victims of trafficking were provided with assistance, including 1,442 children.

With regard to its previous comments, the Committee notes the Government's indication that the National Comprehensive Programme for Family Wellbeing (INABIF) has six residential reception centres specifically designed for the reception of children and adolescent victims of trafficking. The Government indicates that, currently 74 minors are residing in these Centres and receiving comprehensive care services. These Centres welcomed a total of 280 underaged child victims of trafficking in 2021, and 206 child victims in 2022. The Committee further notes the Government's indication that the National Aurora Programme, through the Women's Emergency Centres (CEM), attended to 68 victims of trafficking for the purpose of sexual exploitation in 2021, including 41 children, and 102 victims, including 81 child victims in 2022. The Committee notes that the CATP, in its observations, indicates that the preventive actions of the Aurora programme are limited because of its limited budget and that, for 2024, the Aurora Programme's budget was reduced by 40 per cent. The CATP further observes that the efforts deployed by the Government are insufficient to address the issue of trafficking in the country and that there is a general lack of awareness of the various national policies by the population. The Committee further notes, from the concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW), that the country continues to be a country of origin, transit and destination for trafficking in persons, in particular women and girls, for the purposes of sexual exploitation, including online and sex tourism (CEDAW/C/PER/CO/9, 1 March 2022, paragraph 27). ***The Committee requests the Government to pursue its efforts to prevent the trafficking of children and their commercial sexual exploitation. It requests the Government to continue to take effective and time-bound measures to this end, including within the framework of the National Policy Against Trafficking in Persons and its forms of exploitation up to 2030, and to provide information on the impact of such measures. The Committee further requests the Government to continue providing information on: (i) the number of investigations, prosecutions and convictions relating specifically to the offences of child trafficking and the commercial sexual exploitation of children; and (ii) the measures taken, including within the framework of the Protection and Assistance Programme for Victims and Witnesses of the Public Ministry and the Residential Reception Centres of the INABIF, to provide the necessary and appropriate direct assistance to free children and young persons who are victims of trafficking and commercial sexual exploitation, with an indication of the number of children who were removed, rehabilitated and socially integrated.***

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. Child labour in artisanal mines. The Committee notes that, under section 58 of the Code of Children and Young Persons, adopted in 2022, it

is prohibited to employ adolescents (defined as a person aged 12 to 17 years) in underground work, in activities that involve carrying heavy loads or toxic substances. The Committee further notes with **interest** the Government's indication that Supreme Decree No. 009-2022-MIMP sets out a list of hazardous work and activities prohibited to children under the age of 18 years in which the engagement of minors in mining activities (including underground work and quarries) is prohibited. The Government adds that this includes artisanal mining.

The Committee notes the Government's information that, following labour inspections in mines and quarries, the National Supervisory Authority of Labour Inspection (SUNAFIL) detected four cases of child labour in 2021 and two cases in 2022. The Committee notes however that no information is provided on the follow-up to these cases and whether they lead to prosecutions, convictions and penalties. The Committee also notes with **concern** that, once again, the Government has not provided information on the measures taken in practice to remove children from this worst form of child labour and ensure their rehabilitation and social integration. It further notes that the United Nations Human Rights Committee on the International Covenant on Civil and Political Rights (CCPR), in its concluding observations, requested the Government to redouble its efforts to eradicate child labour, particularly in extractive industry and illegal mining (CCPR/C/PER/CO/6, 5 April 2023, para. 41). **The Committee requests the Government to take effective and time-bound measures to prevent children under 18 years of age from engaging in hazardous work in artisanal mines and to ensure the removal, rehabilitation and social integration of those already engaged in such work. It requests the Government to provide information on the results achieved, including by indicating: (i) the impact of any preventive measures taken or envisaged; and (ii) the number of children and young persons who have been removed, rehabilitated and socially integrated. The Committee further requests the Government to continue to provide information on the application in practice of Supreme Decree No. 009-2022-MIMP, by indicating the number of reported violations with regard to the engagement of children under the age of 18 years in the mining and quarrying sector, and to include information on whether the violations detected led to prosecutions, convictions and penalties.**

*Article 7(2). Effective and time-bound measures. Clause (d). Identifying children at special risk. Indigenous children.* The Committee notes the Government's indication that the National Programme on Action Platforms for Social Inclusion (PAIS) has been articulating intersectoral and interinstitutional interventions directed towards indigenous communities, and that a number of actions were directly targeted towards children aged below 14 years, such as online reading services, health services and language interpretation services. The Government also states that it does not have information on the implementation of the previously mentioned National Plan for Intercultural Bilingual Education: A vision for 2021, but that it will provide such information once it is available. The Committee notes, from the UNICEF Peru Country Office Annual Report of 2022, that because of the COVID-19 pandemic, students of indigenous origins have seen their language gap increase. The Committee also notes that the CCPR, in its concluding observations, expressed concern over the vulnerability of indigenous persons and Afro-Peruvians and the persistent structural discrimination directed against them, particularly women and girls, in the areas of education and employment (CCPR/C/PER/CO/6, 5 April 2023, para. 16). The Committee further notes, from the ILO publication of 2023 "Issue Paper on child labour and education exclusion among indigenous children", that in 2020: (1) 2 per cent of children aged 14 years were engaged in hazardous work, compared to 4 per cent of indigenous children of the same age; and (2) 17.5 per cent of indigenous children aged 14 years were out of school. The Committee also notes that the Issue Paper refers to the widespread sexual exploitation of indigenous girls in mining areas. **Recalling that children of indigenous communities are at particular risk of becoming engaged in the worst forms of child labour, the Committee requests the Government to step up its efforts and to continue taking measures, particularly in the field of education, to protect them from the worst forms of child labour. It requests the Government to provide: (i) information on the impact of the measures taken, including in the framework of the National Plan for Intercultural Bilingual Education: A vision**

**for 2021; and (ii) updated statistical data on the engagement of indigenous children in child labour and its worst forms.**

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

## Philippines

### Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

#### Previous comment

*Article 2(1) of the Convention. Scope of application and labour inspection. Children working on their own account or in the informal economy.* The Committee notes the Government's indication in its report that, between 2018 and 2022, the Government, through the Department of Labour and Employment (DOLE), undertook the task of profiling child labourers. The Government states that, between 2018 and 2022, a total of 620,556 child labourers were profiled by the DOLE, 614,808 of them were referred to appropriate agencies for the provision of necessary services, and out of these, 138,460 were provided with educational assistance, medical assistance, legal assistance, counselling, birth registration, feeding programmes, school supplies, hygiene kits, and food packs through Project Angel Tree. In addition, the families of these children were included in the *Pantawid Pamilyang Pilipino Programme* (4Ps) and received livelihood assistance, emergency employment, job placement/employment facilitation, financial assistance, medical assistance and housing assistance, with the aim of further preventing and eliminating child labour. While taking note of the measures taken by the Government, the Committee notes it does not indicate the proportion of profiled child labourers who were working in the informal economy or on their own account, nor does it provide information on the measures taken specifically to address the situation of children working in the informal economy.

The Committee notes the Government's information that, in 2020, the DOLE inspected 14,741 establishments, during which violations of child labour laws have been identified in four establishments (which concerned: employing a child below 15 years of age; child pornography; long hours of work; night work; and hazardous work). The Government indicates that administrative proceedings are being undertaken by the DOLE against the two establishments, while the others two establishments have already corrected the noted violations. For 2021, the DOLE inspected a total of 58,805 establishments, six establishments violated child labour laws (namely: long hours of work; hazardous work; and employment of a child below 15 years of age without a work permit). In 2022, the DOLE inspected a total of 81,314 establishments, and found that eight establishments were found engaging children below 18 years of age in hazardous work. The Government indicates that the child labourers found during inspections were employed in the following industries: fishing, manufacturing, accommodation and food service activities, construction, and wholesale and retail trade. The Government indicates that for 2021 and 2022, all violations were corrected and children were removed from the workplace. It adds that in 2021, one establishment was permanently closed by the DOLE due to the death of a 17-year-old. In 2022, two establishments were ordered to close for engaging children in hazardous work which resulted in injury and for engaging a minor in prostitution.

While taking note of the activities of the labour inspectorate, the Committee observes that the establishments inspected were in the formal economy, and that no information is provided on the inspections in the informal economy. The Committee further notes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations, urged the Government to intensify labour inspections and training of investigators, particularly in the informal economy (CRC/C/PHL/CO/5-6, 26 October 2022, paragraph 38(c)). **Recalling that a high number of children involved in child labour were found in the informal economy, the Committee requests the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working in the informal economy and on their own account. It requests the Government to provide information on the measures taken in this regard and to continue to provide**

**information on the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate and the penalties imposed, including in the informal economy. It further requests the Government to continue to provide information on the number of profiled child labourers who were removed from child labour and to indicate how many of them were working in the informal economy or on their own account.**

*Application of the Convention in practice.* The Committee takes note of the Government's indication that the DOLE issued Department Orders Nos. 2163 and 2174, on 27 October 2020, which provide that one of the requirements for the application of issuance of a license to operate a private employment agency is a Notarized Affidavit of Undertaking, stating that the applicant shall "denounce and never support nor engage in any or all acts involving illegal recruitment, trafficking in persons, violation of Anti-Child Labour Laws or crimes involving moral turpitude or similar activities".

The Government further indicates that it continues to implement: (1) the Special Programme for Employment of Students (SPES), requiring the participating employer to comply with the general labour standards and occupational safety and health standards, and not to engage the SPES beneficiaries below 18 years of age in any hazardous work or undertaking as provided for under existing child labour-related laws, rules and regulations (in 2022, there were 128,284 beneficiaries, and 36,313 beneficiaries in 2023); (2) the Strategic Helpdesks for Information, Education, Livelihood, and other Development Interventions (SHIELD) Programme Against Child Labour, which has been allotted a total budget of 21,066,048 Philippine pesos for 2023 (approximately US\$370,000); (3) the DOLE Integrated Livelihood and Emergency Employment Programme (DILEEP) which provides livelihood assistance to parents of child labourers; and (4) the *Sagip Batang Manggagawa* Quick Action Teams (SBW QATs) which conducted seven rescue operations where 99 child labourers were removed from hazardous and exploitative working conditions.

The Committee notes the detailed information provided by the Government on the progress made in the implementation of the Philippine Programme Against Child Labour (PPACL) 2020–22: (1) meetings of the National Council Against Child Labour (NCACL) and adoption of resolutions; (2) efforts to mainstream the programmes to address child labour at the local level. There are currently 14 functional Regional Councils Against Child Labour; and (3) international and local engagements and partnerships, such as the Action Pledge of the Philippines for the 2021 International Year for the Elimination of Child Labour and the 5th Global Conference on the Elimination of Child Labour. The Committee also notes the Government's indication that an assessment workshop was conducted in September 2022 to evaluate the results of the PPACL 2020–22, identify gaps and challenges, and come up with recommendations for the next Strategic Framework and Action Plan. The outputs of the assessment workshop served as initial recommendations for the next PPACL Strategic Framework. Subsequently, on a special meeting held in March 2023, the Council members approved the PPACL Strategic Framework 2023–28, and during a planning workshop in April 2023, the Action Plan for the PPACL Strategic Framework 2023–28 was formulated and adopted.

The Government further indicates that the Department of Social Welfare and Development (DSWD) launched the *Bata Balik Eskwela* in order to: (1) talk with and counsel children who had engaged in child labour and had stopped schooling, (2) conduct family therapy, and (3) liaise with partners including *Barangay* (village) Councils, school administrators, teaching personnel and civil society organizations. The Committee notes, that the DSWD, in collaboration with the ILO, developed a Module on Child Labour to raise the awareness of parents on the negative effects of child labour on their children and on their families' future, and to teach them how to end this problem in their own homes and communities. The Committee notes that these efforts resulted in the removal of 148,331 children from child labour. The Committee notes the Government's indication that, according to data provided by the Philippine Statistics Authority (PSA), the estimated number of children in child labour was 597,000 in 2020, 935,000 in 2021 and 828,000 in 2022. Despite noting the decrease in child labour between 2021 and 2022, the Committee notes with **concern** the significant increase in child labour compared to 2020.



The Committee notes, from the website of the PSA that a majority of children in child labour are boys (66.2 per cent) and that 61.6 per cent of children engaged in child labour are between 15 and 17 years of age and engaged in hazardous work. ***While taking note of the measures taken by the Government, the Committee strongly encourages the Government to pursue its efforts to progressively eliminate child labour, including in hazardous work. 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 Labour 2022–24 and on the results achieved.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

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

*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.* The Committee notes, from the Government's report, the adoption, in 2022, of: (1) Republic Act No. 116481, which provides for higher penalties if the victim is under 16 years of age in cases of child trafficking and child prostitution; and (2) Republic Act No. 11862, which strengthens the protection of children from exploitation and trafficking by expanding the definition of trafficking to include not only forced labour, slavery and other forms of exploitation but also online sexual exploitation of children. The law also penalizes internet intermediaries who knowingly or by gross negligence allow their internet infrastructures to be used for the purpose of promoting trafficking in persons.

The Committee takes due note of the detailed information provided by the Government on certain decisions of the Supreme Court of 2020 to 2023 penalizing trafficking of children. The Government adds, that between 2003 and 2023, out of 4,666 trafficking cases filed in courts, 2,558 cases involved underaged victims. Among these, there were cases of trafficking for the purpose of prostitution and sexual exploitation, online sexual exploitation of children and child labour. In the same period, the Government indicates that a total of 778 convictions for child trafficking were handed down, involving 4,210 victims.

The Committee notes, from the concluding observations of the United Nations Committee on the Rights of the Child (CRC) the concerns about the widespread trafficking in children that reportedly increased during the COVID-19 pandemic (CRC/C/PHL/CO/5-6, 26 October 2022, para. 40). The Committee further notes, from the 2023 preliminary observations on the visit to the Philippines by the United Nations Special Rapporteur on the sale and sexual exploitation of children, that the country remains a source and destination country for child trafficking, sale, sexual exploitation and forced labour and that there is a lack of, or limited information on, the scale of the incidence of child trafficking and how child victims are exploited. ***While welcoming the efforts of the Government to ensure that child traffickers are prosecuted and convicted, the Committee requests it to pursue its efforts and to continue to provide information on the number of reported violations, investigations, prosecutions and convictions, and to include information on the penal sanctions imposed in cases related to the trafficking of children. It also requests the Government to provide information on any assessment made of the nature, extent and trends of the worst forms of child labour, including the extent of trafficking in children in the country.***

*Compulsory recruitment of children for use in armed conflict.* The Committee notes the Government's indication that Republic Act No. 11188 of 2019 mandates the Council for the Welfare of Children (CWC) to maintain and improve the database of children in situations of armed conflict and requires the CWC to submit a regular three-year implementation report to the Office of the President and the Congress. The Committee notes however that no information is provided on the content of the database and on how it will be used to prevent the engagement of children in armed conflict and ensure their rehabilitation. The Committee further takes note of the indication of the Government that the Inter Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC) developed and approved, on 30 September 2020, the Protocol on Handling and Treatment of Children in Situations of Armed Conflict.

The Protocol lays down the procedure that government representatives shall observe after obtaining physical custody of a child affected by armed conflict. The Protocol also provides for the reintegration and monitoring of the child with their family and community as a culmination of the rehabilitation process. The Government adds that, to ensure the provision of a holistic response to children in situations of armed conflict, it conducted a series of Nationwide Clustered Orientations, reaching a total of 3,139 child protection actors in the public and private sectors across 17 regions. The Committee further notes the Government's indication that the Armed Forces of the Philippines (AFP) signed a strategic plan to protect children in armed conflict in 2021, in coordination with the United Nations Task Force on Monitoring and Reporting, which includes undertakings, commitments, benchmarks and activities for the AFP to perform and fully comply with its obligations under International Human Rights Law. The Committee also notes that the Government carried out various awareness-raising campaigns, in which children previously affected by armed conflict intervened to share their experience.

The Committee notes, from the report of the Office of the Special Representative of the UN Secretary-General for Children and Armed Conflict, that there was a decrease in the number of grave violations against children in situations of armed conflict compared with the previous report published in 2020. However, the report identifies the recruitment and use of 11 children (10 boys and 1 girl) attributed to the New People's Army (NPA), Abu Sayyaf Group and Dawlah Islamiyah-Maute Group (A/77/895-S/2023/363, 5 June 2023, paras 6 and 300). While taking note of the decrease in the number of children recruited for use in armed conflict and that the AFP appears to no longer recruit children, the Committee nevertheless notes with **concern** the continued use and recruitment of children by armed groups. ***It 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 armed groups, including by ensuring 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 to facilitate the imposition of sufficiently effective and dissuasive penalties in practice. The Committee also requests the Government to continue to provide information on the measures taken to ensure that children receive the necessary and direct assistance for their removal and rehabilitation and social integration. Finally, the Committee requests the Government to provide information on the progress achieved in maintaining and improving the database on children in armed conflict, under Republic Act No. 11188, and to indicate how the database is used to ensure that no child is forcibly recruited for use in armed conflict.***

*Articles 3(b), 7(1) and 7(2)(a) and (b). Use, procuring or offering of children for the production of pornography or for pornographic performances and penalties. Preventing children from being engaged in the worst forms of child labour, removing them from these worst forms of labour and ensuring their rehabilitation and reintegration. Commercial sexual exploitation of children.* The Committee notes that Republic Act No. 116481 of 2022 penalizes the hiring, employing, using, persuading, inducing or coercing of a child (defined as a person below the age of 18 years) to perform in obscene exhibitions and indecent shows. In addition, the Government also adopted Republic Act No. 11930 of 2022 which defines unlawful and prohibited acts committed through offline and online platforms and increases the responsibilities and accountabilities of the private sector, such as social media platforms, electronic service providers and internet, and financial intermediaries with relation to child sexual abuse and exploitation. In May 2023, the Government signed the Implementing Rules and Regulations of the Republic Act No. 11930. The Committee notes the Government's indication that the Department of Social Welfare and Development (DSWD) in coordination with UNICEF established a comprehensive electronic case management system that will provide a simple process of documentation, intervention and collaborative response. The Government indicates that the project is at its initial stage but that the digital Integrated and Electronic Case Management System will be widely used by children and social protection agencies. The Committee further notes, from the concluding observations of the CRC, the launch of the #StopChildPornPh campaign and the launch of the eProtectKids hotline for reporting child

sexual material online, such as child pornography. However, the CRC expressed concern over the increase in online sexual exploitation of children, especially in the context of the COVID-19 pandemic, the lack of efforts to address it, and the low rates of reporting, intervention, investigation, prosecution and conviction in cases of child sexual exploitation (CRC/C/PHL/CO/5-6, paras 22 and 42). **While noting that certain awareness raising measures have been undertaken to address the commercial sexual exploitation of children, the Committee once again requests the Government to take immediate and effective time-bound measures to remove child victims of commercial sexual exploitation from this worst form of child labour and to provide for their rehabilitation and social integration. The Committee requests the Government to provide information on: (i) the results achieved in this regard; (ii) the progress achieved in launching the Integrated and Electronic Case Management System and the results in facilitating the intervention of authorities in cases of commercial sexual exploitation of children; (iii) the results of the eProtectKids hotline, including by providing the number of complaints received and any follow-up action undertaken; and (iv) the application in practice of the Anti-Child Pornography Act and Republic Acts Nos. 11862 and 11930, by indicating the number of reported violations, investigations, prosecutions, convictions, and penal sanctions imposed in cases of child commercial sexual exploitation.**

*Articles 3(c) and 7(2)(a) and (b). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs, and time-bound measures. Children engaged in drug trafficking.* The Committee notes, from the 2021 Annual Report of the Philippine Drug Enforcement Agency (PDEA) that minors continue to be used by drug syndicates. In that year, a total of 599 children, aged 10 to 17 years (52 per cent aged 17 years), were rescued by the PDEA and other law enforcement agencies during drug operations, most of them (433 children) were used for pushing illegal drugs. The report briefly states that these children were turned over to the local social welfare and development offices for proper intervention. **Noting the absence of relevant information provided by the Government on the measures taken to address the issue of children engaged in drug trafficking, the Committee requests the Government to take effective and time-bound measures to prevent children from being engaged in this worst form of child labour and to continue to take measures to rescue them. It requests the Government to provide information on the measures taken to this end, as well as on the measures taken to ensure their rehabilitation and social integration. Finally, the Committee requests the Government to provide information on the number of children rescued and those who were provided with direct assistance, as well as on the number of children reached by preventive activities, including by the previously mentioned Standard Training in Extensive Anti-Drug Prevention Education (SK STEP-UP).**

*Articles 3(d), 4(1), 7(1) and 7(2)(b). Hazardous work, penalties and time-bound measures. Child domestic workers.* The Committee takes note of the Government's indication that Department Order No. 217 of 2020 requires applicants for a license to operate a private employment agency for domestic workers to submit a notarized affidavit of undertaking stating that they "shall denounce and never support nor engage in any or all acts involving illegal recruitment, trafficking in persons nor any violation of anti-child labour laws". The Committee notes the Government's repeated information that there is a Joint Memorandum Circular on the Protocol on the Rescue and Rehabilitation of Abused *Kasambahay* (domestic worker) but observes that the Government does not provide information on the application in practice of the Protocol or on the implementation of the road map for the elimination of child labour in domestic work. The Committee further notes the Government's general indication that, between 2018 and 2022, 614,808 child labourers were removed from child labour and received the necessary rehabilitation services, but the Government does not indicate how many of these child labourers were engaged in hazardous working conditions in domestic work. The Committee further notes that the CRC, in its concluding observations, urged the Government to intensify labour inspections and training of investigators, particularly regarding *kasambahay* (domestic workers) and ensure the imposition of sanctions in case of violation of the legislation (CRC/C/PHL/CO/5-6, 26 October 2022, para. 38(c)). **The**

**Committee requests the Government to take all necessary and time-bound measures to protect child domestic workers from the worst forms of child labour, to remove them from such labour and to provide the necessary and appropriate direct assistance to ensure their rehabilitation and social integration. It requests the Government to provide information on: (i) the results achieved, including in the framework of the road map for the elimination of child labour, by indicating the number of child domestic workers who have been protected or withdrawn from child labour and rehabilitated; and (ii) the number and nature of penalties imposed on persons who subject children under 18 years of age to domestic work in hazardous or exploitative conditions, in application of the Domestic Workers Act, 2013.**

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

## Republic of Korea

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

The Committee takes note of the Government's report, of the observations of the Federation of Korean Trade Unions (FKTU) and of the Government's reply to these observations, all received on 28 September 2022. The Committee also takes note of the detailed observations of the Korean Confederation of Trade Unions (KCTU), received on 7 September 2022. **The Committee requests the Government to provide its reply to the observations of the KCTU.**

*Articles 3 and 6 of the Convention. Hazardous work and apprenticeships.* The Committee notes that the Republic of Korea currently has an "on-the-job training" (OJT) system for 12th graders (typically 16–17-year-olds) attending specialized vocational high schools and a "work-study combination" (WSC) system for 11th and 12th graders (typically 16 to 18 years of age) at apprenticeship high schools.

The Committee observes that the KCTU essentially alleges that the OJT and WSC systems cannot be regarded as vocational or technical training in the practical sense because they are mainly used to increase the early employment rate of students in vocational or apprenticeship high schools rather than to provide learning and skills to the trainees involved. Moreover, according to the KCTU, trainees often work in unsafe conditions, leading to occupational accidents, and they are often unsupervised and receive little to no actual training.

The Committee notes the KCTU's allegation that the OJT system, despite being regulated through the Vocational Education and Training Promotion Act, exposes youth to poor working environments without sufficient guidance. Issues raised by the KCTU regarding the OJT system include weak occupational safety and health implementation and a lack of oversight during training and a lack of effective management and supervision. The KCTU also observes that trainees are exposed to dangerous working conditions. Of the youth dispatched to companies for on-the-job training, some are assigned to very risky environments with many hazards, such as those related to construction, machinery, chemical engineering, and electricity. Many of these OJT participants do not receive sufficient occupational safety education prior to such an assignment and are therefore often involved in industrial accidents while performing their work. The Committee notes, from the observations of the KCTU, that there were six industrial accidents involving on-the-job trainees in 2019 and five in 2020, many of which involved serious injury. The KCTU observes that, given the high likelihood that less major accidents were not reported due to the nature of on-the-job training, the actual total number of industrial accidents is very likely higher. The KCTU also provides information on a 2021 accident that led to the death of an on-the-job trainee while he was diving to remove barnacles from the hull of a leisure boat at a yacht marina. Not only is diving work classified as an occupation prohibited to young persons under 18, under section 65 of the Labour Standards Act (and other regulations), but it was reported that at the time of the accident, the trainee had no diving-related qualifications, certificates, experience or skills.

With regard to the WSC system, the KCTU indicates that, according to the Act on Work-study Combination at Industrial Sites (the “WSC Act”), “work-study combination” refers to a program of vocational education and training that an employer (“participating company”) provides on- and off-site to “participating employees” on performing their duties. The issues raised by the KCTU regarding this system include the fact that this type of training occurs in a corporate environment in which proper training cannot be provided to participating employees (due for example to the small size of a majority of participating companies and to the lack of on-site trainers); that the work at participating workplaces has little to do with school lessons and learning, and often requires no skills; and that participating employees are exposed to danger. The KCTU alleges that there are also safety issues within the training programmes of the WSC system, that a report from a full-scale survey inspecting the operation of apprenticeship schools in South Jeolla (Jeonnam) Province showed that only 79.7 per cent of participating employees answered that they had received safety education from their companies, and that 15.6 per cent of them work without safety equipment or have to buy their own safety equipment. As many as 33.7 per cent of the respondents answered that they themselves or a friend had been injured while working. One-third of participating employees directly or indirectly experienced an industrial accident.

The Committee further notes that the FKTU, in its observations, indicates that the industrial accident death of the trainee in 2021 has highlighted a serious issue that is currently emerging as a social problem in the Republic of Korea: the working conditions and protection measures for “student labourers”/“student youth workers”. In this regard, the FKTU indicates that the Government announced the launch of the “Additional Improvement Plan for Occupational School Field Practice to Secure Safety and Rights”, on December 2021, which itself identifies the three major issues in the training systems: (1) lack of systematic management, supervision and support to ensure the safety of students; (2) low awareness of the field training for students on-site; and (3) insufficient conditions for education-centered field training, and the lack of environment for the expansion of opportunities. The FKTU indicates that, in this regard, the plan aims to promote field training safety, expand the protection of field trainees’ rights and interests, and reinforce the foundation for field training operations. The FKTU observes that the details on the implementation status of such improvement measures should be provided by the Government.

Finally, the Committee notes that, in the Government’s reply to the FKTU’s observations, the Government states that, while it deeply shares the need for the prevention of occupational accidents for students in technical education and is taking measures to ensure the occupational safety and health of on-the-job trainees, this issue is not under the scope of the application of the Convention, because *Article 6* excludes from the scope of coverage of the Convention work done by young persons in schools for general, vocational or technical education or other training institutions.

In this regard, the Committee notes that the minimum age of for apprenticeships and vocational training in Korea appears to be 16 years and that, therefore, trainees are generally over the minimum age for admission to employment or work. The Committee recalls, however, that while work done in the course of vocational training or apprenticeships is not covered by the provisions of the Convention, this relates only as regards the minimum age requirement, namely that children under the minimum age may perform work if it is in the framework of vocational education or apprenticeships (the latter for children over the age of 14). However, the requirements of *Article 3* of the Convention, regarding protection from hazardous work, apply to all children and young persons, including those engaged in vocational training or apprenticeships (see [General Survey on the fundamental Conventions](#), 2012, paragraph 385).

The Committee therefore notes with **concern** the situation regarding the lack of safety and adequate training and supervision given to trainees. The Committee recalls that *Article 3(1)* of the Convention provides that the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals

of young persons shall not be less than 18 years. While *Article 3(3)* of the Convention allows certain hazardous types of employment or work to be performed as from the age of 16 years, this is provided that certain conditions are met: (1) the organizations of employers and workers concerned must have been consulted beforehand; (2) the health, safety and morals of the young persons concerned must be fully protected; and (3) they must have received adequate specific instruction or vocational training in the relevant branch of activity. The Committee further recalls that these conditions must be applied to all workers, including young persons in the course of their apprenticeship or vocational training. ***The Committee therefore requests the Government to ensure that trainees under the age of 18 years are not engaged in hazardous types of work, particularly those prohibited to children under the age of 18 in accordance with section 65 of the Labour Standards Act and/or other regulations. If trainees over the age of 16 years are engaged in certain types of hazardous work in the course of their apprenticeship or vocational training, the Committee urges the Government to take measures to ensure that the performance of these hazardous tasks is authorized only as prescribed by Article 3(3) of the Convention, namely that their health, safety and morals are fully protected and that they receive adequate, specific instruction or training in the relevant branch of activity. The Committee requests the Government to provide information on the progress made in this regard, as well as on the consultations held with the concerned organizations of employers and workers on this issue.***

*Article 9(1). Penalties.* The Committee notes the Vocational Education and Training Promotion Act, which serves as the basis of the OJT system, provides that the state and local governments shall guide and supervise on-the-job training (section 7). Regarding its operation, the Minister of Education, the Minister of Employment and Labour, and metropolitan/provincial superintendents may provide guidance or conduct inspections, such as ordering vocational education and training institutions and on-the-job industries to report or submit materials as necessary or having relevant civil servants perform field inspections (section 25). The KCTU alleges that while on-site inspections in the framework of the OJT system can be conducted along with the Korea Occupational Safety and Health Agency or the Korea Industrial Safety Association (when they request to join the inspection first), they are usually carried out by a labour attorney alone, who visits only once and ticks each box either “good” or “poor” on the checklist, in accordance with the “2022 Company Coaching Project Manual for On-the-job Training of Vocational High Schools”. The FKTU indicates that the manual asks labour attorneys to focus more on “guiding” companies or “explaining” the system so that the companies can carry out on-the-job training, rather than expecting strict adherence to the checklist items.

With regard to the WSC system, the KCTU indicates that one of the reasons why participating companies do not provide a safe training environment for participating employees is that the WSC Act itself does not obligate companies to do so. Even if an industrial accident occurs, the designation of the company as a participating company is not cancelled, and the company either receives a corrective order or their designation may be temporarily suspended (section 14(1)3 of the WSC Act). Participating companies are required to take safety measures in accordance with the Occupational Safety and Health Act, but if they fail to fulfil this obligation, the penalty is only a fine not exceeding five million won (approximately US\$3,725) (section 42(2)2 of the WSC Act).

The Committee recalls that *Article 9(1)* of the Convention requires that all necessary measures, including the provision of appropriate and sufficiently dissuasive penalties, be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention. ***The Committee therefore requests the Government to take the necessary measures to ensure that all persons who, in the framework of the OJT or WSC systems, either:***

- ***employ children between the ages of 16 and 18 in hazardous work without respecting the conditions of safety and training, or***
- ***employ children under 18 years of age in types of hazardous work that are prohibited in accordance with section 65 of the Labour Standards Act and/or other regulations,***

***Incur effective and sufficiently dissuasive penalties, and not only warnings or guidance, in accordance with Article 9(1) of the Convention. In this regard, the Committee requests the Government to provide information on the type of violations of the Convention detected by inspections in both systems, and the number and nature of penalties imposed.***

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

## Republic of Moldova

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

#### Previous comment

The Committee notes the observations of the National Confederation of Trade Unions of Moldova (CNSM), received on 17 August 2022.

*Article 2(1) of the Convention. Scope of application and labour inspection. Children working in the informal economy and self-employed children.* The Committee notes the Government's indication, in its report, that labour inspections concerning 26 employees under the age of 18 were carried out in 2021. In total, 31 violations of the national legislation in relation to work of young persons under 18 years were detected. This included, amongst others, violations of sections 46(3) (employment of persons under 15 years of age); 71 (use of undeclared work); and 253(1) (employment of young persons under 18 years without conducting a medical examination) of the Labour Code. The Government also indicates that labour inspectors submitted four contravention minutes to the courts which led to the adoption of three court decisions sanctioning the employers with fines.

The Committee recalls that in its [detailed comments](#) under the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), it noted the decrease in the number of inspections carried out by the State Labour Inspectorate, including in agriculture, and of workers covered by inspection controls as well as the restrictions on the undertaking of labour inspections. ***While noting certain measures taken by the Government, the Committee requests the Government to strengthen its efforts to ensure that the protection afforded by the Convention is guaranteed to all children working outside a formal employment relationship, such as self-employed children or children in the informal economy. In this regard, the Committee encourages the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working both in the formal and in the informal economy, particularly in the agricultural sector. It further requests the Government to continue to provide information on the activities carried out by the State Labour Inspectorate in relation to child labour, including the number of labour inspections carried out, the number and nature of cases detected, and any follow-up measures taken.***

*Minimum age for admission to employment or work.* The Committee notes the Government's indication that section 46(3) of the Labour Code, which allows children over 15 years of age to conclude work contracts with the written permission of their parents, or legal representatives, provided that this does not impair their health, education, development or vocational training, is in line with *Article 2(3)* of the Convention which sets out a minimum age for admission to employment or work of not less than 15 years.

The Committee recalls once again that as per *Article 2(1)* of the Convention, a Member state which ratifies the Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work. The Committee further recalls that, upon ratifying the Convention, the Government declared 16 years to be the minimum age for admission to employment and that, consequently, pursuant to *Article 2(1)* of the Convention, children under that age may not be admitted to work except in light work, which may be undertaken in the conditions set out in *Article 7* of the Convention. The Committee also notes that the CNSM, in its observations, indicates that the provisions

of section 46(3) of the Labour Code should be adjusted, in accordance with the requirements of the Convention. ***The Committee urges the Government to take the necessary measures, without further delay, to ensure that no person under the minimum age specified by the Government (16 years) shall be admitted to employment or work in any occupation, except for light work. The Committee requests the Government to provide information on the measures taken in this regard.***

*Article 7(3). Determination of light work.* The Committee previously noted the Government's information that, in the context of the revision of the list of types of hazardous work prohibited for children under the age of 18 years, discussions would be undertaken with regard to adopting a list of light work activities that may be carried out by children of 14 years of age, pursuant to section 11(2) and (3) of the Child Rights Act of 1994. The Committee notes with **regret** the absence of information in the Government's report concerning its previous request to provide information on the progress made with regard to the adoption of a list of light work activities that may be carried out by children of 14 to 16 years of age. The Committee also takes note of the CNSM's observations pointing out the importance of the adoption of such a list.

The Committee recalls that, under *Article 7(3)* of the Convention, the competent authority shall determine the activities in which light work may be permitted 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 take the necessary measures to determine the types of light work activities that may be undertaken by children from 14 to 16 years of age, as well as the number of hours and the conditions in which such light work may be undertaken. It asks the Government to provide information on the progress made in this regard in its next report.***

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

### Previous comment

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children.* The Committee notes the Government's indication, in its report, that in 2021, 13 prosecutions were initiated under section 206 (trafficking of children) of the Criminal Code, following which 6 indictments were filed in court and 25 persons were sentenced to imprisonment. The Committee also notes that according to the 2020 report of the Group of Experts on Action Against Trafficking in Human Beings (GRETA) on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova, an increasing number of trafficking cases concerned children from rural areas communicating via social networks or websites offering job opportunities. The GRETA further indicated challenges in the investigation of such cases due to lack of evidence (para. 199). ***The Committee requests the Government to continue to take the necessary measures to ensure that all cases of child trafficking are subject to thorough investigations with a view to ensure that perpetrators are prosecuted, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to continue to provide information on the application of section 206 of the Criminal Code in practice, including the number of investigations, prosecutions, convictions and penalties imposed.***

*Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour. Trafficking of children.* The Committee notes the Government's indication that in 2021, 22 child victims of trafficking, including 21 girls and 1 boy, were identified. According to the Government, 19 child victims were trafficked within the Republic of Moldova, including for the purposes of labour exploitation (7 child victims) and sexual exploitation (1 child victim). The Government also indicates that the assistance and protection centres for victims of trafficking provided 19 children with assistance services in 2021. In addition, the Public Association International Centre "La Strada" provided various services to child victims of trafficking, including medical and psychological assistance.

The Committee notes the Report on Observance of Child's Rights in 2021 of the People's Advocate (Ombudsman) of the Republic of Moldova indicating that a mechanism for intersectoral cooperation in



identifying, assessing, referring and assisting child victims and potential victims of violence, neglect, exploitation and trafficking (adopted by the Government's Decree No. 270 of 2014) is often not applied or is applied defectively in practice (page 52). The Committee further notes that in its 2020 report, the GRETA urged the Moldovan authorities to strengthen their efforts to improve the identification of, and assistance to, child victims, in particular by strengthening the capacity of child protection professionals (para. 205). The GRETA also urged the authorities to ensure that all child victims of trafficking, including children older than 14, are in practice afforded special protection measures (para. 151). **The Committee requests the Government to step up its efforts to ensure that all child victims of trafficking are removed from the worst form of child labour and provided with appropriate services for their rehabilitation and social integration. It requests the Government to continue to provide information on the number of child victims of trafficking who have been removed and provided with assistance.**

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

## Saint Vincent and the Grenadines

### Minimum Age Convention, 1973 (No. 138) (ratification: 2006)

#### Previous comment

*Article 2(1) of the Convention. Scope of application.* The Committee notes with **regret** the Government's information in its report that there have been no legislative developments and therefore, section 7(2) of the Employment of Women, Young Persons and Children Act of 1938 as amended (EWYPC Act), continues to exempt work in an industrial undertaking or ship in which only members of the same family are employed. **Once again recalling that the Convention applies to all types of work or employment, the Committee urges the Government to take all the necessary measures to ensure that the protections provided under the EWYPC Act are extended to all types of work by children, including in an industrial undertaking or ship in which only members of the same family are employed. It requests the Government to provide information on any measures taken or envisaged in this regard.**

*Article 2(3). Age of completion of compulsory education.* The Committee notes the Government's indication that the minimum age for employment is 16 years, according to section 18(1) of Chapter 296 of the National Insurance Act of 1986. The Committee notes, however, that this provision does not concern the minimum working age but relates to the requirement of persons aged 16 to 60 years to be insured under the Act.

The Committee recalls that section 3(1) of the EWYPC Act sets the minimum age for work or employment at 14 years. It therefore notes that the age of completion of compulsory education (set at 16 years under Part III of the Education Act of 2006) continues to be higher than the minimum age for work or employment. In this regard, the Committee notes, from the Government's report submitted to the Working Group on the Universal Periodic Review of the Human Rights Council, the Government's indication that an Employment Relations Bill has been prepared which will include a clause to increase the statutory minimum age from 14 to 16 years (A/HRC/WG. 6/39/VCT/1, 15 October 2021, paragraph 138). **The Committee once again requests the Government to take the necessary measures to raise the general minimum age for admission to employment or work in order to link it with the age of completion of compulsory schooling, in conformity with the Convention. It requests the Government to provide information on the progress achieved in this regard, including through the adoption of the Employment Relations Bill.**

*Article 3(1) and (2). Minimum age for admission to and determination of hazardous work.* **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 Worst Forms of Child Labour Convention, 1999 (No. 182).**

*Article 6. Vocational training and apprenticeship.* The Committee notes the Government's indication that there have been no legislative developments. **Noting the absence of progress in this regard, the Committee requests the Government to take all necessary measures to ensure that work done in the context of an apprenticeship or vocational training is regulated and provides for: (i) a minimum age for entry into apprenticeships; (ii) the types of work in which an apprenticeship may be undertaken; and (iii) the conditions under which an apprenticeship may be undertaken and performed. It requests the Government to provide information on any progress made in this regard.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

#### [Previous comment](#)

*Articles 3(d) and 4(1) of the Convention. Minimum age for admission to, and determination of, hazardous work.* The Committee notes, from the Government's report, that once again there has been no progress to prohibit the employment of children under the age of 18 years in hazardous work nor to determine the types of hazardous work prohibited to children below 18 years of age. The Committee further notes that the Government provides no information on the results of the consultations, ongoing since 2013, which were intended to amend the Employment of Women, Young Persons and Children Act (EWYPC Act) to bring it into conformity with *Articles 3(d) and 4(1)* of the Convention. The Committee therefore notes with **regret** that section 3(1) of the EWYPC Act continues to permit the employment of children in all types of work and employment, including hazardous types of work, from the age of 14 years (except for the prohibition on night work in industrial undertakings under section 3(2)). **The Committee therefore urges the Government to take the necessary measures to ensure that its legislation: (i) prohibits the employment of children under 18 years of age in hazardous work; and (ii) determines the types of hazardous work prohibited to children under the age of 18 years. The Committee requests the Government to provide information on any developments made in this regard, including the status of any ongoing consultations with social partners and other stakeholders to this end.**

*Application of the Convention in practice.* The Committee previously noted that children were found to be engaged in hazardous work, including in the agricultural sector, the commercial sex industry and the illicit trade in drugs. It notes that the Government, in reply to its previous request, merely indicates that no new statistical information is available with regard to the implementation of the Convention. In this regard, the Committee recalls the importance of providing information on the manner in which the Convention is applied in practice and emphasizes the necessity to ensure that sufficient and up-to-date data on the prevalence of the worst forms of child labour are made available to determine the magnitude of child labour and, in particular, its worst forms (see [General Survey on the fundamental Conventions of 2012](#), para. 647). **The Committee therefore once again requests the Government to take the necessary measures to ensure that sufficient data on the situation of children involved in the worst forms of child labour are made available. It requests the Government to provide information on the nature, extent and trends of the worst forms of child labour, the number and nature of infringements reported, investigations, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by age and gender.**

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

## **Samoa**

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2008)**

#### [Previous comment](#)

*Article 2(3) of the Convention. Age of completion of compulsory education.* The Committee notes, from the Government's report, that the Labour and Employment Relations Amendment Act, 2023, amended section 51 of the Labour and Employment Relations Act, 2013, by raising the minimum age

for work or employment from 15 to 16 years. It notes with **satisfaction** that the minimum age for work or employment is now aligned with the age of completion of compulsory education, in line with *Article 2(3)* of the Convention.

*Article 3(2). Determination of types of hazardous work. With regard to the list of hazardous types of work prohibited to children under the age of 18 years, the Committee refers to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).*

*Article 7(1) and (3). Minimum age for admission to light work and determination of types of light work activities.* The Committee notes the Government's indication that the Labour and Employment Relations Amendment Act, 2023, introduced amendments to section 51 of the Labour and Employment Relations Act, 2013, consistent with the requirements of *Article 7(1)* of the Convention. The Committee notes with **interest** that section 51(2), as amended, sets the minimum age for light work activities at 13 years, with the requirements that such work: (1) is not likely to be harmful to the health and development of the child; (2) does not affect the child's attendance at school or vocational training or prevent or interfere with school attendance, active participation in school activities or the child's education development; and (3) complies with regulations. The Committee further notes, from the Government's report on the application of Convention No. 182, that a draft Labour and Employment Relations Regulation, 2023, is in the final stages before adoption. **The Committee requests the Government to take the necessary measures to ensure that the draft Labour and Employment Relations Regulation, 2023, includes: (i) provisions to ensure the determination of light work activities; (ii) the conditions in which light work may be permitted; and (iii) the number of hours during which such employment of children may be undertaken.**

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)**

### [Previous comment](#)

*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 notes the Government's indication that the COVID-19 pandemic and the change of government administration led to a delay in the adoption of the Crimes Amendment Bill, 2020. The Committee recalls that the Bill proposes to amend the definition of a child for the purposes of section 82 of the Crimes Act, 2013, (on the prohibition to sell, deliver, exhibit, print, publish, create, produce or distribute any indecent material that depicts a child engaged in sexually explicit conduct) from a person under the age of 16 years to all persons aged under 18 years. **The Committee requests the Government to take the necessary measures to ensure that the Crimes Amendment Bill, 2020, is adopted, without delay, so that the prohibition of section 82 of the Crimes Act, 2013, on the production and distribution of indecent materials depicting children will include children between 16 and 18 years of age. It once again requests the Government to provide information on any progress made in this regard.**

*Article 4(1). Determination of hazardous types of work.* The Committee notes the Government's indication that, following the adoption of the Labour and Employment Relations Amendment Act, 2023, a draft Labour and Employment Relations Regulation, 2023, has been prepared and is in the final stages before adoption. The Government adds that the draft Regulation contains a list of hazardous types of work prohibited to children under 18 years of age. **The Committee requests the Government to take the necessary measures to ensure that the draft Labour and Employment Relations Regulation, 2023, containing a list of hazardous types of work prohibited to children under 18 will be enacted and enforced without delay. It requests the Government to provide information on any progress made in this regard.**

*Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Children working as street vendors.* The Government indicates that, despite some delays due to the

COVID-19 pandemic, substantial work was undertaken towards the adoption of the Child Care and Protection Bill. The Committee recalls in particular that, under section 55(1) of the Bill, no child under the age of 14 years shall be permitted to sell any goods on the streets or in any public places, while no child who is below the age requiring compulsory attendance at school is permitted to sell goods on the streets or in any public places after 7 p.m. on any day. The Government further indicates that the Samoa Inter-Agency Essential Services published and disseminated a “Guide for responding to gender-based violence and child protection”, which outlines the referral pathway for services in response to cases of violence against children, including cases of labour exploitation of children. The Committee also notes the 2022 Rapid Assessment Survey of Child Vendors in Samoa, undertaken with the collaboration of the ILO and UNICEF. The Survey identified and interviewed 135 child street vendors (51 girls and 84 boys) to understand the characteristics of child vendors, including their age, education status, level of education, social and economic background and reasons for engaging in street vending. The Government adds that the data collected will contribute to evidence-based policy development. ***The Committee encourages the Government to pursue 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: (i) the measures and results achieved in this regard; (ii) the measures taken or envisaged following the publication of the 2022 Rapid Assessment Survey of Child Vendors in Samoa; (iii) how the Inter-Agency’s “Guide for responding to gender-based violence and child protection” has facilitated the provision of direct assistance for children engaged in street trading; and (iv) the number of child street vendors who have been removed from the worst forms of child labour and provided with assistance.***

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

## Senegal

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

#### Previous comment

*Article 1 of the Convention. National policy and application of the Convention in practice.* With reference to its earlier comments, the Committee notes the information contained in the Government’s report, according to which the principle actors concerned are not well versed in the national policy on child labour, which has prevented the successful implementation of the action foreseen under the National Framework Plan for the Prevention and Elimination of Child Labour (PCNPETE 2012–17). The Government also adds that the PCNPETE has not received sufficient funding to apply the established strategy effectively.

The Committee notes the action undertaken with the support of the ILO through its International Programme on the Elimination of Child Labour. Other partners at operational level also participated in implementation of the PCNPETE, through action to withdraw and rehabilitate children in child labour, including the NGOs *Concept* and *La Lumière* in the Diouras at Kédougou and in the Saint-Louis fishing sector. In that instance, the children subject to child labour are cared for by local child protection mechanisms, established as part of the National Child Protection Strategy.

The Committee notes that although the last national survey on child labour dates from 2005, the Government does collect data, in particular by drawing up forms for distribution to the labour inspectors in the four PCNPETE pilot regions. ***The Committee again requests the Government to continue to combat child labour through implementing the PCNPETE. It also requests the Government to provide information on the various projects launched by other actors that may have an impact on the elimination of child labour. The Committee also requests the Government to take measures to ensure that sufficient updated data on the situation of child workers are available, for example using the data-collection forms, until the holding of a new national survey on child labour. It requests the Government to provide information on results in this regard.***

*Article 2(1). Minimum age for admission to employment or work.* With reference to its previous comments, the Committee notes that the bill amending section L.145 of the Labour Code on the minimum age for admission to work was adopted by the Council of Ministers on 2 January 2019, but that the Government has not provided a copy thereof, nor of the ministerial orders that it mentions.

The Committee notes that the Government refers to that the technical revision of Orders Nos. 3,748 to 3,751 of the Ministry of Labour, which will raise the minimum age for admission to employment or work from 15 to 16. ***Given that the Committee has been commenting on the bill amending section L.145 of the Labour Code on the minimum age of admission to employment or work for over 15 years, the Committee once again firmly hopes that the Government will take the necessary measures to ensure that its legislation is amended, as soon as possible, to bring it into conformity with the Convention and only providing for exemptions from the minimum age of admission to employment and work strictly in cases prescribed in the Convention. It requests the Government to provide information on progress made in this regard. The Committee also requests the Government to keep it informed of the revision of Orders Nos. 3,748 to 3,751.***

*Article 2(1). Scope of application and labour inspection.* With regard to its previous comments, the Committee notes the project “*Ensemble vers la Réforme du Travail*” (Together towards Labour Reform), conducted under the partnership established between the ILO International Training Centre, Turin, the German Society for International Cooperation and Senegal and which aims to create a continuous training system for labour inspectors. This system targets a number of labour inspectors to represent each region and who will form a group of focal points known as “Task Force”, in order to reinforce the capacities of the entire labour inspection service in Senegal. During 2022, seven activities based on the ILO training methodology were undertaken. The project directly targets very small, small and medium-sized enterprises in the formal and informal economies of Senegal. ***The Committee requests the Government to provide detailed information on the results of the reinforcement of the labour inspection service undertaken to ensure monitoring of child labour, particularly in the informal economy, and to ensure that these children receive the protection provided under the Convention.***

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* The Committee recalls that in its previous comments it highlighted a contradiction between section 1 of Order No. 3748/MFPTEOP/DTSS of 6 June 2003 relating to child labour, which provides that the minimum age for admission to hazardous types of work is 18 years, and Order No. 3750/MFPTEOP/DTSS of 6 June 2003 establishing the nature of the hazardous types of work prohibited for children and young persons, which allows persons under 16 years of age to perform certain types of hazardous work.

The Committee notes the Government’s indication that it reiterates its commitment to correcting all points in the legislation that do not conform with the Convention through legislative reform, only providing for exemptions from the minimum age of admission to employment and work strictly in cases prescribed in the Convention. However, the Committee notes with ***deep concern*** that the legislative reform announced is still ongoing. ***Recalling once more that it has been raising this question since 2006, the Committee urges the Government to take the necessary measures to bring its legislation into conformity with the Convention without delay, in order to ensure that children of less than 16 years of age cannot be engaged in work in underground mines and quarries. The Committee also urges the Government to ensure that the conditions provided under 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 Government to provide copies of the regulatory texts concerned once they have been adopted.***

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

### Previous comment

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children for economic exploitation and forced labour. Begging.* With regard to its previous comments, in which the Committee expressed its concern at the persistent exploitation of *talibé* children and deplored the low number of prosecutions under section 3 of Act No. 2005-06, it notes the Government's intention in its report to adopt a draft Children's Code rapidly. This draft, under its section 118, provides for the creation of a complaints mechanism for children, entitled "Children's Defender". According to the provisions, the Children's Defender may be contacted by different parties: the children themselves, their legal representatives, the medical and social services, or any other person or association informed of the violation of the child's rights. The Children's Defender is also empowered to act on her or his own initiative on being informed of violations of the rights of the child.

The Committee also notes the information in the report submitted by Senegal to the United Nations Committee on the Rights of the Child, published on 8 December 2022 (CRC/C/SEN/6-7, para. 68), according to which that Committee requested the National Statistics and Demography Agency to conduct a study "on the status of data collection on begging".

The Committee notes with **regret** the absence of information on the number of children engaged in begging, and on the number of prosecutions filed under section 3 of Act No. 2005-06. **Recalling that the penalties established are only effective if they are applied in practice, the Committee once again urges the Government to take the necessary measures without delay to ensure the effective enforcement in practice of section 3 of Act No. 2005-06 and the punishment of persons who use talibé children under 18 years of age for begging for economic exploitation. The Committee once again urges the Government to intensify its efforts for the effective reinforcement of the capacities of the officials responsible for the enforcement of the law and to ensure that the perpetrators of these acts, as well as State officials who fail to investigate such allegations, are prosecuted and that sufficiently dissuasive penalties are imposed in practice on those who are convicted. The Committee again requests the Government to provide statistics on the number of prosecutions, convictions and penalties imposed under Act No. 2005-06. It also requests it to provide information on progress regarding the report on "the status of data-collection on begging".**

*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. Projects and programmes for the removal of children from the streets.* Further to its previous comments, the Committee notes the information in the Government's report regarding the activities undertaken to support the social reintegration of children in street situations. The Ministry of Child Protection provided 24 families and 15 Koranic schools (*daaras*) with kits containing food, hygiene products and other products. Moreover, 60 families were enrolled in the National Family Security Grants Programme, and 15 *daaras* which came forward voluntarily were funded through micro-projects to accompany families in their return to the area they left from and to build their self-sufficiency.

The Committee also notes that besides the plan for the removal of children from the street, the Ministry of Child Protection has drawn up two different projects: the project to support, remove and rehabilitate street children, with a pilot phase to be developed in the Dakar region; and the programme to promote the removal and socioeconomic reintegration of street children, currently at the fund-raising phase. **The Committee requests the Government to continue to reinforce the relevant programmes to be able to remove child victims of begging for exclusively economic purposes and ensure their lasting rehabilitation and social integration, particularly by ensuring effective follow-up to the children's removal from the streets. The Committee also requests the Government to transmit information on the measures taken in this regard and to provide statistics on the number of talibé children withdrawn from the worst forms of child labour that have benefited from rehabilitation and social reintegration.**

*Project to modernize daaras.* Further to its previous comments, the Committee notes the information provided by the Government in its report, according to which the Ministry of Education, through the project to improve the quality and equity of basic education (the PAQEED project) has developed strategies including: (1) implementation of the modern *daaras* curriculum, integrating memorizing the Koran, religious education and basic elementary school competencies; and (2) implementation of an investment programme aimed at the construction, rehabilitation and fitting out of *daaras* so as to create a physical and pedagogical environment propitious to good quality education.

The Committee also notes the information according to which other projects aim to promote implementation of the PAQEED project by integrating support for *daaras*, in collaboration with international entities such as the Islamic Development Bank, the World Bank, UNICEF and the United States Agency for International Development.

However, The Committee notes with **regret** that the bill establishing the status of *daaras*, introduced first in 2010, then reintroduced in 2013 and approved by the Council of Ministers in 2018, has not yet been adopted. ***The Committee requests the Government to continue to provide information on the implementation of the project to modernize daaras through the above programmes, as well as the results achieved. Finally, the Committee again asks the Government to take the necessary measures to ensure that the bill establishing the status of daaras is adopted in the near future and it requests the Government to provide information on the manner in which this bill, when it has been adopted, will contribute to the modernization of daaras and will protect talibé children from forced begging.***

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

## Sierra Leone

### Minimum Age Convention, 1973 (No. 138) (ratification: 2011)

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

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice.* The Committee notes the Government's indication, in its report, that: (1) information on court decisions relating to the application of the Convention is not readily available but that the Government is working on collecting this information; and (2) the most recent statistical data on the application of the Convention dates back to 2011. The Committee also notes that the Multiple Indicator Cluster Survey 6 (MICS 6) 2017 has not been updated. It notes the Government's request for ILO technical assistance for the collection of statistical data on child labour.

The Committee further notes that the Government does not provide information on the adoption of the Child Labour Action Plan, as mentioned in its previous report, nor does it provide information on the implementation of the National Child Welfare Policy and the National Child Protection Strategy. ***Recalling the large number of children involved in child labour, including in hazardous work, the Committee requests the Government to take the necessary measures to: (i) prevent and eliminate child labour within the country, including through the adoption of a national policy to this end; and (ii) ensure that sufficient data on children engaged in child labour is made available. In this regard, it requests the Government to provide information on: (i) the adoption of the Child Labour Action Plan; (ii) the measures taken to implement the National Child Welfare Policy and the National Child Protection Strategy; (iii) any other measures taken towards the progressive elimination of child labour; and (iv) the nature, extent and trends of child labour in the country, including in hazardous work and in the informal economy***

*Article 3(1) and (2). Minimum age for admission to hazardous types of work and determination of these types of work.* The Committee notes the Government's information on the adoption of the Employment Act, 2023. Recalling that, under the Employers and Employed Act of 1960, children from

the age of 16 years were permitted to perform underground work, the Committee notes with **satisfaction** that the Employment Act: (1) prohibits the work of a child under the age of 18 years in any work that is likely to jeopardize his/her health, safety, physical, mental, moral or social development or to interfere with his/her education (section 95(4)); (2) prohibits the engagement of a child under 18 years of age in underground work (section 95(2)); and (3) explicitly repeals the Employers and Employed Act (section 116).

The Committee further notes the Government's indication that the draft Employment Regulations, 2023, are in the final stages before adoption. It notes with **interest** that section 23(2) of the draft Regulations determines the types of hazardous work which are prohibited to children under the age of 18 years, in accordance with section 95(4) of the Employment Act. The Committee notes that this includes, but is not limited to, work within the mining and quarrying industries. **The Committee requests the Government to ensure that section 23(3), establishing a list of hazardous types of work prohibited to children under the age of 18 years is retained during the enactment of the Employment Regulations.**

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* The Committee notes that, under section 24(3) of the draft Employment Regulations, 2023, a child may be employed in hazardous types of work, provided the employer ensures the safety, well-being, and protection of the child from exploitation or harm, and that adequate supervision, appropriate working conditions and compliance with child protection guidelines be maintained. The Committee notes that this exemption: (1) does not determine a minimum age; and that (2) while requiring that the safety and health of young persons be ensured, it does not require that they also receive adequate specific vocational training in the relevant branch of activity.

The Committee further notes that section 24(2) of the draft Regulations provides that, the Minister of Labour and Social Security, upon receipt of an application, may authorize, on a case-by-case basis, a child to perform hazardous types of work, provided it is in the framework of an approved vocational training programme, apprenticeship or training institution. In this regard, the Committee recalls that, even in the context of an apprenticeship or vocational training, exemptions permitting young persons under 18 years to perform hazardous types of work should be limited to those who are at least 16 years of age. **The Committee therefore requests the Government to ensure that sections 24(2) and (3) of the draft Employment Regulations, 2023, are modified to: (i) set a minimum age of at least 16 years for exemptions to the general prohibition of children under 18 years of age to perform hazardous work, including in vocational training and apprenticeships; and (ii) ensure that, in all cases, they receive adequate specific instruction or vocational training in the relevant branch of activity, in addition to ensuring that their health, safety and morals be fully protected.**

*Article 6. Vocational training and apprenticeship.* Following its previous comments, the Committee notes with **satisfaction** that: (1) section 99 of the Employment Act explicitly sets the minimum age to commence an apprenticeship with a craftsman at 14 years or after completion of basic education; and (2) sections 100 to 103 provide for the conditions under which an apprenticeship may be performed. **The Committee requests the Government to provide information on the application in practice of section 99 of the Employment Act, including on the number of violations reported and the penalties imposed.**

*Article 7(1) and (3). Age for admission to light work and determination of light work.* The Committee notes with **interest** that the Employment Act: (1) sets the minimum age for engagement of a child in light work at 13 years (section 96(1)); and (2) defines light work 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 the capacity of the child to benefit from schoolwork (section 96(2)). However, the Government also indicates that the legislation does not provide the conditions in which light work may be permitted or the number of hours during which such employment may be undertaken. The Committee also notes that the draft Employment Regulations do not set out a list of light work activities. **The Committee requests the**



**Government to take the necessary measures to ensure that the draft Employment Regulations, 2023, include: (i) provisions to ensure the determination of light work activities; (ii) the conditions in which light work may be permitted; and (iii) the number of hours during which such employment of children may be undertaken.**

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2011)**

### [Previous comment](#)

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Trafficking in children.* The Committee notes with **interest**, from the Government's report, the adoption of the Anti-Human Trafficking and Migrant Smuggling Act, 2022, which replaces and repeals the Anti-Human Trafficking Act, 2005. The new Act provides for more dissuasive penalties, including not less than 25 years' imprisonment for persons convicted of trafficking (section 12). The Committee notes, however, that the Government does not reply to its previous requests for statistical information on the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed regarding the trafficking of children under 18 years. It notes, from the Government's report on the application of the Minimum Age Convention, 1973 (No. 138), that the Government is working on collecting data on court decisions. **The Committee requests the Government to take the necessary measures to ensure that thorough investigations and prosecutions of offenders are carried out and sufficiently effective and dissuasive penalties are applied in practice. The Committee also requests the Government to collect and provide information on the application of the Anti-Human Trafficking and Migrant Smuggling Act in practice, including statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed regarding the trafficking of children under 18 years.**

*Articles 3(d) and 4(1). Hazardous work and determination of types of hazardous work. Concerning the adoption of the list of hazardous types of work and determination of the types of hazardous work, the Committee refers to its detailed comments under the Minimum Age Convention, 1973 (No. 138).*

*Article 5. Monitoring mechanisms. National Task Force on Anti-Human Trafficking.* The Committee notes that the Government merely repeats the information previously provided, namely that: (1) training has been widely conducted for border patrol agents; (2) a Family Support Unit within the Sierra Leone police force has been established across the country to deal with matters relating to offences against children and young persons; and (3) it established a Fast-Track Court for Sexual Offences (Sexual Offence Mobile Court). The Committee further notes, that the Anti-Human Trafficking and Migrant Smuggling Act, in its sections 2 to 10, sets out the responsibilities and functions of the National Task Force on Anti-Human Trafficking, including: implementing and enforcing the Act; receiving and investigating reports of activities of human trafficking; monitoring migration patterns; initiating measures to inform and educate the public about the causes and consequences of human trafficking; collecting, storing and publishing data on human trafficking; cooperating with foreign governments; advising the Government; assisting victims; and publishing its annual report. **The Committee requests the Government to provide information on the activities of, and results achieved by, the National Anti-Task Force on Human Trafficking to combat trafficking in children, including on the specific measures taken to: (i) implement the Anti-Human Trafficking and Migrant Smuggling Act; (ii) investigate reports of child trafficking; (iii) raise awareness among the public on the causes and consequences of trafficking in children; (iv) collect and publish data on trafficking in children; and (v) collaborate with other governmental agencies to this end. It also requests the Government to provide a copy of the annual report of the Task Force. The Committee once again requests the Government to: (i) provide information on the scope, functions and operationalization of the Family Support Unit of the Sierra Leone police; and (ii) indicate if the Sexual Offence Mobile Court has allowed for the prosecution of cases of trafficking in children.**

*National Technical Steering Committee, Child Welfare Committees and National Commission for Children. Noting the absence of information provided by the Government, the Committee once again requests it to: (i) strengthen national, state, district and community level monitoring mechanisms to combat trafficking in children; and (ii) provide information on the activities of the National Commission for Children, and the National Technical Steering Committee on preventing and combating trafficking in children, as well as the results achieved.*

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

## Solomon Islands

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2012)

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 25 August 2022, as well as those of the International Trade Union Confederation (ITUC) received on 1 September 2022 and requests the Government to reply to them. It also notes the discussion that was held by the Committee on the Application of Standards (the Conference Committee) at the 110th Session of the International Labour Conference (June 2022) regarding the application of the Convention by Solomon Islands in the absence of the Government.

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

*Articles 3(a) and (b), 5 and 7(1) of the Convention. Sale and trafficking of children and commercial sexual exploitation, monitoring mechanisms and sanctions.* The Committee notes that the Conference Committee took positive note of the steps taken by the Government to bring its national legislation in conformity with the Convention, including with respect to the use, procuring and offering of children for prostitution, but expressed its deep concern about the persistence of the sale and trafficking of children, particularly girls, for sexual exploitation purposes. The Conference Committee urged the Government to ensure that cases concerning the sale and trafficking of children are duly investigated, prosecuted, and sanctioned, and to strengthen the capacities of law enforcement bodies for this purpose.

The Committee notes that the ITUC refers in its observations to the existence of evidence of cases of sale and trafficking of children by their parents to foreign workers for sexual purposes, including in nightclubs, motels, logging camps, and fishing vessels, as well as to the absence of information on measures of prevention, inspection, investigation, and prosecution of this practice.

The Committee also notes that, in its observations, the IOE points out to the need to continue adopting measures, as a matter of priority, to sensitize the community on this matter and to reinforce the capacities of the labour inspectorates, operators of the criminal justice system, social workers, and the private sector to effectively eliminate this worst form of child labour. It also encourages the Government to continue working with the most representative workers' and employers' organizations and international development cooperation organizations to prevent the use and procuring of children for prostitution.

The Committee notes that the Government refers in its report to one criminal case concerning child pornography which ended in the conviction of the offender. It further notes, the Government's indication that the Sexual Assault Unit within the Police Force investigates cases related to child commercial sexual exploitation. However, it notes that the Government does not provide information on cases related to the sale and trafficking of children for sexual exploitation or the use, procuring or offering of children for prostitution that have been investigated, prosecuted, and punished. **Therefore, the Committee urges the Government to take all the necessary measures to reinforce the capacities of the law enforcement bodies (including the police force, prosecutors, and judges) to ensure that: (i) thorough investigations and prosecutions are carried out against persons who engage in the sale or trafficking of children and/or the use, procuring and offering of a child for prostitution; and (ii) sufficiently dissuasive penalties are imposed on the offenders. In this regard, the Committee requests the Government to provide information on the number of prosecutions, legal proceedings, convictions, and penalties imposed for trafficking of children for sexual exploitation (section 145 of the Penal Code (Amendment) (Sexual Offences) Act 2016 and section**

**77 of the Immigration Act 2012), and for using, procuring or offering a child for prostitution (sections 141(2) and 143 of the Penal Code (Amendment) (Sexual Offences) Act 2016).**

*Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.* The Committee notes that the Conference Committee urged the Government to adopt, without delay, legislation prohibiting the use, procuring, or offering of a child under the age of 18 years for the production and/or trafficking of drugs. The Committee notes that the Government indicates that it will consider this matter to be included in the national penal legislation. **The Committee requests the Government to take all the necessary measures to ensure that the national legislation prohibits the use, procuring or offering of a person under 18 years for illicit activities, in particular for the production and trafficking of drugs.**

*Clause (d) and Article 4(1). List of types of hazardous work.* The Committee previously noted that the Government was developing a list of types of hazardous work prohibited for children under the age of 18 with the technical support of the ILO. The Committee notes that the Conference Committee urged the Government to adopt without delay, in consultation with the social partners, a list of types of hazardous work prohibited for children under the age of 18 years.

The Committee notes that the ITUC calls on the Government to finalize, in consultation with the social partners, the list of types of hazardous work prohibited for children under 18 years of age.

The Committee notes the Government's indication that section 49 of the Labour Act (which prohibits the work of persons under the age of 18 years in underground mines, on ships, as a trimmer or stroker, or during the night in any industry) is still applied pending the adoption of a list of types of hazardous work. The Government indicates that a copy of the list will be sent once it has been tabulated and adopted, in collaboration with the social partners. **The Committee urges the Government to take all the necessary measures to finalize a list of types of hazardous work prohibited for persons under 18 years of age, in consultation with the organizations of employers and workers concerned. The Committee requests the Government to provide a copy of the list once adopted.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee previously noted the adoption of Education Strategic Framework (ESF) 2016–2030, which sets out as a long-term objective achieving full completion to quality and relevant primary and junior secondary (age 13 to 15) education for all. The Committee notes that, in its observations, the ITUC refers to the disparities in access to and the quality of education between urban and remote areas. It also notes that the Conference Committee urged the Government to ensure access to free basic education to all children, particularly children from poor and disadvantaged families as well as children living in remote areas.

The Committee notes the Government's indication that the Gross Enrolment Ratio for primary and junior secondary education remains stable and in line with the population growth. At primary level, the Gross Enrolment Ratio increased from 136 to 142 per cent over 2016–20, signalling that over-age students were enrolled in schools. However, there was a five per cent increase in out-of-school children between 2018 to 2019 (from 8 to 13 per cent). The Government adds that one of the measures taken by the Ministry of Education to keep children in school was to abolish the sixth year exam in 2019 to allow students to advance into the seventh year of education (junior secondary education). **The Committee requests the Government to continue taking effective and time-bound measures to facilitate access to free basic education (both primary and lower secondary education) by all children, particularly children from poor and disadvantaged families and those living in remote areas. It also requests the Government to continue providing updated statistical information on school enrolment, completion and drop-out rates for primary and lower secondary education.**

*Application of the Convention in practice.* With regard to the Conference Committee's and the Committee's request for updated statistical data on situations of worst forms of child labour, the Committee notes the Government's indication that it will intensify its efforts to implement a database containing statistical information on the nature, extent, and trends of the worst forms of child labour; the number of children protected by measures giving effect to the Convention; as well as the number and nature of offences reported, investigations, prosecutions, convictions, and penalties imposed. **The Committee hopes that the Government will be able to provide this information in its next report.**

***The Committee encourages the Government to avail itself of ILO technical assistance in relation to the issues raised in this observation.***

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

The Committee notes the Government's first report and the observations of the Federation of Somali Trade Unions (FESTU) received on 1 September 2018.

*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. Forced or compulsory recruitment of children for use in armed conflict.* The Government indicates in its report that article 29 of the Provisional Constitution of 2012 provides for the right of children to be protected from armed conflict and not to be used in armed conflict (paragraph 6). In addition, it indicates that the Somali National Army issued a general staff Order (No. 1), stating that children under 18 years of age may not enlist in the army.

The Committee notes that the draft Labour Code of 2019 provides, in its section 7 entitled "Slavery and forced labour and recruitment of children into the armed forces", for the prohibition of forced or compulsory recruitment of children for use in armed conflict, which is considered as a form of forced or compulsory labour. The penalty for offenders under this provision is a fine or imprisonment for a term of not less than three years and not exceeding ten years, or to both a fine and imprisonment.

According to the Government, the Somali National Army has benefited from human rights training and continuous sensitization to combat the use of children in armed conflict. However, the Government states that gaps exist in law enforcement areas to adequately protect children from the worst forms of child labour, especially in parts of the country that the Government does not control. It indicates the detection of cases of recruitment of children by non-state armed groups, including for use as spies, when opening and closing checkpoints, and to join their armed groups. In 2017, Al-Shabaab extremists intensified its campaign of forced recruitment of children as young as 8 years old. According to the Social Protection Policy of 2019, the recruitment of children by armed groups has included the threatening of elders, teachers in Islamic religious schools, and communities in rural areas with attacks if they did not provide thousands of children as young as 8 years old for use in armed conflict. The observations of the Federation of Somali Trade Unions (FESTU) received on 1 September 2018 also stated that children were forcibly recruited and used by militias and Al-Shabaab extremists as soldiers.

The Committee notes that, according to the Report of the UN Secretary-General on Children and armed conflict of June 2020, the recruitment and use in armed conflict of 1,442 boys and 53 girls were verified in 2019, with some children as young as 8 years old. Al-Shabaab remained the main perpetrator but government security forces, regional forces and clan militias also recruited and used children. A total of 1,158 cases of abduction of children were verified, mainly for the purpose of recruitment and use in armed conflict, as well as 703 cases of children killed or maimed, and more than 200 cases of girls being raped and are victims of sexual violence. The Secretary-General underlined the growing number of violations attributed to government security forces (A/74/845-S/2020/525, paragraphs 137, 139, 140, 142 and 145). Moreover, the Committee notes that, in her report of 24 December 2019, the Special Representative of the Secretary-General for Children and Armed Conflict specified that in Somalia, where the highest figures for sexual violence were verified in 2019, girls were sexually abused during their association with armed forces and groups, and forcibly married to combatants. She also stated that abduction was the primary way for Al-Shabaab to forcibly recruit children for use as combatants in Somalia (A/HRC/43/38, paragraphs 27 and 32). The Committee must **deplore** the continued recruitment and use of children in armed conflict in Somalia, especially as it entails other violations of children's rights, such as abductions, killings and sexual violence. ***While recognizing the complexity of the situation prevailing on the ground and the existence of an armed***

**conflict and armed groups in the country, the Committee urges the Government to take the necessary measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age by armed forces and armed groups in Somalia. The Committee also urges the Government to take immediate and effective measures to ensure the thorough investigation and prosecution of all persons found guilty of recruiting children under 18 years of age for use in armed conflict and to ensure that sufficiently effective and dissuasive penalties are imposed in practice. The Committee requests the Government to provide information on the number and nature of investigations carried out against the perpetrators of these crimes, as well as on the number of prosecutions conducted, and the number and nature of penalties imposed.**

Articles 6 and 7(2)(a) and (b). Programmes of action and effective time-bound measures for prevention, assistance and removal. Children forcibly recruited for use in armed conflict. The Government indicates that it signed a roadmap to end recruitment and use of children in conflict, in 2019.

The Committee notes that, in its report of March 2020 on Children and armed conflict in Somalia, the UN Secretary-General specified that this roadmap, aiming at accelerating the implementation of the action plans of 2012 on preventing and combating the recruitment and use and the killing and maiming of children, includes renewed commitments to strengthening the legislative framework, to capacity-building and awareness-raising for security forces, and to the screening of troops. The roadmap also provides for the creation of regional working groups on children and armed conflict, in order to implement the action plans at the Federal member State-level (S/2020/174, paragraphs 65 and 69). The Committee notes that the United Nations Assistance Mission in Somalia (UNSOM) specified that the roadmap to end recruitment and use of children in conflict details measures to release children associated with armed forces, and reintegrate them into their communities.

The Committee further notes that the UN Secretary-General indicated in its report of March 2020 that the Government was drafting a national strategy aimed at preventing child recruitment and facilitating the release and reintegration of children associated with armed groups, and a national strategy on assistance to victims aiming at supporting survivors of armed conflict, including children affected by conflict (S/2020/174, paragraph 67).

According to the report of the Government to the Committee on the Rights of the Child of October 2019, 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 (CRC/C/SOM/1, paragraph 362). However, according to the Report of the Secretary-General on Children and armed conflict of June 2020, 236 children were detained in 2019 for alleged association with armed groups by national and regional security forces (A/74/845-S/2020/525, paragraph 138). **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. It also requests the Government to provide information on the adoption and implementation of the above-mentioned national strategies to prevent child recruitment, facilitate the release and social reintegration of children associated with armed groups, and assist them, including any special attention that has been paid to the removal, rehabilitation and social integration of girls. Furthermore, the Committee requests the Government to provide information on the manner in which the National Programme for the Treatment and Handling of Disengaged Fighters has been applied to children recruited in armed groups and the armed forces.**

Article 7(2). Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. The Government indicates that the restoration of free education is one of its priorities. It has provided opportunities for free schooling in some regions, adding that 22 free schools have been established in the country. The Government wishes to implement programmes to enable more children to return to school.

The Committee notes that, according to the Social Protection Policy, there are low school enrolment rates throughout the country, and girls' enrolment rates are significantly lower. Almost 47 per cent of children from 6 to 17 years of age are not enrolled in school. In 2015, the primary school net attendance rate was estimated at 21 per cent for girls and 30 per cent for boys (page 7). The Federal Government of Somalia, together with the World Food Programme, is implementing a school feeding programme covering more than 20 per cent of primary schools across the country. In the Federal member States, school feeding is carried out in partnership with the Ministry of Education (page 15). It improves children's school attendance and food security (page 34).

The Committee also notes that the National Employment Policy of 2019 states that the National Education Policy and the National Education Sector Strategy Plan are essential in revising the education system, which was completely destroyed by the conflict (page 7). The National Employment Policy indicates that the private sector is the largest provider for education (page 10).

The Committee further notes that the report of the World Bank Group of August 2019 underlines that Somalia's allocations to education as share of the national budget are about 1 per cent. The Federal member States also spend little of their own resources on education (page 32).

In its report on Children and armed conflict of June 2020, the UN Secretary-General stated that, with 64 attacks on school in 2019, Somalia has one of the highest numbers of attacks of school. Incidents included the abduction of teachers and pupils, the killing of and threats against teachers, and the destruction and looting of facilities (A/74/845-S/2020/525, paragraph 141). **Considering that education is key in preventing children from the worst forms of child labour, the Committee strongly encourages the Government to continue to take the necessary measures to improve access to free basic education of all children, including girls. It requests the Government to continue to provide information on the progress made regarding access to free basic education, including on the implementation of the National Education Policy and the National Education Sector Strategy Plan. The Committee also requests the Government to provide information on the school enrolment, attendance and completion rates at primary and secondary level, as well as on the school drop-out rates.**

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.**

## 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 2(1) of the Convention. Scope of application, labour inspectorate and application of the Convention in practice.* In its previous comments, the Committee noted the Government's indication that efforts by the State bodies in collaboration with civil society organizations were ongoing to tackle the phenomenon of child labour. It also noted the establishment of Family and Child Police Protection Units to monitor child labour as well as the development of special labour inspection programmes in the informal and the agricultural economy. The Committee requested the Government to provide information on the measures taken in collaboration with the civil society organizations to ensure the elimination of child labour; the actions taken by the labour inspection to investigate and monitor child labour, particularly in the informal economy; and on the measures taken by the Family and Child Police Protection Units to monitor child labour.

The Committee notes the Government's information in its report that the civil society organizations are actively involved in celebrating the International day for Protection of Children, annually. The Government also indicates that the Family and Child Police Protection Units are entrusted to adopt programmes and activities for the protection of family and children from all forms of violations which are in accordance with the existing legislation and obligations under the international and regional conventions. The Government further indicates that an action plan for the management of inspections relating to the monitoring of child labour has been formulated and is awaiting implementation.

The Committee notes the statistical information provided by the Government concerning the percentage of children between the ages of 5-17 years involved in child labour in each of the states. Accordingly, the state of East Darfur indicates the highest percentage with 49.4 per cent, followed by South Darfur, Central Darfur, South Kordofan and Blue Nile with 48.2 per cent, 45.1 per cent, 41.4 per cent and 38.1 per cent, respectively as compared to the state of Khartoum with 7.5 per cent. In this regard, the Committee notes from the ILO publication of 2019 entitled, *Child Labour in the Arab Region: A Quantitative and Qualitative Analysis* that Sudan is one of the countries across the Arab region showing the highest rates of child labour with 12.6 per cent among children aged 5-14 years. Among children aged 5-14 years, 18.1 per cent are involved in paid non-family work, 19.9 per cent in self-employment and 62 per cent in unpaid family work

with agriculture being the predominant sector of activity (67.5 per cent), followed by the service sector (23.4 per cent) and the industrial sector (9.1 per cent). While noting the measures taken by the Government, the Committee must express its **concern** at the significant number of children below the minimum age who are involved in child labour in Sudan. **The Committee urges the Government to intensify its efforts to ensure the progressive elimination of child labour, with particular focus on the States of South Darfur, Central Darfur, South Kordofan and Blue Nile. It requests the Government to provide information on the specific measures taken in this regard, including the measures taken in collaboration with the civil society organizations, and the programmes adopted by the Family and Child Police and Protection units. It also requests the Government to take the necessary measures to ensure the implementation of the action plan for the management of inspections monitoring child labour, including measures to strengthen the capacities and expand the reach of the labour inspectorate to the agricultural and informal economy where child labour is more prevalent. It requests the Government to provide information on the measures taken in this regard and the results achieved.**

*Article 2(3) of the Convention. Compulsory schooling.* In its previous comments, the Committee requested the Government to pursue and strengthen its efforts to reduce the number of out-of-school children under 14 years of age and to provide statistical information on the results achieved.

The Committee notes the Government's information that the European Union (EU) has been funding several programmes to improve the quality of education in eastern Sudan and the southern states and for the displaced populations, including funding for the education and vocational training projects in the states of Khartoum, Gedaref and Kassala. The Committee notes from a UNICEF report "New Horizons for Education in Sudan" of 2020 that Sudan has one of the largest numbers of out-of-school children in the Middle East and North Africa Region. An estimated over three million children, aged 5–13 years are not in school. **Noting with concern that a high number of children under 14 years are out-of-school in Sudan, the Committee urges the Government to strengthen its efforts to improve the functioning of the education system thereby reducing the number of out-of-school children. It also requests the Government to provide information on the measures taken in this regard, including information on the EU funded programmes, and the statistical information on the results achieved, particularly with respect to increasing the school enrolment rates and reducing the drop-out rates.**

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: 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 previous 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 under several reports of the United Nations bodies, such as the report of the Secretary-General on Children and Armed Conflict, that cases of abduction of children for labour exploitation had been reported including in Abyei, Blue Nile and South Kordofan. In this regard, it noted the Government's indication that special courts were set up to eliminate the practice of abduction and that psychological and social support, education, work opportunities, and skills training were also provided to children who had been abducted. The Committee urged 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 notes the Government's information in its report that the National Committee for Combating Human Trafficking (NCCT) continues its efforts to eliminate the practice of abduction. It also notes that the NCCT developed a National Action Plan to Combat Human Trafficking 2018-2019 which includes abduction as one of the means of trafficking in persons. Moreover, the Transitional Constitution of 2019, under article 47 prohibits all forms of slavery and states that no person shall be subject to forced labour.

The Committee, however, notes from the Report of the Secretary General on Children and Armed Conflict (A/74/845-S/2020/525, of 9 June 2020) that in Darfur, 18 children (15 boys and three girls) were reported to have been abducted for ransom or forced to work as cattle herders by the Sudan Liberation Army-Abdul Wahid faction (SLA-AW) and other unidentified armed elements (paragraph 162). It further notes from the Report of the Secretary General on the situation in the Sudan and the activities of the United Nations Integrated Transition Assistance Mission in the Sudan (S/2020/912) of 17 September 2020 that the African Union-United Nations Hybrid Operation in Darfur verified 364 incidents of grave violations, including rape, sexual exploitation and abduction affecting 77 children (37 boys and 40 girls). This report further states that owing to the lack of resources and capacities on the ground, access to justice and accountability responses for child victims of grave violations remains limited (Annex I, paragraph 20). **Noting with concern the high incidence of grave violations involving children, including abductions for forced labour, the Committee urges the Government to take immediate measures to ensure that thorough investigations and prosecutions of offenders abducting children under 18 years for forced labour are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It requests the Government to provide information on the activities undertaken by the NCCT in eliminating the practice of abduction of children for forced labour and the results achieved.**

2. *Forced recruitment of children for use in armed conflict.* In its previous comments, the Committee noted 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. It also noted the Government's statement that various measures had been taken to prevent child recruitment in the armed forces including the signing by the Government with the UN in March 2016, of an Action Plan to end and prevent the recruitment and use of children by its security forces. The Committee, however, noted with deep concern the persistence of the practice of recruiting and using children under the age of 18 years by armed forces and groups. It urged the Government to take immediate and effective measures to put a stop in practice to the compulsory recruitment of children for use in armed conflict by armed forces and groups as well as to take the necessary measures to implement the action plan to end and prevent the recruitment and use of children in the armed forces.

The Committee notes the Government's information that the action plan is being implemented and mechanisms for its implementation have been established at the ministerial and technical levels as well as in many of the states affected by armed conflict. The Government also indicates that command orders prohibiting the recruitment of children were issued by the Sudanese Armed Forces and the Rapid Support Forces (RSF). In this regard, the Committee notes from the Report of the Secretary General on Children and Armed Conflict of 9 June 2020 that in Darfur, the United Nations verified the recruitment and use of three boys by the Sudan Liberation Army-Abdul Wahid (SLA-AW) and is in the process of verifying 14 alleged cases of recruitment and use of children by the RSF. The Committee further notes the Secretary General's statement welcoming the engagement by the Government with the United Nations for the screening of 1,346 RSF soldiers in South and West Darfur, during which no child was identified (A/74/845-S/2020/525, paragraphs 158 and 169).

The Committee notes the information contained in the Report of 17 September 2020 of the Secretary General on the situation in the Sudan and the activities of the United Nations Integrated Transition Assistance Mission in the Sudan that the transitional Government of Sudan signed a peace agreement with the SRF alliance and the Sudan Liberation Army (SLA)-Minni Minawi faction, and a joint agreement on principles was signed with the SPLM-N Abdelaziz Al-Hilu faction (S/2020/912, paragraphs 8 and 9). In this regard, the Committee notes the statement made by the UN Secretary General in a press release on the formal signing of the peace agreement on 3 October 2020 that the signing of the Juba Peace Agreement signals the dawn of a new era for the people of Sudan. It is a milestone on the road to achieving sustainable peace and inclusive development. **While welcoming the peace agreement concluded by the transitional Government and the rebel groups, the Committee requests the Government to continue its efforts to ensure that no child under the age of 18 years shall be used or recruited for armed conflict. In this regard, the Committee urges the Government to continue to take effective measures, in collaboration with the UN bodies operating in the country, to effectively implement the Action Plan to end and prevent the recruitment and use of children in the armed forces. It also requests the Government to take the necessary measures to ensure that thorough investigations and prosecutions are carried out against persons who**



**have recruited or used children under 18 years for armed conflict or persons who continue to do so and that sufficiently effective and dissuasive penalties are imposed on them. It requests the Government to supply information in this regard.**

*Article 7(2). Effective and time-bound measures. Clause (a). Measures to prevent the engagement of children in the worst forms of child labour. Access to free basic education.* In its previous comments, the Committee noted the Government's information concerning the various measures adopted by the Ministry of Education to facilitate access to education. Moreover, it noted from the statistical information provided by the Ministry of Public Education, an increase in the primary school enrolment rates from 57.5 per cent in 2000 to 73 per cent in 2015 and secondary school enrolment rates from 24.1 per cent to 37.1 per cent during the same period. The Committee encouraged the Government to intensify its efforts to improve the functioning of the education system in the country.

The Committee notes that according to the statistics provided by the Government, in 2018, the gross enrolment rate in grade 1 was 86.9 per cent and in basic education and secondary education, it was 73.5 per cent and 39.9 per cent, respectively. An estimated 71,301 children (34,255 girls and 37,046 boys) dropped out of basic education in 2018. The Committee also notes that the Government adopted the Education Sector Strategic Plan (ESSP) 2018-2023 which covers interventions aimed at increasing access to pre-school and quality deliver; increasing access to equity in formal basic and secondary education; improving quality and enhancing retention in basic education; and improving learning and skills development in secondary education. The Committee notes from the ESSP document that though more children are accessing school today, the system is slowed down by high drop-out rates rendering the achievement of universal basic education a big challenge for Sudan. The retention rate dropped from 67 per cent in 2009 to 62 per cent in 2017. The ESSP document further states that according to the 2017 Humanitarian Needs Overview, 1.7 million children and adolescents out of the 4.8 million people in need of humanitarian assistance need basic education services, including 56 per cent internally displaced people (IDPs), 7 per cent refugees, 5 per cent returnees and 32 per cent vulnerable residents. The Committee notes that the ESSP interventions are expected to increase the enrolment rates in basic education by 16 per cent and in secondary education by 7 per cent between 2018 and 2023. The Committee notes with **concern** the low enrolment rates and the high drop-out rates at the primary and secondary education levels. **Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system in the country by improving access to basic education for all children, including the IDPs, refugees and vulnerable children. In this regard, it requests the Government to provide information on the specific measures taken within the framework of the ESSP and the results achieved, particularly with regard to increasing school enrolment rates and reducing school drop-out rates. To the extent possible, this information should be disaggregated by age and gender.**

*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 had requested 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 notes the Government's information that the Disarmament, Demobilization and Reintegration (DDR) Commission has developed programmes and measures that enable demobilized children to make the transition from life in a military environment to civilian life and play a key role, as civilians, through their acceptance by their families and communities. The Committee also notes from a report of the United Nations Development Programme that the DDR Programme in Sudan aims at creating conducive environments for the peaceful reintegration of ex-combatants and associated groups. Since its launch, more than 25,000 individuals were demobilized, 31,000 reintegrated and 85 projects were established to help community stabilization. **The Committee requests 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 continue providing information on the measures taken within the framework of the DDR Programme to remove children from armed conflict and reintegrate them as well as the number of such children removed and reintegrated.**

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

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Application of the Convention in practice.* The Committee previously noted that the ongoing conflict in the Syrian Arab Republic has had an alarming impact on children. It noted that the number of children affected by armed conflict in the Syrian Arab Republic has more than doubled, going from 2.3 million to 5.5 million, and the number of children displaced inside the Syrian Arab Republic has exceeded 3 million.

The Committee takes note of the Government's information in its report on the provisions of national legislation that give effect to the provisions of the Convention. However, the Committee notes that, according to the 2015 UNICEF report entitled "Small Hands, Heavy Burden: How the Syria Conflict is Driving More Children into the Workforce", four and a half years into the crisis, as a result of the war, many children are involved in economic activities that are mentally, physically or socially dangerous and which limit or deny their basic right to education. The report indicates that there is no shortage of evidence that the crisis is pushing an ever-increasing number of children towards exploitation in the labour market. Some 2.7 million Syrian children are currently out of school, a figure swollen by children who are forced to work instead. Children in the Syrian Arab Republic were contributing to the family income in more than three quarters of households surveyed. According to the report, the Syria crisis has created obstacles to the enforcement of national laws and policies to protect children from child labour, one of the reasons being that there are too few labour inspectors. In addition, there is often a lack of coherence between national authorities, international agencies and civil society organizations over the role of each, leading to a failure in national mechanisms to address child labour.

The Committee notes the Government's information in its 5th periodic report submitted to the Committee on the Rights of the Child published on 10 August 2017 (CRC/C/SYR/5, 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 expects that the Government will make every effort to take the necessary action in the near future.***

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the

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

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict.* The Committee previously noted that the Syrian Arab Republic had adopted a series of legislative reforms such as Law No. 11/2013 which criminalizes all forms of recruitment and the use of children under the age of 18 years by armed forces and armed groups. It noted, however, that numerous armed groups in the Syrian Arab Republic, including the Free Syrian Army affiliated groups (FSA), the Kurdish People Protection Units (YPG), Ahrar al-Sham, Islamic State in Iraq and Sham/the Levant (ISIS/ISIL) and other armed groups were reportedly recruiting and using children for logistics, handling ammunition, manning checkpoints and as combatants.

The Committee notes the Government's indication in its report that armed terrorist groups recruit children and involve them in violence and exploit them sexually. The Committee notes that, according to the report of the Secretary-General on the situation of human rights in the Syrian Arab Republic of 9 June 2016 (A/70/919, paragraphs 50–52), from early 2015, UNICEF verified 46 cases of recruitment (43 boys, one girl, two unknown): 21 were attributed to ISIL, 16 to non-state armed opposition groups, five to armed groups affiliated with the Government, two (including a girl) to YPG, and two to government forces. UNICEF reported that children were increasingly recruited at younger ages (some as young as 7 years old) by non-state armed groups. Children's participation in combat was widespread and some armed opposition groups forced children to carry out grave human rights abuses, including executions and torture, while government forces allegedly submitted children to forced labour or used them as human shields. The Secretary-General also refers to reports from the OHCHR, according to which ISIL publicly announced, on 11 December 2015, the already known existence of a children's section among its ranks, the "Cubs of the Caliphate". The OHCHR also received allegations that ISIL was encouraging children between 10 and 14 years of age to join, and that they were training children in military combat.

The Committee further notes that, according to the report of the Secretary-General on children and armed conflict of 20 April 2016 (2016 report of the Secretary-General on children and armed conflict, A/70/836-S/2016/360, paragraphs 148–163), a total of 362 cases of recruitment and use of children were verified (the Secretary-General indicates that the figures do not reflect the full scale of grave violations committed by all parties to the conflict), and attributed to ISIL (274), the Free Syrian Army and affiliated groups (62), Liwa' al Tawhid (11), popular committees (five), YPG (four), Ahrar al-Sham (three), the Nusrah Front (two) and the Army of Islam (one). Of the verified cases, 56 per cent involved children under 15 years of age, which represents a significant increase compared with 2014. The Secretary-General further indicates that the massive recruitment of children by ISIL continued, and that centres in rural Aleppo, Dayr al-Zawr and rural Raqqah existed that provided military training to at least 124 boys between 10 and 15 years of age. Verification of the use of child foreign fighters increased as well, with 18 cases of children as young as 7 years of age. In addition, the recruitment and use of children as young as 9 years of age by the Free Syrian Army was also verified, as well as the recruitment of 11 Syrian refugee children from neighbouring countries by Liwa' al-Tawhid, and the YPG continued to recruit boys and girls as young as 14 years of age for combat roles. Recruitment and use by pro-government groups was also verified, with five cases of boys being recruited by the Popular Committee of 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 expects 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)

Previous comments: observation and direct request

*Article 2(1) of the Convention. Minimum age for admission to employment or work.* For many years, the Committee has been drawing the Government’s attention to the need to amend the provisions of the national legislation to ensure that the minimum age for admission to employment or work is 16 years, as specified by the Government at the time of ratification. The Government replies in its report that the minimum age for admission to employment of 15 years established by section 21(2) of the

Labour Code of 2016 is in line with *Article 2(3)* of the Convention, which states that the minimum age for admission to employment or work shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. The Government further indicates that the age of completion of compulsory schooling is 15 years in Tajikistan, and raising the minimum age for admission to employment could contribute to unemployment and social tensions, given the high proportion of youth population in the country. The Government however indicates that the issue of the minimum age for admission to employment will be discussed in the framework of the elaboration of the bill amending the Labour Code.

The Committee recalls that in accordance with *Article 2(1)* of the Convention, the Government specified the minimum age for admission to employment of 16 years at the time of ratification of the Convention. Recalling that the Convention does not permit the lowering of the minimum age once specified, the Committee notes with **concern** that the minimum age for admission to employment remains set at 15 years in Tajikistan. ***The Committee once again strongly urges the Government to take the necessary measures to bring section 21(2) of the Labour Code of 2016 into conformity with Article 2(1) of the Convention by raising the minimum age for admission to employment to 16 years. The Committee requests the Government to provide information on any progress made in this respect.***

*Scope of application and labour inspection.* The Committee takes note of the Government's indication that the State Supervisory Service for Labour, Migration and Employment (SILME) has a separate plan of inspections carried out jointly with law enforcement agencies to monitor compliance with the labour legislation on the employment of young persons and to prevent child labour. In this respect, 309 inspections were carried out by the SILME, in cooperation with local authorities, prosecutors, tax authorities and the media during 2016–22. The inspections identified 511 cases of child labour, involving 324 boys and 187 girls. The identified violations of the labour legislation included the absence of a written employment contract or written parental consent to employ a young person as well as non-compliance with working hours regulations. ***Referring to its detailed comments under the Labour Inspection Convention, 1947 (No. 81), the Committee requests the Government to continue to take measures to strengthen the capacity and expand the reach of the SILME to effectively monitor and detect cases of child labour, particularly in the informal economy. It requests the Government to continue to provide information on the number of inspections related to child labour that have been carried out by the SILME as well as on the number and nature of violations detected, and the penalties applied.***

*Article 8. Artistic performances.* The Committee notes the Government's reference to section 21(3) of the Labour Code of 2016, which allows for the conclusion of an employment contract with parental consent with children under 15 years of age to take part in theatrical performances, filmmaking, concerts, circus programmes and other creative performances that do not involve harm to their health or moral development and do not disrupt their education. According to the Government, these provisions of the Labour Code have direct effect and there is no need for additional regulations.

The Committee recalls that *Article 8* of the Convention allows the participation of children under the minimum age for admission to employment or work in artistic performances only subject to the granting of a permit by the competent authority in individual cases. Permits so granted shall limit the number of hours during which and prescribe conditions in which such employment or work is allowed. The Committee therefore points out that section 21(3) of the Labour Code does not ensure the full application of the provisions of *Article 8* of the Convention. ***The Committee reiterates its request to the Government to take the necessary measures to regulate the participation of children under the minimum age for admission to employment or work in artistic performances, in line with the requirements of Article 8 of the Convention.***

*Application of the Convention in practice.* The Government indicates that the child labour monitoring system, which aims to identify and prevent child labour, has proven to be an effective mechanism in

Tajikistan. More than 900 children aged between 15 and 17 have been identified and removed from child labour by the child labour monitoring committees. The work of the child labour monitoring committees also includes conducting awareness-raising activities and facilitating young people's access to vocational education and training. The Government also refers to the latest available data indicating that the number of working children fell by 10 per cent between 2012 and 2016. The Government further indicates that the next national child labour survey is scheduled for the second half of 2023. **The Committee requests the Government to pursue its efforts towards the progressive elimination of child labour, including in hazardous work, and to continue to provide information on the number of children identified and removed from child labour by the child labour monitoring committees. It also requests the Government to provide information on the findings of the next national child labour survey, including updated statistics on the nature, extent and trends of child labour.**

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)

#### Previous comment

*Article 3 of the Convention. Worst forms of child labour. Clauses (a) and (d). Compulsory labour and hazardous work in agricultural activities.* The Committee notes with **regret** the absence of specific information in the Government's report with respect to the Committee's previous comments on the need to ensure the prohibition of compulsory labour and hazardous work for children under the age of 18 in the cotton harvest. **The Committee requests the Government to take the necessary measures to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work for children below the age of 18 years in the cotton harvest. The Committee also once again requests the Government to provide information on any monitoring of child labour during the cotton harvest, as well as information on the number and nature of violations reported and penalties imposed in this regard.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour and special situation of girls. Access to free basic education.* The Committee notes the Government's indication that measures have been taken to facilitate children's access to compulsory quality education to prevent the involvement of children in the worst forms of child labour. The Committee takes note of the National Strategy for Education Development for the period up to 2030 (Strategy) adopted by the Government's Decree No. 526 of 2020. The Committee observes that the Strategy aims to extend the coverage of compulsory quality education and to reduce school drop-out rates. According to section 93 of the Strategy, although the number of children enrolled in compulsory education is relatively high, there are cases of dropouts with significant gender disparities. In the 2019–20 school year, 47 per cent of girls were enrolled in primary education (grades 1–4) and 51 per cent in lower secondary education (grades 5–9).

The Committee notes that, in its 2022 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights expressed concern about the high dropout rate in secondary education, particularly among girls and children in rural areas (E/C.12/TJK/CO/4, para. 54). **The Committee requests the Government to take the necessary measures to improve the functioning of the educational system and to facilitate access to free basic education, particularly of girls. The Committee requests the Government to provide information in this respect, including on the implementation of the National Strategy for Education Development for the period up to 2030, and the results achieved.**

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

## Togo

### Minimum Age Convention, 1973 (No. 138) (ratification: 1984)

#### Previous comment

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee notes the adoption of the National Action Plan to combat child labour and its worse forms (NAP 2020–24). The six strategic pillars of the NAP are: (1) reinforcement of the legal and institutional framework to combat child labour; (2) information, awareness-raising and social mobilisation; (3) education and training; (4) protection, follow-up, and care for child victims and those at risk of the worst forms of child labour; (5) monitoring and repression; and (6) coordination and evaluation of the NAP. A mid-term and final review of the NAP is foreseen. Implementation is undertaken by the Ministry of Labour through the National Steering Committee on combatting child labour.

The Committee also takes note of the data contained in the report of the Understanding Children's Work programme, referenced in the NAP, that around 719,000 children of less than 15 years of age are economically active, and 214,000 children of 15 to 17 years of age are reported to be engaged in the worst forms of labour. Moreover, according to the 2017 UNICEF Multiple Indicator Cluster Survey, a total of 38.5 percent of girls and 38.4 per cent of boys between 5 and 17 years of age are engaged in child labour. While noting certain measures taken by the Government, the Committee is bound to express its **concern** at the persistently large number of children working in Togo, including in hazardous conditions. **The Committee therefore requests the Government to reinforce its efforts and to continue to take the necessary measures to ensure the effective abolition of child labour. It requests the Government to provide information on the results obtained under the NAP 2020–24, particularly through the evaluation to be undertaken for that purpose.**

*Article 2(1). Scope of application and labour inspection.* The Committee notes the information from the Government according to which between 2019 and 2022, apart from induction training of labour inspectors provided by the National School of Administration, at least one inspector a year was trained at the African Regional Labour Administration Centre. Nevertheless, the Government stresses that only the induction training contains a module on child labour, and that it is struggling to mobilize the means of offering specialised training, such as on child labour. It adds that several factors, among them the security crisis in the north of Togo, have had a negative impact on the budget allocated to the social services, which in turn has hampered the labour inspectorate's ability to conduct data collection on child labour and in drawing up the training plan for inspectors. **While taking account of the crisis in the north of Togo, the Committee again requests the Government to continue its efforts to strengthen the capacity of the labour inspection, including in the informal economy, to identify children working below the minimum age for admission to employment. It requests the Government to provide information in this respect as well as on the inclusion in the training plan for training on child labour. The Committee also requests the Government to provide information on the data gathered using the labour inspection services' data-gathering system concerning child labour, including statistical information on the number and nature of reported violations, and the penalties imposed in the event of violations.**

*Article 3(3). Admission to hazardous work from the age of 16 years.* In its previous comments, the Committee requested the Government to take the necessary steps to amend section 11 of Order No. 1556/MPFTRAPS of 22 May 2020, determining the hazardous types of work that children are prohibited from performing in order to guarantee that the hazardous work provided for under this Order can only be performed by children of at least 16 years of age, and that the health, safety and morals of children between 16 and 18 years of age performing types of work figuring among the hazardous types listed in Order No. 1556/MPFTRAPS are fully guaranteed and that these children have received adequate specific training in the relevant branch of activity.



The Committee notes the information provided in the Government's report, that the social partners are currently being consulted on the reformulation of section 11 of Order No. 1556/MPFTRAPS of 22 May 2020, to ensure that the hazardous types of work provided for by the Order shall only be performed by children of at least 16 years of age and that strict conditions of protection and training are respected. **The Committee requests the Government to provide information on all progress achieved concerning the amendment of section 11 of Order No. 1556/MPFTRAPS of 22 May 2020. It also requests the Government to take the necessary steps to ensure that the health, safety, and morals of children between 16 and 18 years of age performing certain types of hazardous work (under Order No. 1556/MPFTRAPS) are fully guaranteed and that these children have received adequate specific training in the relevant branch of activity, as provided under Article 3(3) of the Convention.**

*Article 6. Apprenticeship.* The Committee takes good note of the new Labour Code of 2021 (Act No. 2021-012 of 18 June 2021), as well as the provisions of section 122 under which an apprenticeship contract shall only be concluded with a person under 15 years of age on authorization by the labour inspector, and section 123, under which the conditions relating to the conclusion and performance of the apprenticeship contract shall be determined by the legislation in force.

However, the Committee notes with **regret** that the draft code on apprenticeship, which determines the conditions with which an apprenticeship contract shall comply and by virtue of which such a contract shall not start before the age of compulsory schooling and in no case before 15 years of age, is currently going through technical validation, and has not yet been adopted. **The Committee again requests the Government to take the necessary measures so that the code on apprenticeship is adopted without delay, in conformity with Article 6 of the Convention. The Committee requests the Government to provide information on the progress made in this respect, as well as a copy of the texts once they have been adopted.**

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

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

### [Previous comment](#)

*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.* The Committee notes the information according to which the anti-trafficking unit participates in training magistrates and judicial police officers on trafficking and child labour issues. The unit hears child victims of trafficking in order to open up investigations and constitute files for the prosecution of the authors of these crimes.

The Committee also notes Decree No. 2021-104/PR of 29 September 2021 on the establishment, mandate and functioning of the National Commission on combatting trafficking in persons (CNLTP) and the appointment and installation of its members in February 2023.

It also takes good note of the Government statistics from 2019, which show that child protection structures registered a total of 1,723 child victims of cross-border trafficking, including 182 children taken to police and gendarmerie stations. A total of 609 children were victims of internal trafficking, of which 45 were taken to police stations. A total of 551 child victims of trafficking were socially reintegrated through school enrolment and 182 received vocational training. Likewise, between 2020 and 2021, a total of 33 boys and 114 girls were victims of cross-border trafficking, including 22 Beninese children and 125 Togolese children. In 2022, a total of 41 children, of which 16 were girls, were repatriated and taken into care by the Government of Togo.

The Committee notes the Government's indication that the COVID-19 sanitary crisis has had a serious impact on removing children and taking them into care and explains the lack of information for the 2020–22 period.

While noting that the restrictions caused by the COVID-19 pandemic had an impact on removing children and taking them into care, the Committee notes with **regret** the Government's statement that information on the number and nature of convictions handed down and penalties imposed is not available. **The Committee again requests the Government to take the necessary measures to ensure that thorough investigations are carried out, and prosecutions brought in trafficking cases involving persons under 18 years of age. The Government is requested to provide detailed information on the convictions handed down and on the criminal penalties imposed. The Committee also requests the Government to continue to provide information on the results of the anti-trafficking unit in removing children from this worst form of child labour and ensuring their rehabilitation and social integration.**

*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.* In its previous comments, the Committee urged the Government to take immediate and effective measures to ensure the effective application of the national legislation (Order No. 1556/MPFTRAPS of 22 May 2020) to ensure that children under 18 years of age did not perform domestic work.

The Committee notes that under the National Action Plan to combat the worst forms of child labour 2020–24, attached to the report, ratification of the Domestic Workers Convention, 2011 (No. 189), is envisaged and that an order on domestic work is to be drafted by the Ministry of Public Service, Labour, Administrative Reform and Social Protection.

However, the Committee notes the information in the minutes of the sitting of the Committee on the Rights of the Child which examined the periodic report submitted by Togo under the Convention on the Rights of the Child (OHCHR, press release, 15 September 2023), according to which the situation regarding child labour in Togo, and in particular the domestic work performed by children, was considered to be of concern. **The Committee once again 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. 1556/MPFTRAPS of 22 May 2020, determining the types of work prohibited for children 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 forms of child labour, including statistics on the number and nature of reported violations, investigations, prosecutions, convictions, and criminal penalties imposed. Moreover, the Committee strongly encourages the Government to take immediate and effective measures to remove child victims of the worst forms of child labour from domestic work and requests it to provide detailed information on the measures taken and on the number of children effectively removed from these worst forms 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 orphans of HIV/AIDS.* With reference to its previous comments, the Committee noted that, according to UNAIDS, the number of HIV/AIDS orphans was put at 84,000 in 2018. The Committee observes that the Government's response contains no updated statistical information on HIV/AIDS victims or orphans, as the statistics provided by the Government in its report date from the Demographic and Health Survey of Togo 2013-2014.

The Committee notes that the Strategic Framework for care of orphans and other vulnerable children in the context of HIV/AIDS in Togo 2010 to 2015 serves as the national instrument and strategic plan that determines and guides interventions, and that the Government and other actors have developed different strategies and mechanisms to ensure that HIV/AIDS orphans are not engaged in the worst forms of child labour. However, it notes with **regret** the absence of information on the different measures taken and progress made under the strategic plan and the mechanisms put in place.

The Committee further notes with **concern** that, according to UNAIDS, the number of UN/AIDS orphans is put at 80,000 for 2022. **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.

## Turkmenistan

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2010)

#### Previous comment

The Committee notes the Government's report received on 31 August 2023. It also takes note the observations made by the International Trade Union Confederation (ITUC) received on 27 September 2023, as well as the Government's reply received on 27 October 2023. The Committee also takes note of the report on the implementation of the 2023 Roadmap for cooperation between the ILO and the Government of Turkmenistan (implementation report), produced following the visit of the independent ILO mission on the observance of the conditions of work and recruitment of cotton pickers during the 2023 harvest.

*Article 3 of the Convention. Worst forms of child labour. Clause (d). Hazardous work in the cotton sector.* In its previous comments, the Committee requested 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. Moreover, the Committee observes that, in the context of the discussion of Turkmenistan's application of the Abolition of Forced Labour Convention, 1957 (No. 105), at the 111th Session of the Conference Committee on the Application of Standards in June 2023, the Conference Committee urged the Government to reinforce its efforts to ensure the complete elimination of the use of compulsory labour of students in state-sponsored cotton production, in consultation with the social partners and in the context of the ongoing ILO assistance, through the development of an action plan to that end.

The Committee notes the Government's information, in its report, regarding the measures taken to reduce manual cotton harvesting, including by children, such as the increase of agricultural machinery and efforts taken to create conditions for decent work for cotton pickers. Most significantly, the Committee takes note of the measures taken in the framework of the implementation of the Roadmap for cooperation between the ILO and the Government of Turkmenistan, adopted in March 2023 as a result of several ILO high-level technical assistance missions. The Government indicates in this regard that: (1) an analysis has been carried out of Turkmenistan's current legislative framework with regard to the application of international labour standards and the resulting draft legislative acts that were submitted to Parliament; (2) there are ongoing efforts to produce a qualitative study of recruitment practices for the cotton harvest; (3) a seminar was held with the participation of representatives of the relevant ministries and agencies and social partners to identify the key elements of a national action plan to align the labour inspection system in Turkmenistan with ILO standards; and (4) the Parliament is actively engaging in public awareness-raising activities. Moreover, the Committee takes note of the Government's reply to the ITUC observations, which consists of information prepared by the National Center of Trade Unions of Turkmenistan (NCTU). The NCTU indicates that, together with local trade unions, it conducted trainings and seminars on international labour standards, including Convention No. 182, in the regions, with the participation of the local authorities.

The Committee notes from the ITUC's observations that, despite the commitments taken by the Government of Turkmenistan, forced labour practices in cotton production are unfortunately still prevalent on a massive scale in the country. With regard to the forced labour of children specifically, the ITUC states that, while child labour was not directly organized by the State, it was used in the 2022 harvest, driven by both poverty and the forced labour system. The ITUC shares examples of specific

instances in which child labour was used for cotton picking, and adds that independent monitors reported that children, some as young as eight, were paid to work as “replacement pickers,” hired by public sector employees forced to either pick or hire someone else; others were sent as replacement pickers by parents or relatives who were forcibly mobilized; and still others joined the harvest to earn money for their families.

Moreover, the Committee notes that, with the acceptance of the Government, an independent ILO observance mission of the conditions of work and recruitment of cotton pickers, by ILO staff and independent consultants recruited by the ILO, took place during the 2023 harvest in October 2023. The Committee notes that, according to the information contained in the implementation report, initial findings from this observance mission indicate that children below the age of 15 were observed working in many of the cotton fields visited across the country.

While taking due note of the Government’s collaboration with the ILO in the framework of the Roadmap and during the observance of the cotton harvest in 2023, the Committee must note with **deep concern** that children under the age of 18, and even below the age of 15, continue to work in the cotton fields in Turkmenistan in hazardous conditions and, in some instances, forcibly. **The Committee therefore urges the Government to pursue and strengthen its efforts to ensure the complete elimination of the use of forced and hazardous child labour in cotton picking. In this regard, it urges the Government to continue to engage in cooperation with the ILO and the social partners, within a cooperation framework, to ensure the full application of the Convention. It requests the Government to continue to provide information on the concrete measures taken in this respect, including measures taken 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 is raising other matters in a request addressed directly to the Government.

**[The Government is asked to reply in full to the present comments in 2024.]**

## Uganda

### Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) (ratification: 1967)

#### Previous comment

*Article 2(1) of the Convention. Medical examination prior to work underground and periodic re-examinations of persons under 21 years of age.* The Committee refers to its previous comments, as well as to the information provided by the Government in its report, and takes note of the following provisions currently in place in Ugandan law:

- Section 21 of the Occupational Safety and Health Act of 2006: Every employer shall provide for the supervision of the health of the workers exposed or liable to be exposed to occupational hazards due to pollution and other harmful agents in a working environment. This includes a pre-assignment medical examination and periodic medical examinations, and applies to all employees, irrespective of their age.
- Sections 33 and 97 of the Employment Act of 2006: The Minister may by regulations require persons over the age of 18 years seeking employment involving exposure to hazards specified by regulations to undergo a medical examination before being engaged by an employer and at regular intervals thereafter.
- Section 13 of the Employment (Employment of Children) Regulations No. 17 of 2012: A child under 18 years of age shall undergo a medical examination before engaging in any job, and the medical examination shall be repeated every six months following employment. Moreover, a child who undergoes an initial medical examination shall receive a medical certificate

certifying him or her as medically fit, the model of which is represented in the fourth schedule of the regulations.

The Committee once again recalls that, by virtue of *Article 2(1)* of the Convention, a thorough medical examination, and periodic re-examinations at intervals of not more than one year, for fitness for employment shall be required for the employment or work *underground in mines* of persons *under 21 years of age*. The Committee observes that, while the provisions above-mentioned provide for the medical examination and periodic re-examinations of all workers under the age of 18, as well as of all workers exposed to occupational hazards due to pollution and other harmful agents, workers between the ages of 18 and 21 working underground in mines remain unprotected. The Committee recalls with **deep regret** that it has been raising this issue since 2013. **The Committee urges the Government to take measures to provide for the medical examination and periodic re-examination for fitness for employment or work underground in mines of persons between 18 and 21 years of age. In this regard, it once again requests the Government to indicate whether any regulations concerning the medical examination of persons over 18 years of age seeking employment or work underground in mines, have been issued pursuant to sections 33 and 97 of the Employment Act.**

*Article 3(2). Mandatory X-ray examination of the lungs during initial medical examination.* The Committee has been drawing the Government's attention since its first report on the application of the Convention by Uganda, in 1990, on the need to legislate that, on the occasion of the initial medical examination for fitness for employment or work underground in mines of persons under 21 years of age, and, when regarded as medically necessary, on the occasion of their subsequent re-examinations, an X-ray film of the lungs shall be required, in accordance with *Article 3(2)* of the Convention. The Committee notes the Government's indication, in that regard, that for the application of section 33(2) of the Employment Act, 2006, where a medical examination is required for persons over the age of 18 seeking employment involving exposure to hazards, X-rays are implied as a means of medical examination.

However, the Committee observes with **deep regret** that, currently, the medical examinations referred to under section 33 of the Employment Act, 2006, have not yet been regulated by the Minister of Labour, at least in the sector of underground mining, and that while X-rays may be implied as a means of medical examination, they are not required by law. **Considering that the Committee has been underlining this issue for more than 30 years, the Committee strongly urges the Government to take the necessary measures to ensure, by law, that all young persons under the age of 21 undergo the medical examinations and re-examinations for fitness for employment or work underground in mines required by the Convention and, at the same time, that these examinations include an X-ray of the lungs, in accordance with Article 3(3) of the Convention. It requests the Government to provide information on the progress made in this regard.**

**[The Government is asked to reply in full to the present comments in 2026.]**

## Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

### [Previous comment](#)

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice.* Following its previous comments, the Committee takes note of the Government's information, in its report, on the measures taken to combat child labour in the country. In particular, the Committee notes that the National Steering Committee on Child Labour (NSCCL) was established in 2021, which meets every quarter and is purposed to advise on, and monitor, issues related to child labour. The Government also indicates that the National Action Plan on the elimination of child labour 2020/21 – 2024/25 (NAP II) has been adopted and is being implemented. Aligned with the National Development Plan (NDPIII), NAP II aims to create an enabling environment for the prevention, protection, rehabilitation and reduction of the risk of children removed from work being pushed or pulled back into child labour. According to the Government, the NAP II prioritizes the

review of national child labour policy to increase access to social protection, education, skills development and social services for children or households and communities affected or at risk of child labour.

The Government further indicates that the “ACCEL-Accelerating Action for the Elimination of Child Labour in the supply chain of tea and coffee in Africa” project was implemented by the Government, social partners and civil society organizations from 2018 to 2023. This regional project aims to address the root causes of child labour with an overarching goal of accelerating the elimination of child labour in Africa through targeted actions in selected supply chains. During phase I of the project, for instance, the promotion of strong engagement by the Federation of Ugandan Employers resulted in direct engagement of individual companies’ corporate social responsibility departments in supporting communities to combat child labour. The second phase of the ACCEL Africa project, which will run from 2023 to 2028, aims to catalyse the eradication of child labour in Africa, including in Uganda, by fortifying existing systems that address root causes. Building on the success of the first phase, the second phase will expand its efforts and foster an integrated approach to eliminate child labour, including through strengthening the national institutional framework, scaling up pioneering approaches focusing on social protection, decent work and youth employment, and promoting knowledge-sharing and partnerships.

The Committee notes, however, that, according to the 2019–20 National Household Survey of the Uganda Bureau of Statistics (UBS), in part due to the strict school closures during the COVID-19 pandemic, child labour rates for children between the ages of 5 and 17 increased from 14 per cent prior to the pandemic to 22 per cent, amounting to a total of 2,702,000 children in 2020. Moreover, according to a press release by the UBS of April 2021, a baseline report from the Bureau has indicated that child labour in the two districts of Hoima and Kikuube stood at 26 per cent (74,000 children), and that three out of ten of these children were engaged in hazardous work or worked for longer hours. The root causes of child labour in these regions were the general lack of awareness among the communities and ignorance of the negative impact of child labour, as well as the need for children to contribute to household income and food security. Moreover, according to an ILO brief on Child Labour and Forced Labour in Uganda of February 2023, which refers to the latest National Labour Force Survey, the incidence of child labour increased to *39.5 per cent, or 6.2 million children*, in 2022. The brief reports that child labour is the highest among the age bracket 5 to 11, with 58 per cent of these children in child labour, while 19.8 per cent of the 6.2 million children in child labour are between 12 and 17 years of age and occupied in hazardous occupations or industries, hazardous working conditions or long hours of work. Child labour is mostly found in many economic sectors, but predominantly in the agricultural sector (sugar cane, rice, tea, coffee, tobacco, livestock and fishing).

While taking note of the measures taken by the Government, the Committee must express its **deep concern** at the significant number of children engaged in child labour, including hazardous work, which increased dramatically in just a few years. ***The Committee strongly urges the Government to strengthen its efforts to ensure the progressive elimination of child labour by children under the minimum age for employment or work, as well as for all children engaged in hazardous work. It requests the Government to provide information on the root causes of the increase in child labour in the country, and to indicate the measures taken to address the situation according to international labour standards in force in the country. In this regard, it requests that the Government provide detailed information on the implementation of the NAP II and of the ACCEL Africa project, and on the results achieved. It also requests the Government to continue to supply information on the application of the Convention in practice, particularly statistics, disaggregated by age and sector of activity, on the situation of children engaged in child labour in the country.***

*Article 9(1). Penalties and labour inspection.* Following its previous comments, the Committee notes the Government’s information, according to which it continues to take measures to strengthen the monitoring of child labour. In the framework of the NAP II, the Government is recruiting, training and

orienting district Labour Officers on the elimination of child labour, including in hazardous work. There are currently over 175 Labour Officers who have been recruited across the country. Moreover, some projects are implemented to benefit Labour Officers with means of transport to monitor child labour-related matters and enforce the existing labour laws.

The Committee observes, however, that the Government does not provide information or data on the number of child labour violations identified through inspections or the number or nature of penalties applied and assessed for child labour violations. In this regard, the Government indicates that the Annual Labour Inspection report of 2022 is being compiled, and that it will be shared as soon as it is published. **Considering the significant increase of the incidence of child labour in the country, the Committee urges the Government to strengthen its measures to ensure that the labour inspectorate is adequately trained and possesses the necessary resources to be able to detect cases of child labour, as well as to ensure that the regulations providing for penalties in the case of a violation of the provisions on the employment of children and young persons are effectively implemented. It also requests the Government to continue providing information in this regard and to communicate a copy of all recently published Annual Labour Inspection reports, ensuring that these include information on the number and nature of violations involving children detected by the labour inspectorate.**

**In light of the situation described above, the Committee notes with deep concern the recent significant increase in the incidence of child labour in the country, which was at 14 percent prior to the pandemic and is now estimated at 6.2 million children, or 39.5 percent of all children in the country. It observes with deep concern that the highest incidence in child labour is found among those who are between the ages of 5 and 11 years of age (58 percent of working children), while 19.8 per cent of the 6.2 million children in child labour are between 12 and 17 years of age and occupied in hazardous occupations or industries, predominantly in agriculture, and in hazardous working conditions and long hours of work. The Committee also observes with regret that no information is available regarding the number of child labour violations identified by the labour inspectorate.**

**The Committee considers that this case meets the criteria set out in paragraph 109 of its General Report to be asked to come before the Conference.**

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

**[The Government is asked to supply full particulars to the Conference at its 112th Session and to reply in full to the present comments in 2024.]**

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

### [Previous comment](#)

*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 and 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. Hazardous work in mines.* The Committee notes with **regret** the absence of information in the Government's report on the situation of children working in mines under particularly hazardous conditions, despite the fact 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 mining.

The Committee notes that, according to a 2020 World Bank report on the State of the Artisanal and Small-Scale Mining Sector, it is estimated that 12,000 children under the age of 14 are engaged in artisanal and small-scale gold mining (ASGM) in Uganda. These children undertake tasks such as digging in deep open pits, carrying stones to and operating grinding machines, and washing the ground ore. The report reveals that the work in ASGM is considered a worst form of child labour due to the harsh working conditions, handling and exposure to toxic chemicals and vulnerability of young women and girls to sexual and gender-based violence. Poverty is one, but not only, driver for child labour in mining:

a lack of decent work for adults, and lack of access to quality education are also contributing factors. To tackle these challenges, in 2017, civil society organizations and UNICEF, together with electronic companies, launched a five-year project “Joint Forces to Tackle Child Labour – From Gold Mine to Electronics”, which uses an area-based approach with interventions in the concerned communities and gold mines as a strategy to address the worst forms of child labour. This approach includes the involvement of community stakeholders, investment in education, and the improvement of household income and mine productivity. **The Committee once again requests 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 and subsequent rehabilitation. It also requests the Government to provide information on the implementation of the “Joint Forces to Tackle Child Labour – From Gold Mine to Electronics” project, as well as of any other project or measure aimed at protecting children from hazardous work in the mining sector, and on the results achieved.**

*Clause (d). Identifying and reaching out to children at special risk. Orphans and children in vulnerable situations (OVCs).* Following its previous comments, the Committee notes the Government’s indication that it is taking measures to improve the living conditions and resilience of the most vulnerable parts of the population, including children, by investing in social protection systems and decent work, as well as contributing to the promotion of sustainable and inclusive social economic development. This is done, in particular, through the decent work and social protection project being implemented by the Ministry of Gender, Labour and Social Development in collaboration with Enabel (the Belgian federal government’s development agency).

The Committee further notes that the protection of OVCs is also included in the policy objectives of the National Child Policy 2020 (NCP), which has replaced the National Orphans and Other Vulnerable Children Policy. According to the document of the NCP, at least 11 per cent of the children under the age 18 years in Uganda have lost one or both parents; about half of them are orphaned as a result of AIDS, and it is estimated that 18.7 per cent of refugees are orphaned children. While taking note of certain measures taken by the Government, the Committee notes with **concern** that the number of OVCs due to HIV/AIDS in Uganda who are at particular risk of becoming involved in the worst forms of child labour remains estimated at 660,000, according to the UNAIDS estimates of 2022. **The Committee therefore urges the Government to strengthen its efforts to protect these children from the worst forms of child labour. In this regard, and in light of the significant number of OVCs in the country, it encourages the Government to take specific measures for the protection of OVCs from the worst forms of child labour, including through the NCP. It requests the Government to provide information on the measures taken and the results achieved.**

*Child domestic workers.* The Committee observes with **regret** that, once again, the Government does not provide information on the protection of child domestic workers in Uganda who, despite the legislative prohibition of the engagement of children under 18 in several activities and tasks in the sector of domestic work, are found in large numbers to be engaged in hazardous domestic work. The Committee notes that, according to a document from the Global Fund to End Modern Slavery entitled “Decent Work for Ugandan Domestic Workers: Findings and Recommendations for Funders”, the use of child labour in domestic work in Uganda is pervasive, and there is a need to address the root causes of child labour in domestic work, including targeted poverty reduction interventions for families and targeted interventions to keep vulnerable children enrolled in school. According to this document, there is also a need to improve the legal framework and enforcement of laws applicable to domestic workers. **Once again recalling that children in domestic work are particularly vulnerable to the worst forms of child labour, including hazardous work, the Committee urges the Government to take effective and time-bound measures to ensure their protection, including through the enforcement of the applicable legislation. The Committee requests the Government to provide information on the number of child**



**domestic workers engaged in hazardous work who have been identified, withdrawn and rehabilitated and socially integrated as a result of the initiatives taken in this regard.**

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

## Ukraine

### Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

#### Previous comment

The Committee takes note of the Government's information, in its report, that following the resignation of the Government in March 2020, the draft-law on labour No. 2708 that was submitted to the Verkhovna Rada of Ukraine in November 2019 was automatically revoked. The Committee is aware that the new Government in office has prepared another draft-law on labour in 2022, which has received technical comments from the Office; however, it appears that the Cabinet of Ministers may propose another draft project in 2024. According to the Government, therefore, the current Labour Code of Ukraine of 1971 continues to be in force. **The Committee expresses the firm hope that the revised Labour Code will be adopted in the near future and requests the Government to take the necessary measures to ensure that its comments are taken into consideration in the framework of this ongoing legislative review.**

*Article 2(1) of the Convention. Scope of application and labour inspection.* The Committee previously took note of the 2019 conclusions of the European Committee of Social Rights, under the European Social Charter, that in view of the available statistics of that Committee on the number of children aged 5 to 14 years involved in child labour or hazardous work, the prohibition of employment under the age of 15 was not guaranteed in practice. The Committee also took note of the restrictions and limitations on labour inspections (by virtue of Act No. 877-V of 2007) and requested information on the activities undertaken by the labour inspection services regarding child labour. The Committee notes with **regret** the lack of information in the Government's report on this issue. **The Committee once again requests the Government to take all necessary measures to ensure that effective labour inspections in the area of child labour are conducted in practice. It requests the Government to provide concrete information on the activities undertaken by the labour inspection services in this respect, including the number of labour inspections carried out, the number and nature of cases detected, the number of penalties imposed and any other follow-up measures taken.**

**Regarding the restrictions and limitations on labour inspections imposed by Act No. 877-V of 2007, the Committee refers to its comments under the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).**

*Minimum age for admission to employment or work.* The Committee recalls that under section 188(2) of the Labour Code, children of 15 years of age are exceptionally authorized to work with the consent of their parents or guardians. Section 188(2) of the Labour Code therefore allows young people to carry out an economic activity at an age lower than the minimum age for admission to employment or work specified by Ukraine upon ratifying the Convention, namely 16 years. The Committee recalls that an exception to the minimum age under the Convention is only permissible as regards light work, in line with the conditions as defined in *Article 7(1)* of the Convention. In this regard, the Committee observes that section 14(2) of the 2022 draft-law on labour provides that a worker is at least 16 years of age, and does not appear to contain a provision similar to section 188(2) of the current Labour Code. **The Committee once again expresses the firm hope that the Government will take the necessary measures, during the revision of the Labour Code, to ensure that no person under the age of 16 years may be admitted to employment or work in any occupation, in conformity with Article 2(1) of the Convention, except for light work as authorized under Article 7(1) of the Convention.**

*Articles 3(3) and 6. Authorization to perform hazardous work from the age of 16 years and vocational training.* The Committee once again recalls that, by virtue of section 2(3) of the Order of the Ministry of Health of Ukraine No. 46 of March 1994, persons under the age of 18 years pursuing vocational training may perform hazardous types of work under certain conditions, without specifying a minimum age. The legislation in force therefore does not explicitly prohibit children between 14 (the age of admission to vocational training) and 16 years to perform hazardous work during vocational training. The Committee once again emphasizes that that young persons below 16 years of age engaged in apprenticeships must not undertake hazardous work and that measures should be taken to raise the minimum age for admission to hazardous work to at least 16 years, even if the required protective conditions are adequately provided.

The Committee observes in this regard that section 18(3) of the 2022 draft-law on labour provides that employment agreements that involve hazardous work may only be concluded with persons over the age of sixteen years, provided that they have received sufficient specialized training and that it does not harm their health, safety, learning process, physical, spiritual and moral development. ***The Committee requests the Government to take the necessary measures to ensure that a provision – like section 18(3) of the 2022 draft-law on labour – provide for a minimum age of 16 for the performance of hazardous work, under the conditions of safety and training provided for under Article 3(3) of the Convention. It also requests the Government to take the necessary measures to ensure that such a provision explicitly applies to the work in vocational training that is allowed under section 2(3) of Order No. 46 of 1994 of the Ministry of Health of Ukraine. The Committee 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)**

### [Previous comment](#)

*Articles 3 and 5 of the Convention. Worst forms of child labour and monitoring mechanisms. Clause (a). Sale and trafficking of children.* Following its previous comments, the Committee once again notes the absence of information, in the Government's report, regarding the investigations and prosecutions of persons who engage in the sale and trafficking of children. The Committee refers to the Government's report under the Forced Labour Convention, 1930 (No. 29), according to which the new challenges Ukraine is facing as a result of war increase the risk of human trafficking to virtually all segments of the population, but that combating this scourge remains one of the priorities of the National Police. The Government indicates that, in 2022, the National Police of Ukraine detected 134 cases of human trafficking; eight criminal offences under section 149 of the Criminal Code of Ukraine (human trafficking) were detected where the victims were children. Eight such offences were registered in the first five months of 2023. The Committee observes that the number of registered criminal offences for child trafficking remains low, and that information regarding the number of perpetrators of child trafficking who have been prosecuted and convicted remains sparse. ***The Committee once again urges the Government to ensure that thorough investigations and prosecutions of persons who engage in the sale and trafficking of children are carried out. It requests the Government to provide information in this regard and on the number and nature of penalties imposed in practice.***

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee notes the lack of information in the Government's report regarding the measures taken to facilitate access to free basic education for all children, particularly children in areas of armed conflict, internally displaced children and Roma children. The Committee notes with **concern** that that the ongoing war in Ukraine appears to have had serious ramifications on children's access to free basic education. A UNICEF press release of 24 January 2023 reports that the war has disrupted education for more than 5 million children, and that the impact of 11 months of conflict only compounds the two years of lost learning due to the COVID-19 pandemic,

and more than eight years of war for children in eastern Ukraine. According to another UNICEF press release of 29 August 2023, children across Ukraine are showing signs of widespread learning loss as the war, preceded by the COVID-19 pandemic, have left students facing a fourth year of disruption to education. Moreover, according to the UNICEF website, only a third of schoolchildren in Ukraine are fully learning in-person. Two-thirds are struggling to learn online or through a mixture of online and in person classes. UNICEF is therefore working with governments and partners on the ground in Ukraine and countries hosting refugee children and families to help increase access to quality learning. This includes supporting the inclusion of children in national education systems and providing multiple learning pathways for children not currently enrolled. **While noting the difficult situation prevailing in the country, the Committee once again strongly encourages the Government to take measures to facilitate access to free basic education for all children and improve the quality of education for all students at the primary and lower secondary levels. It once again requests the Government to provide information on the concrete measures taken and results achieved in this respect.**

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

## Bolivarian Republic of Venezuela

### Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (ratification: 1933)

#### Previous comment

The Committee notes the joint observations of the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the Independent Trade Union Alliance Confederation of Workers (CTASI), the United Federation of Workers of Venezuela (CUTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 30 August 2023. **It requests the Government to provide its comments in this respect.**

*Articles 2 and 12 of the Convention. Prohibition of night work by young persons in industrial undertakings and legislation.* The Committee previously noted that the Basic Labour Act of 2012 no longer contained a provision prohibiting night work by young persons, unlike the Basic Labour Act of 1997. It therefore requested the Government to take the necessary measures to bring the legislation into compliance with the Convention.

The Committee notes the joint observations of the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA, according to which the Government has not taken any measures to prohibit the night work of young persons under 18 years of age, despite the fact that minors are increasingly vulnerable and prone to working, at all hours of the day and night. The Committee notes the Government's reiterated indication, in its report, that it is not necessary to amend the legislation since, under article 23 of the Constitution, international treaties have the force of law in the internal legal system of the country. The Government adds that, in practice: (1) no authorization has been granted by the Children's and Young Persons' Protection Councils to workers aged 14 years and above for the performance of night work; and (2) the labour inspectorate has not found any instance of young persons in night work. However, the Committee notes, from the joint observations of the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA, that the night work of children is frequent, not inspected by any government agency, and does not appear in official statistics. The Committee once again recalls that *Article 2(1)* of the Convention prohibits the employment during the night of young persons under 18 years of age in any industrial undertaking other than an undertaking in which only members of the same family are employed, except in the cases provided for in *Article 2(2)*. Therefore, the Committee notes with **deep concern** that the Government has not taken any measures to prohibit night work by young persons in industrial undertakings. In addition, it recalls that, under *Article 12* of the Convention, each Member that ratifies the Convention agrees to take such action as may be necessary to make its provisions effective. **Since child labour seems to have bypassed the formally established channels for its authorization, the**

**Committee requests the Government to take the necessary measures to reduce child labour in the informal economy and to provide information on the causes and results. Further, the Committee once again urges the Government to take the necessary measures to bring the national legislation into compliance with the Convention without delay by reintroducing a provision prohibiting the night work of young persons under 18 years of age, in order to ensure the effective implementation of the provisions of the Convention. If such a provision were to include special grounds on which exceptions to the prohibition of night work by young persons may be granted, as previously provided for by section 257 of the Basic Labour Act of 1997, the Committee requests the Government to supply information on these special grounds and the conditions under which such permission may be given, indicating in particular the age of the young persons and the types of work they are authorized to perform.**

### Minimum Age Convention, 1973 (No. 138) (ratification: 1987)

#### Previous comment

The Committee notes the joint observations of the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the Independent Trade Union Alliance Confederation of Workers (CTASI), the United Federation of Workers of Venezuela (CUTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 30 August 2023. **It requests the Government to provide its comments in this respect.**

*Article 1 of the Convention. National policy, labour inspection and application of the Convention in practice.* The Committee notes, from the Government's report, that: (1) there is an increase in the number of working adolescents registered between 2020 and 2023; (2) from a total of 29,931 labour inspections undertaken between January 2020 and July 2023, the labour inspectorate detected 58 work entities in which children under the age 14 years were found to be working and these entities were ordered to stop such practices; (3) no case was detected involving a young person under the age of 18 years in hazardous work; (4) the National Plan for Comprehensive Protection of Children and Adolescents 2021–26, developed by the National Committee for the Rights of Children and Adolescents (IDENNA), envisages the development of measures to protect children from labour exploitation; and (5) the "Plan for the prevention and reduction of early pregnancy in teenagers" is a coordinated interinstitutional effort to address what the Government considers to be an important factor which can lead to child labour.

The Committee notes, from the observations of the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA that: (1) child labour is increasing, including in hazardous conditions and especially in the informal economy; (2) an estimated 12 per cent of children are engaged in child labour in hazardous conditions; (3) 22 per cent of children aged 6 to 17 years do not attend school in order to work and contribute to the livelihood of the family; (4) there is a lack of official statistics on child labour; and (5) there is no publicly available information on the National Plan for Comprehensive Protection of children and adolescents 2021–26. The Committee notes, with **regret** that: (1) the Government does not provide information on the measures taken to progressively eliminate child labour, whether under the above-mentioned plans or in the framework of the previously mentioned national system of guidance for the comprehensive protection of children and young persons; (2) once again, the Government does not provide any statistical information on child labour; and (3) the Government does not provide information on labour inspection activities in the informal economy. **The Committee requests the Government to take the necessary measures to: (i) strengthen the capacity and extend the reach of the labour inspection services to better monitor the work performed by young persons in the informal economy; and (ii) ensure that sufficient up-to-date data on the nature, extent and trends of child labour, including in hazardous work and the informal economy, is made available. It requests the Government to provide information on: (i) the measures taken to this end; (ii) any measures taken or envisaged, to ensure the progressive elimination of child labour, including in the context of the**

***National Plan for Comprehensive Protection of children and adolescents 2021–26 or any other policy, and the impact of such measures; and (iii) the number and nature of infringements detected by labour inspectors, including in the informal economy, and the penalties imposed.***

*Article 3(3). Admission to hazardous work from the age of 16 years.* The Committee notes that the Government once again states that it considers that its legislation prohibits all forms of hazardous work to children under 18 years and that the Children's and Young Persons' Protection Councils do not authorize young persons to be engaged in hazardous work in practice. The Government indicates that, although section 96(1) of the Act of 1998 concerning the protection of children and young persons, provides that 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, section 96(2) goes on to say that, in any event, persons between 14 years and under 18 years, "shall not engage in any type of work that is explicitly prohibited by law". Therefore, according to the Government, persons under the age of 18 years are explicitly prohibited from engaging in hazardous types of work.

The Committee notes that the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA observe that the Government has not taken any measures to bring the legislation into conformity with the Convention.

The Committee notes that, even though the regulations on safety and health conditions prohibit hazardous or unhealthy activities for young persons under 18 years of age, section 96 of the Act of 1998 leaves open the possibility for the national executive authority to determine a minimum age under 18 years for types of work that are hazardous or harmful to the health of young persons. In light of this information, the Committee notes with **concern** that the Government has not taken any measures to bring its legislation into conformity with the Convention. ***The Committee once again requests the Government to take the necessary measures as soon as possible to ensure that: (i) section 96 of the Act of 1998 concerning the protection of children and young persons is amended to expressly prohibit the engagement of young persons under the age of 18 years in hazardous work; and (ii) 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.***

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)**

### [Previous comment](#)

The Committee notes the joint observations of the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the Independent Trade Union Alliance Confederation of Workers (CTASI), the United Federation of Workers of Venezuela (CUTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 30 August 2023. ***It requests the Government to provide its comments in this respect.***

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children.* The Committee notes the Government's indication, in its report, that the judicial authorities registered, in 2022, a total of 55 victims of trafficking, including 10 children under 18 years of age. In that same year, judicial proceedings were initiated against 212 persons for alleged involvement in trafficking in persons, and 54 persons were convicted for trafficking for the purpose of sexual exploitation, pornography, forced prostitution, forced labour and irregular adoption. The Committee also notes that the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA observe that the number of trafficking cases registered by the criminal courts and the number of child victims of trafficking identified appear to be low compared to the magnitude of the problem.

The Committee further notes that the Government does not provide information on the status of the draft bill against trafficking in persons. It notes, from the concluding observations of the United

Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), that there is no time frame for the adoption of the bill on the prevention and punishment of the crime of trafficking in persons and comprehensive assistance to victims (CMW/C/VEN/CO/1, 27 October 2023, para. 46). The Committee also notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) the concerns about: (1) the limited measures to prevent, prosecute and punish cases of trafficking in persons, in particular women and girls, for purposes of sexual exploitation and forced labour; and (2) the lack of disaggregated data on trafficking in women and girls into and out of the country (CEDAW/C/VEN/CO/9, 31 May 2023, para. 27). **The Committee requests the Government to step up its efforts and take the necessary measures to ensure: (i) the adoption of the draft bill against trafficking in persons; (ii) that any person who engages in the trafficking of children is subject to in-depth investigations and robust prosecutions; and (iii) the collection of up-to-date data on the extent and nature of child trafficking in the country. It also requests the Government to continue to provide information on the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed for violations relating the trafficking of children under the age of 18 years. Insofar as possible, this information should be disaggregated by age and gender.**

Articles 3 and 7(2). Worst forms of child labour and 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. The Committee notes that, between 2022 and May 2023, the National Committee on the Rights of Children and Young Persons (IDENNA) provided assistance to 17 child victims of trafficking (14 girls and 3 boys) to help them locate their families. The Committee also notes the Government's information on some assistance provided to children, but it is not clear how many of these children were victims of trafficking: 1) the National Office for Comprehensive Attention to Victims of Violence (ONAIIV), between January and February 2023, provided assistance to 304 victims of crimes of violence; and 2) 110 children and young persons were welcomed in Centres of Immediate Attention and other shelter homes, and received comprehensive care services.

The Committee notes the Government's indication that the IDENNA carries out monthly awareness-raising campaigns on social networks to prevent and protect children from trafficking and child abuse. It notes, from the observations of the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA, the adoption of Presidential Decree No. 4.540 of 2021, approving the National Plan against Trafficking in Persons 2021-2025. However, the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA observe that: (1) the Government should provide detailed information on its contents and implementation; (2) there is a lack of governmental evaluation of the effectiveness of the plans developed; and (3) the IDENNA should communicate the results of its actions, through reports and data.

The Committee also notes, from the concluding observations of the CMW, the establishment of: (1) in 2020, a Special Division of the Ombudsperson's Office for the Protection of Migrants, Refugees and Victims of Trafficking in Persons; and (2) in 2021, a National Council to Combat Trafficking in Persons to follow-up, evaluate, implement and monitor the National Plan against Trafficking in Persons 2021-2025 (CMW/C/VEN/CO/1, 27 October 2023, para. 6). The Committee further notes, from the concluding observations of the CEDAW, the concern about the absence of protocols for the early identification of victims of trafficking and their referral to appropriate services (CEDAW/C/VEN/CO/9, 31 May 2023, para. 27). In this regard, the Committee notes that the Government does not provide any new information on the ongoing revision of the protocol for assistance to victims of trafficking by the National Office against Organized Crime and the Funding of Terrorism (ONCDOFT). While noting certain measures taken by the Government to combat trafficking in children, the Committee notes with **concern** that the Government, once again, does not provide information on the results achieved. **The Committee requests the Government to carry out an evaluation of the measures taken, including in the framework of the National Plan against Trafficking in Persons 2021-2025, regarding the prevention and combating of**

**trafficking in children. The Committee also requests the Government to pursue its efforts and to provide detailed information on: (i) the measures taken to provide the necessary and appropriate direct assistance for the removal of child victims of trafficking and ensure their rehabilitation and social integration; (ii) the number of child victims of trafficking who benefitted from these measures; and (iii) the status of the revision of the protocol for assistance to victims of trafficking by the ONCDOFT.**

*Article 3(d). Children engaged in hazardous mining activities.* The Committee notes the Government's indication that the "Misión Piar", created in 2005, is a social programme which seeks to improve the lives of people in mining by providing comprehensive assistance to miners, including by developing programmes for the promotion and defence of the rights of women and children and any other measures which contribute to reducing the risk of child labour while promoting decent work, and a safe and healthy working environment. It notes, that the UNETE, CTV, CTASI, CUTV, FAPUV, CGT and CODESA, in their observations: (1) indicate that there is no labour inspection in illegal mines; and (2) that illegal mining in the *Arco Minero del Orinoco* has been ongoing for many years, that the forced labour of boys is increasing in this region, and that the Government is not taking any measures to put an end to it. **The Committee requests the Government to take effective and time-bound measures to prevent children from engaging in hazardous mining activities, to remove them from these activities and to provide them with rehabilitation services. It requests the Government to provide information on the specific measures taken in this regard, including within the framework of the "Misión Piar" and on the results achieved, by providing information on the number of children removed and who received direct assistance for their rehabilitation and social integration.**

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

## Yemen

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

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

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.

**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.

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.

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

## Zambia

### Minimum Age Convention, 1973 (No. 138) (ratification: 1976)

#### Previous comment

*Article 1 of the Convention. National policy and application of the Convention in practice.* Following its previous comments, the Committee notes that the preliminary 2018 Zambia Child Labour Survey Report (ZCLSR), conducted by the Zambia Statistical Agency (ZSA) shows a widespread child labour situation in Zambia – especially in the rural and agricultural sectors. The ZSA estimated that 955,301 children were in child labour, 97.7 per cent of whom were in the 5–11 age group. The study further indicates that 67 per cent of these children were in rural areas (636,366), while the other 33 per cent were in urban areas (318,935). In terms of gender distribution, girls represented 56.9 per cent of the children in child labour. Out of the total estimated number of children in child labour, about 96 per cent (919,520) were in unpaid work (fetching water or firewood, washing, cleaning, etc.). The ZSA further reported that 26,063 children were in hazardous work, and that the agriculture, forestry and fishing sub-sectors that dominate the rural economy account for 58 per cent of children in hazardous work. The other industries with some sizable number of children in hazardous work include construction (11 per cent), other services (10 per cent), households as employers (10 per cent), and manufacturing (8 per cent). The Committee further notes, from the Government's information in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182) that the Government has revised the National Action Plan for the Elimination of the Worst Forms of Child Labour 2010–15 (NAP-I) and adopted and is now implementing the NAP 2020–25 (NAP-II). According to the document of the NAP-II, despite important strides, the prevalence of child labour in Zambia remains high in the rural and peri-urban areas due to high levels of poverty, and this situation has been worsened with the advent of the COVID-19 pandemic.

In this regard, as indicated in the document of the NAP-II, and in contrast with the NAP-I, the new NAP adopts a pragmatic approach to progressively eliminate widespread child labour. The NAP II uses practical cost-effective steps to strengthen cooperation and coordination among relevant child rights protection stakeholders and focus on reigniting an integrated policy response to child labour. The

Government and other child labour partner institutions will adopt a coordinated multi-stakeholder approach to implement child labour relevant policies, programmes and interventions towards a rights-based strategic framework centered on the following NAP-II priority strategies: (1) strengthening inclusive and equitable human development and scaling-up access to education, health and other poverty-reducing services; (2) strengthening social protection systems; (3) promoting decent work opportunities for adults and youth; (4) strengthening child protection through institutional coordination; (5) strengthening and harmonizing the legislative framework; and (6) improving child labour awareness.

While noting the measures taken by the government, the Committee must express its **concern** over the significant number of children involved in child labour, including in hazardous work. **The Committee requests the Government to provide information on the root causes of the increase in child labour in the country, and encourages the Government to pursue its efforts to ensure the progressive elimination of child labour by children under the minimum age for employment or work, as well as for all children engaged in hazardous work. In this regard, it requests that the Government provide detailed information on the implementation of the NAP II, and on the results achieved. It also requests the Government to continue to supply information on the application of the Convention in practice, particularly updated statistics, disaggregated by age and sector of activity, on the situation of children engaged in child labour in the country.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee notes with **regret** that, despite the Committee's raising of this issue since 2011 and the conclusions of the Conference Committee on the Application of Standards in 2017, the Education Act of 2011 has not yet been amended to provide for an age of completion of compulsory schooling of 15 years, in line with *Article 2(3)* of the Convention. The Committee recalls that, while section 17 of the Education Act of 2011 provides that parents shall enrol their child who has attained the school-going age at an educational institution and ensure the child's attendance, it neither defines the school-going age nor indicates the age of completion of compulsory schooling.

The Committee observes that, in its report, the Government once again states that progress on the process of revising the Education Act has been stalled, because the revision came at a time when the Ministry of Education began reviewing its National Education Policy. The Government indicates that the revision of the Act will only be finalized after Cabinet approval is granted for the revised National Education Policy. **The Committee once again strongly urges the Government to take the necessary measures to ensure that the age of completion of compulsory education for all children is set at 15 years, thereby linking it to the minimum age for admission to employment or work. It once again requests the Government to provide information on any progress made in this regard.**

*Article 7(3). Determination of light work.* Following its previous comments, the Committee observes with **regret** that the types of light work permitted to children between the ages of 13 and 15, pursuant to sections 80 and/or 137(n) of the Employment Code Act No. 3 of 2019 and to the Statutory Instrument No. 121 of 2013 on the Prohibition of Employment of Young Persons and Children (Hazardous Labour) Order (S.I. No. 121 of 2013), have yet to be determined by statutory instrument. **The Committee urges the Government to take the necessary measures to ensure, by statutory regulation, the determination of light work activities permitted to children of 13 to 15 years of age, in application of the Employment Code No. 3 of 2019.**

*Labour inspection.* Following its previous comments, the Committee notes the Government's information that it has established the Monitoring and Evaluation (M&E) Unit in the Ministry of Labour and Social Security (MoLSS) with the mandate to monitor child labour interventions in the country. Moreover, the Government indicates that it is intensifying labour inspections, including child labour inspections in the informal economy. In this regard, the Committee takes note of the information communicated by the Government in its report under the Labour Inspection Convention, 1947 (No. 81),

and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), according to which it is taking measures to adequately resource the Labour Inspectorate, including by employing 46 new Labour Inspectors, bringing the total number to 176, and by providing funds to support field stations which go towards labour inspections. The Committee further notes that, in the framework of the NAP-II, one of the priority objectives is to ensure the more effective application of legislative frameworks to fight child labour, and that this includes the integration of child labour inspections in routine labour inspections to strengthen child labour detection and regulatory enforcement actions. **The Committee requests the Government to continue to take the necessary measures to strengthen the capacities and expand the activities of the labour inspectorate, including in the framework of the NAP-II, to enable it to monitor child labour in all sectors, particularly in the informal economy. It requests the Government to continue to provide specific information on the results achieved by the Labour Inspectorate in this regard, particularly the number of children in child labour it has been able to identify, the number and nature of violations detected, and the penalties imposed. Finally, it requests the Government to provide information on the activities of the M&E Unit of the MoLSS.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

#### [Previous comment](#)

*Articles 3(a), 5 and 7(1) of the Convention. Sale and trafficking of children, monitoring mechanisms and penalties.* Following its previous comments, the Committee notes the Government's information, in its report, regarding the activities it has undertaken, in particular in the framework of the National Action Plan on Human Trafficking, Mixed and Irregular Migration 2018-21. For instance, the Government indicates that capacity-building was conducted on human trafficking for the benefit of 19 frontline officials and 30 gender officers from various Government ministries and civil society organizations. In addition, the Committee takes note of the detailed information provided by the Government under the Forced Labour Convention, 1930 (No. 29), regarding the activities and trainings undertaken by the National Prosecution Authority (NPA), which is the principal authority for all prosecutors in the country. The Committee further notes that, in the framework of the new National Policy on Human Trafficking and Smuggling of Migrants 2022-25 (NAP-TiP), one main objective is the enhancement of the capacity of the criminal justice system to investigate, identify and prosecute human trafficking cases effectively and efficiently by 2026.

The Committee observes, however, that the Government does not provide information on the investigations and prosecutions of perpetrators of child trafficking, despite the fact that a total number of 2,782 cases of trafficking (including of cases involving child victims) were handled by the District Social Welfare Officers between January 2020 and June 2023. During the first quarter of 2023, 80 cases were recorded, including 23 cases involving child victims. The Committee also notes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of 27 June 2022 (CRC/C/ZMB/CO/5-7, para. 42), noted the increasing number of child victims of trafficking in border areas and recommended that Zambia strengthen the training of professionals concerned with identifying and referring child victims of trafficking and take urgent measures to investigate, penalize and prevent commercial exploitation of children, particularly girls. **The Committee therefore strongly encourages the Government to continue to take the necessary measures to ensure that cases of trafficking of children under the age of 18 for labour or commercial sexual exploitation are detected, and that investigations and prosecutions are conducted against the perpetrators. It requests the Government to provide information on the measures taken, in the framework of the NAP-TiP or otherwise, and the results achieved, including with regard to the number and nature of convictions and penalties imposed.**

*Articles 3, 7(1) and 7(2). Worst forms of child labour, penalties and direct assistance for the removal of children from the worst forms of child labour. Clause (d). Hazardous work. Mining.* The Committee notes that, according to section 3 of the Prohibition of Employment of Young Persons and Children (Hazardous

Labour) Order, 2013 (Statutory Instrument No. 121 of 2013), the employment of children or young persons in work involving exposure to lead (h) or in underground work (bb) is prohibited. Yet, the Committee observes that according to a press release of 10 May 2022, found on the website of the Ministry of Community Development and Social Services (MoCDSS), entitled “Child labour worries Government”, the MoCDSS has expressed concern about the increase in the number of children engaging in labour in the mining sector. Similarly, in a press release of 24 May 2022 found on the website of the United Nations Office of the High Commissioner for Human Rights entitled “Experts of the Committee on the Rights of the Child Ask Zambia about the Exposure of Children to Lead Contamination in Mines and about Child Marriage”, reports the serious concern expressed by the CRC about the use of child labour in artisanal mining and the exposure of these children to high-level lead contamination. **The Committee requests the Government to take the necessary measures to ensure the effective application of Statutory Instrument No. 121 of 2013 as regards the prohibition of the employment of all children under 18 in underground work in mines, and to provide information on inspections undertaken, violations detected and penalties imposed in this regard. It also requests the Government to provide information on the effective and time-bound measures taken or envisaged to protect children from becoming engaged in such hazardous work and removing those who are involved in this worst form of child labour and providing for their rehabilitation and social integration.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* Following its previous comments, the Committee observes that the preliminary 2018 Zambia Child Labour Survey Report (ZCLSR) estimated that out of 6,035,481 children aged between 5 and 17 years, 1,308,994 children had never attended school (i.e. one in five children). Of the children who had never attended school, 77 per cent were in the rural areas and 54 per cent were boys. Some of the main reasons the 2018 ZCLSR respondents gave for the high proportion of children who had never attended school relate to inadequate public spending on primary education.

In this regard, the Committee notes the Government’s indication that it continues to implement the Free Education for All Policy, which extends from early childhood to secondary education, and introduced school subsidies on user fees, and that this has positively impacted school attendance. The Government also continues to implement a series of interventions to promote schooling and reduce drop-out rates, in particular for girls, children in vulnerable situations and children living in rural areas. These include the “Keeping Girls in School” initiative (social cash transfers targeting girls from extremely poor households); the Improved Learner Support systems, which are school support structures aimed at improving learner retention; and the Stakeholders Engagement and Collaboration, which is a collaborative effort between the Government and civil society partners to ensure that school dropouts are given an opportunity to come back to school (by 2020, the programme had expanded its operations across four provinces, covering 62,611 girls). The Committee further notes that, under the National Action Plan for the Elimination of the Worst Forms of Child Labour 2020-2025 (NAP-II), one of the priorities is to increase access to education through increased enrolment and retention of children at school. This is to be done, for instance, through cash transfer schemes to the benefit of identified vulnerable households, the scaling up of school feeding programmes and the allocation of 20 per cent of the budget to education.

The Committee notes, however, that the CRC, in its concluding observations of 27 June 2022, expressed concern about, among others: (1) the persistently high dropout rates, particularly among girls, due to teenage pregnancy, child marriage, discriminatory traditional and cultural practices and poverty; (2) the enrolment and retention rate disparities between boys and girls in primary and secondary school, particularly in rural areas; and (3) the negative impact of the COVID-19 pandemic on access to education, particularly for children from poor households and children with disabilities (CRC/C/ZMB/CO/5-7, para. 37). **The Committee therefore once again strongly encourages the Government to continue its efforts to improve the functioning of the education system through**

**measures aimed at, inter alia, reducing the school drop-out rates, particularly of girls, and increasing the enrolment and attendance rates in primary and lower secondary education. In this regard, the Committee requests the Government to provide information on the measures taken in the framework of the NAP-II and the results achieved in terms of statistics on school enrolment, attendance and drop-out rates.**

Clause (d). *Identifying and reaching out to children at special risk. Child orphans of HIV/AIDS and other vulnerable children (OVCs).* Following its previous comments, the Committee notes the Government's information that the Bursary Support programme to OVCs continues to be implemented. This intervention provides financial support to orphaned and vulnerable learners who have dropped out of school or are at risk of dropping out of school due to socio-economic factors. The Committee, however, notes with **concern** that according to 2022 UNAIDS statistics, there remain an estimated 580,000 child orphans due to AIDS in Zambia, representing a considerable increase since the Committee last took note of the estimated 470,000 child orphans due to AIDS in 2018. **Recalling that children orphaned by HIV/AIDS and OVCs are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to pursue its efforts to ensure that they are protected from the worst forms of child labour and to facilitate their access to education. It requests the Government to provide information on the specific effective and time bound measures taken in this regard, as well as the results achieved in terms of number of OVCs who have benefited from such measures.**

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. 5** United Kingdom of Great Britain and Northern Ireland (Guernsey), United Kingdom of Great Britain and Northern Ireland (Jersey) **Convention No. 6** Gabon **Convention No. 10** United Kingdom of Great Britain and Northern Ireland (Bermuda), United Kingdom of Great Britain and Northern Ireland (Falkland Islands: Malvinas), United Kingdom of Great Britain and Northern Ireland (Guernsey), United Kingdom of Great Britain and Northern Ireland (Jersey), United Kingdom of Great Britain and Northern Ireland (St. Helena) **Convention No. 59** United Kingdom of Great Britain and Northern Ireland (Anguilla), United Kingdom of Great Britain and Northern Ireland (Bermuda), United Kingdom of Great Britain and Northern Ireland (Falkland Islands: Malvinas), United Kingdom of Great Britain and Northern Ireland (Gibraltar), United Kingdom of Great Britain and Northern Ireland (Montserrat), United Kingdom of Great Britain and Northern Ireland (St. Helena), Yemen **Convention No. 77** Tajikistan, Ukraine **Convention No. 78** Tajikistan, Ukraine **Convention No. 79** Tajikistan **Convention No. 90** India, Tajikistan **Convention No. 123** Gabon, Uganda **Convention No. 124** Gabon **Convention No. 138** Afghanistan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Comoros, Congo, Denmark (Greenland), Gabon, Gambia, Greece, Grenada, India, Kazakhstan, Kenya, Kyrgyzstan, Lebanon, Maldives, Mexico, Mongolia, Morocco, Myanmar, Namibia, Niger, North Macedonia, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Portugal, Republic of Korea, Rwanda, Samoa, Sierra Leone, Solomon Islands, South Sudan, Sudan, Togo, Turkmenistan, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland (Isle of Man), Yemen **Convention No. 182** Afghanistan, Bahamas, Barbados, Bolivia (Plurinational State of), Comoros, Gabon, Gambia, Grenada, Guyana, Honduras, India, Iran (Islamic Republic of), Italy, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Liberia, Maldives, Mexico, Mongolia, Morocco, Myanmar, Namibia, Nepal, Netherlands (Aruba), Netherlands (Curaçao), Niger, Nigeria, North Macedonia, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Republic of Korea, Republic of Moldova, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sudan, Syrian Arab Republic, Tajikistan, Timor-Leste, Togo, Turkmenistan, Uganda, Ukraine, Vanuatu, Venezuela (Bolivarian Republic of), Yemen, Zambia.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 138** *Uruguay* **Convention No. 182** *Uruguay*.



## Equality of opportunity and treatment

### Afghanistan

#### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

The Committee notes the observations of the International Trade Union Confederation (ITUC) and the International Organisation of Employers (OIE) received on 1 September 2023.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the [discussion](#) that took place in the Committee on the Application of Standards (CAS) of the International Labour Conference in June 2023 concerning the application of the Convention as well as the following conclusions of the Conference Committee.

The CAS noted with deep concern the repeated failure of the Government to respond to the Committee's comments since 2019.

The CAS expressed its very deep concern at the significant deterioration of the situation of women and girls, including the situation of vulnerable groups of women, and other minorities since 2021.

The CAS deeply deplored the discriminatory prohibitions, bans and restrictions based on sex imposed on girls and women since 2021, which adversely impact on their ability to enjoy fundamental human rights and freedoms. The CAS also deplored the lack of legal framework explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds set out in the Convention, in all aspects of employment and occupation, as well as the lack of access to non-discriminatory formal justice mechanisms and effective remedies, in line with the Convention.

Taking into account the discussion, the CAS urged that, in consultation with the social partners, effective and time-bound measures be taken to:

- remove without delay all bans, discriminatory practices and unequal treatment based on sex imposed on girls and women to prohibit, limit or impede their access to secondary and higher education, vocational training, employment and all types of occupations in all sectors, and provide information to the Committee of Experts on the measures taken in this regard, and on the results achieved;
- put in place the necessary laws, policies and implementation strategy to prevent and address violence and harassment against girls and women, and provide information to the Committee of Experts on the measures taken in this regard, and on the results achieved;
- amend section 9 of the Labour law in order to explicitly define and prohibit in law direct and indirect discrimination in line with the Convention;
- ensure access to non-discriminatory formal judicial mechanisms and effective remedies;
- organize activities and implement a campaign to raise public awareness of the principles of non-discrimination and equality protected under the Convention;
- provide information on the adoption of all the above-mentioned measures on any progress made in that regard, as well as the results achieved on the equal participation of women in employment and occupation, including by providing statistical information, disaggregated by sex and occupation, on the participation of girls and women in education, vocational training and employment;
- develop a multidisciplinary and multi sectoral action plan to combat discrimination in employment, occupation and education, with ILO technical assistance and in close cooperation

with the social partners and other relevant civil society organizations. In addition, coordinate with other UN agencies operating in the territory.

The CAS also called for specific action to be taken in order to facilitate access to education and vocational training and promote employment opportunities of persons with disabilities, in particular girls and women.

The CAS decided to include its conclusions in a special paragraph of its report.

The Committee notes that the ITUC notes with great concern the structural discrimination suffered by women in Afghanistan, that blatantly hinders their access to education, training and employment. According to the ITUC, this situation follows a phase, prior to the takeover by the Taliban in 2021, during which some improvements were recorded towards democratization and promotion of the status of women. The organization adds that, prior to 2021, under the previous administration: (1) 64 women were elected to parliament and 17 to the Senate; (2) four women were nominated in the cabinet; (3) there were four women ambassadors in embassies and 261 women judges in the courts and judiciary; (4) 1,500 women were working as defense lawyers, 2,500 women as journalists in private free media, and 3,650 women in the security forces; (5) 3.5 million girls were engaged in education; and (6) thousands of women were working in the private sector, who altogether constituted 30 per cent of the labour force in the Afghan labour market.

The Committee further notes the ITUC's indication that, since 2021, the course of the progress made by the country was reversed and women and girls have been silenced and excluded from the public sphere. Since September 2021, Afghan girls over the age of twelve have been banned from going to school. Currently, 80 per cent of Afghan girls and young women who are eligible for school numbering about 2.5 million have been thrown out of school. Some 30 per cent of girls in Afghanistan do not have primary education, and even when girls are allowed to go to school, teaching is limited due to the lack of female teachers. In December 2022, university education for women was suspended until further notice, affecting more than 100,000 female students. Women are no longer allowed to work, including in the civil service. They are prohibited from traveling within and outside the country. The Afghanistan Labour Code, the Elimination of Violence Against Women Law, the Regulation of Women's Protection Centres and the Child Rights Protection Law which stipulated fundamental rights, equality of treatment and opportunities between men and women are no longer applicable. In 2021, the Ministry of Women's Affairs was closed and replaced by the Ministry of Prosperity and Prohibition. The Afghan Independent Human Rights Commission has been dissolved and twenty decrees have been announced by the Taliban to impose its religious beliefs, as well as its way of life, attire, and ethics based on its interpretation of Sharia Law. Specialized courts for the elimination of violence against women and public prosecutors' offices have been closed, depriving women of access to justice. The economic crisis has worsened the situation of women, minors and other vulnerable groups in the country. Since 2021, 97 per cent of the population has been living below the poverty line. Forced marriages including of minors, as well as child labour of boys and girls engaging in hazardous works have increased.

The ITUC also alleges that the Lesbian, Gay, Bisexual, Trans, Queer, Intersex plus (LGBTQI+) community in the country continue to face grave human rights violations perpetrated by the Taliban, including threats, targeted attacks, sexual assaults, arbitrary detentions, and other violations. Many members of this community remain fearful that such discriminatory practices by the Taliban will continue to escalate, including the use of the death penalty against those in same sex relations and who therefore remain in hiding, fearing for their lives.

Under the subtitle "discrimination based on political opinion", the ITUC also indicates that: (1) journalists faced growing restrictions including arbitrary arrest, unlawful detentions, and torture in response to reporting that criticized the Taliban, leading many to self-censorship; (2) some were beaten and faced other forms of torture while detained; (3) many fled the country; and (4) women television reporters were forced to almost cover their faces completely. The space for civil society organizations

to document and report on human rights shrank significantly and independent human rights groups were unable to work freely. According to the ITUC, the Taliban have dismantled any space for peaceful assembly, demonstration or gathering. Taliban police use excessive and unnecessary force against demonstrators, and peaceful protesters are arbitrary arrested, detained, tortured and forcibly disappeared. Detained protesters face physical and psychological torture.

The leaders of the trade union centre, NUAWA, have been forcibly displaced and live outside Afghanistan. It is impossible for NUAWA and their members to operate or pursue normal activities to redress gender-based violations. The Supreme Labour Council and the commission for disputes resolution at work have ceased to function. Social dialogue is non-existent.

The ITUC also highlighted the comments of the Committee of Experts, namely the inadequate definition of the concept of discrimination in Afghan law and the lack of mechanisms for access to formal justice and urged that immediate action be taken to give effect to the conclusions adopted by the CAS in June 2023. The Committee **deeply deplores** the current situation faced by women and girls in the country depriving them of education and employment opportunities. **The Committee urges the de facto authorities to address this unacceptable situation and to respond without delay to the conclusions of the Conference Committee on the Application of Standards as well as to the observations from the ITUC.**

The Committee notes that, in its communication, the IOE reiterates the opening and closing statements of the Employer members as well as the statement of the Employer member of France during the [discussion](#) that took place in the CAS in June 2023 as well as the conclusions adopted by the CAS which are reproduced above. It further notes the IOE's request to take duly into account all the information provided when examining the application in law and practice of the Convention.

The Committee further notes that the IOE expressed the hope that progress will be made in the application of the Convention, in line with the conclusions of the CAS and in close consultations with the most representative employers' organization in Afghanistan. **The Committee requests the de facto authorities to provide their comments in this respect.**

The Committee notes the report of the Office of the High Commissioner for Human Rights on the situation of human rights in Afghanistan, which concludes that: (1) Afghan women and girls have been restricted from participation in most areas of public and daily life by the introduction of progressively more severe and discriminatory edicts, policies and other pronouncements; (2) these measures deny the rights of women and girls to access education, to work and to freedom of movement and impact access to health and other essential services; (3) in addition to the restrictions imposed by the policies themselves, their implementation has involved further violations of human rights; (4) The exclusion of women lawyers and judges from the legal system, along with the abolition of specialized Elimination of Violence Against Women prosecution units and courts, affects the rights of women and girls to obtain legal representation, equality before the law and access to justice; and (5) over two years on from their takeover of the country, there has been systematic regression of the rule of law and human rights in Afghanistan, particularly with regard to the rights of women and girls (A/HRC/54/21, 11 September 2023, paragraphs 32, 67, 69 and 74).

It also notes the recommendations of the High Commissioner to the de facto authorities to: (1) promptly rescind discriminatory edicts and decrees which curtail women and girls' human rights and fundamental freedoms, enable their access to secondary and tertiary education and work, respect their freedom of movement and cease interference with other aspects of their daily lives; (2) in view of review of applicable laws being undertaken, ensure that all legislation applicable in Afghanistan is in line with international human rights law; (3) ensure access to justice and right to a remedy for survivors of gender-based violence through the formal justice system; and (4) promote and protect fundamental freedoms by replacing restrictive policies with human rights compliant ones (A/HRC/54/21, paragraph 75).

The Committee notes that, in a communication dated 27 August 2023, the de facto authorities indicated their commitment to the application of ILO Conventions and its reporting obligations. They also pointed out that the conclusions of the CAS were examined and, as per the decree of the Emir, a report under the Convention would not be submitted in 2023 due to insufficient time to reply but rather in 2024.

In these circumstances, the Committee notes with **regret** that the requested report was not received and firmly hopes that the announced report for 2024 will contain full information on the matters raised in its previous comments, which read as follows:

*Articles 1(1)(a), 2 and 3 of the Convention. Discrimination based on sex. Restrictions on women's access to education, vocational training and employment.* The Committee notes that since August 2021, high-level United Nations (UN) bodies have expressed deepest concern regarding the increasing deterioration of human rights and fundamental freedoms of women and girls in the country (UN Special Rapporteur on the situation of human rights in Afghanistan, Statement, Urgent Debate on the situation of women and girls in Afghanistan, 1 July 2022; UN Security Council, Statement on the situation in Afghanistan, 24 May 2022; and High Commissioner for Human Rights, A/HRC/49/24, 4 March 2022). According to these bodies, as a result of the policies and practices adopted, severe restrictions have been imposed on women's and girls' freedom of movement, access to education, vocational training and employment. The Committee notes, more particularly, that: (1) since August 2021, women have been excluded from the workforce. They are also absent from the public administration, where all members are men; (2) since September 2021, women and girls have been denied access to secondary and higher education. Even where girls have been allowed to attend schools, instruction has been restricted due to the absence of women teachers; (3) the Ministry of Women's Affairs and the Afghanistan Independent Human Rights Commission have been disbanded; and (4) specialized courts addressing the elimination of violence against women and prosecution offices have also been closed, thus leaving women without access to justice. The Committee notes that, in its resolution 50/14 on the situation of human rights of women and girls in Afghanistan, adopted on 8 July 2022, the Human Rights Council specifically: (1) condemned in the strongest possible terms all human rights violations and abuses committed against all individuals, including women and girls, in Afghanistan, including all forms of discrimination and violence, including sexual and gender-based violence; (2) called upon the Taliban in particular to reverse the policies and practices that currently restrict the human rights and fundamental freedoms of Afghan women and girls, to ensure that women and girls have opportunities and access to inclusive and quality education at all levels, equal to those afforded to men and boys, and to immediately open schools for girls of all ages; and (3) called for measures to ensure that victims of sexual and gender-based violence have access to justice and to effective remedies and reparations (Human Rights Council resolution 50/14, A/HRC/RES/50/14, 14 July 2022). Furthermore, the Committee notes from the recent report of the Special Rapporteur on the situation of human rights in Afghanistan that: (1) "the restrictions on Afghan women are disproportionately affecting their ability to sustain themselves, thereby further diminishing their enjoyment of other basic rights"; (2) "in early 2021, about 17,369 women-owned businesses were creating over 129,000 jobs, over three-quarters held by women, and many more unregistered women-owned businesses operated in the informal economy [and] by March 2022, 61 per cent of women had lost their job or income generating activities ..."; (3) "in the informal sector, women can no longer take products to market due to movement restrictions and the closure of many women's markets"; (4) "women who continue to work often face harassment and abuse"; (5) "women have been excluded from the de facto justice system"; and (6) "female civil servants, except those doing jobs in health, security and education which cannot be carried out by men, were directed to stay home until conditions enable them to return to work in accordance with Sharia, although their male counterparts were called back" (A/HRC/51/6, 9 September 2022, paragraphs 38 and 39). The Committee strongly deplores the discriminatory prohibitions, bans and restrictions based on sex imposed on girls and women, in particular regarding their access to, and remaining in, education, vocational training and employment, both in the public and private sectors, and on their enjoyment of other human rights and fundamental freedoms, as well as their exposure to sexual and gender-based violence. **The Committee therefore strongly urges that all steps be taken to: (i) remove without delay all bans, discriminatory practices and unequal treatment based on sex imposed on girls and women to prohibit, limit or impede their access to secondary and higher education, vocational training, employment and all types of occupations in all sectors; and (ii) prevent and address violence and harassment against girls and women. The Committee asks for information on the measures taken to that end and the results achieved on the**

**equal participation of women in employment and occupation, including by providing statistical information, disaggregated by sex and occupation, on the participation of girls and women in education, vocational training and employment in both the public and private sectors.**

*Articles 1, 2 and 3. Protection against discrimination. Legislation.* The Committee notes that, in its 2020 report to the UN Committee on the Elimination of Racial Discrimination (CERD), the Government indicated that a draft Anti-Discrimination Law had been developed, which defines direct and indirect discrimination and prohibits discrimination in employment and occupation (CERD/C/AFG/2-16, 27 July 2020, paragraphs 28 and 47). **Recalling that the prohibition of discrimination in section 9 of the Labour Law is formulated in very broad terms, the Committee asks that all necessary measures be taken to explicitly define and prohibit in law direct and indirect discrimination based on at least all of the grounds listed in Article 1(1)(a) of the Convention (namely, race, colour, sex, religion, political opinion, national extraction and social origin), as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b), covering all aspects of employment and occupation, both in the private and public sectors. The Committee asks for information on any progress made in that regard.**

*Article 1(1)(b). Discrimination against persons with disabilities, in particular women and girls.* The Committee recalls that, while section 15 of the Law of Rights and Benefits of Persons with Disabilities provides for equal rights for persons with disabilities in terms of social, economic and educational participation, in practice, persons with disabilities had very low education and employment levels. The Committee notes that, in its resolution 50/14 on the situation of human rights of women in Afghanistan, the Human Rights Council expressed deep concern at the situation currently faced by girls and women with disabilities who are often subject to multiple, aggravated or intersecting forms of discrimination and disadvantages (A/HRC/RES/50/14, 14 July 2022). **The Committee calls once again for specific actions to be taken in order to facilitate access to education and vocational training and promote employment opportunities of persons with disabilities, in particular girls and women, both in the private and public sectors.**

*Monitoring and enforcement.* The Committee notes that, in her March 2022 report on the situation of human rights in Afghanistan, the UN High Commissioner for Human Rights expressed specific concerns about the fact that, "since August 2021, the previously operating legal and justice systems became dysfunctional, with little clarity as to applicable laws and the side-lining of justice sector personnel. Since then, the de facto authorities have gradually sought to resume the functioning of a country-wide justice system and courts under Islamic law with numerous appointments at the de facto ministry of justice" and de facto courts and initiated "an ongoing review of formal law's asserted compliance with both Islamic Law and with the objectives and policies of the new de facto administration. In the meantime, de facto authorities continued administering justice in lieu of the former judiciary in a decentralized manner in consultation with religious scholars, elders, and local communities" (A/HRC/49/24, 4 March 2022, paragraph 60). The Committee wishes to recall that Afghanistan has a binding legal obligation to uphold the fundamental human rights and freedoms guaranteed in customary international law and human rights treaties that the country is signatory to, including the Convention which it has ratified. **The Committee therefore urges that all steps be taken to ensure access to non-discriminatory formal justice mechanisms and effective remedies and to organize activities to raise public awareness of the principles of non-discrimination and equality.**

**[The Government is asked to reply in full to the present comments in 2024.]**

## Antigua and Barbuda

### Equal Remuneration Convention, 1951 (No. 100) (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 1(a) and (b) of the Convention. Work of equal value.* The Committee previously noted that section E8(1) of the Labour Code of 1975 did not give full legislative expression to the principle of the Convention. Noting that the National Labour Board had reviewed the Labour Code and that a report had been submitted to the relevant authority for action, it requested the Government to report on the progress made in this regard. In its report, the Government indicates that it is envisaged that the revised text of the Labour Code will set out the principle of equal remuneration for men and women for work of equal value, which should

not only provide for equal remuneration for men and women working in the same occupations, but also for equal remuneration for work carried out by men and women that is different in nature but of equal value. Upon revision by the National Labour Board, the upgraded text of the Labour Code will be subject to amendment after the process of public consultation is completed. The Government adds that the National Labour Board will ensure that the Labour Code does not contravene this Convention. **The Committee requests the Government to provide information on the progress made towards the amendment of the Labour Code to give full legislative expression to the principle of the Convention and, in the meantime, on any measures taken or agreements and policies adopted providing for equal remuneration for men and women for work of equal value.**

*Remuneration.* In its previous comments, the Committee noted the use and definitions of the terms “wages”, “gross wages”, “remuneration” and “conditions of work” in sections A5, C3, C4(1) and E8(1) of the Labour Code. It noted that, while the definition of “gross wages” appeared to be in accordance with the definition of remuneration set out in *Article 1(a)* of the Convention, it remained unclear whether section C4(1) prohibiting sex discrimination with respect to wages covered the gross wage. It noted the Government’s indication that the terms “wages”, “gross wages” and “remuneration” were used interchangeably in practice, but emphasized that these various terms were often understood to have distinct meanings, thus potentially giving rise to confusion. Noting the ongoing review of the Labour Code, the Committee requested the Government to ensure that the revised text would harmonize the provisions of the Labour Code relevant to wages and remuneration, and include a clear definition of “remuneration” in accordance with *Article 1(a)* of the Convention. The Committee notes the Government’s indication that the National Labour Board will consider a definition for the term “remuneration” (as opposed to the interchangeable use of the terms “wages” and “gross wages”), which will cover not only the ordinary, basic or minimum wage or salary, but also any additional emoluments payable directly or indirectly, whether in cash or kind, by the employer, in accordance with *Article 1(a)* of the Convention. This will ensure that there is no potential for confusion. **The Committee requests the Government to provide information on the progress made in the amendment of the Labour Code in order to include a clear definition of remuneration in accordance with Article 1(a) of the Convention.**

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

**The Committee 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: 1983)

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

*Article 1(1)(a) of the Convention. Grounds of discrimination – National extraction and social origin.* For a number of years, the Committee has been noting the absence of an explicit prohibition of discrimination on the basis of national extraction and social origin in the national Constitution and the Labour Code. The Committee has been asking the Government to ensure that workers are protected in law and in practice against direct and indirect discrimination on the basis of national extraction and social origin, in all aspects of employment and occupation, and to monitor emerging forms of discrimination that may result in or lead to discrimination in employment and occupation on the basis of these grounds, and to report in detail on the progress made. The Government indicates in its report that the process of revising the Labour Code is still ongoing and the National Labour Board is currently considering provisions aimed at defining and prohibiting direct and indirect discrimination, as well as including all grounds of discrimination, namely race, colour, sex, religion, political opinion, national extraction and social origin. The Government adds that, once finalized, these proposals will be made available for public consultation. **The Committee firmly hopes that the amendments to the Labour Code will be adopted in the near future and will include specific provisions ensuring and promoting the protection of workers against direct and indirect discrimination in all aspects of employment and occupation, and with respect to all the grounds of discrimination set out in Article 1(1)(a) of the Convention.**

*Article 2. General observation of 2018.* Regarding the above issues and more generally, the Committee would like to draw the Government’s attention to its general observation on discrimination based on race,

colour and national extraction adopted in 2018. In the general observation, the Committee notes with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and differences in remuneration for work of equal value. Furthermore, the Committee considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, and remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population. ***The Committee draws the Government's attention to its general observation of 2018 and requests the Government to provide information in response to the questions raised in that observation.***

*Equality for men and women. Access to education, vocational training and employment.* In its previous comments, the Committee urged the Government to take concrete steps to collect, analyse and provide statistical information, disaggregated by sex, on the participation of men and women in education and the various vocational training courses offered, as well as statistics on the number of men and women who have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee also urged the Government to provide detailed information on recent initiatives to promote women's participation in courses and jobs traditionally held by men, including up-to-date information on the courses offered by the Gender Affairs Department and the Ministry of Education, as well as the Institute of Continuing Education. The Committee notes the Government's indication that a comparative analysis was done on the participation of men and women in various vocational training courses in institutions such as the Ministry of Education, the Antigua and Barbuda Institute of Continuing Education (ABICE), the Antigua State College (ASC), the Directorate of Gender Affairs, the Antigua and Barbuda Hospitality Training Institute (ABHTI), the Department of Youth Affairs (DYA) and the Gilbert Agricultural Rural Development (GARD) Centre. The Government states that statistics indicate that there is still a striking disparity in the participation of women in professions traditionally occupied by men. However, women are slowly participating to a greater extent in technical and skilled occupations. It is envisaged that the institutions mentioned above will endeavour to engage in strategic planning that will encourage more women to access training so as to enter technical professions which are traditionally occupied by male workers. Currently, most institutions are actively involved in open-day activities geared towards attracting persons to the programmes provided and in spending time in counselling persons to access the training that best suits them. However, the Government states that there is little initiative specifically designed to encourage women to participate in areas traditionally dominated by men. The Committee notes that in its 2019 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) recommended adopting effective measures to combat horizontal and vertical occupational segregation in both the public and private sectors, including through professional training and incentives for women to work in traditionally male-dominated fields of employment (CEDAW/C/ATG/CO/4-7, 14 March 2019, paragraphs 36(a) and 37(a)). ***The Committee asks the Government to provide statistics, disaggregated by sex, on the participation of men and women in education at all stages and the various vocational training courses offered, as well as on the number of men and women who have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee hopes that the Government will be in a position to provide information in its next report on the manner in which it promotes women's participation in courses and jobs traditionally held by men.***

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

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

## Argentina

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1968)

#### Previous comment

*Article 1 of the Convention. Protection against discrimination.* The Committee notes the information provided by the Government in relation to the majority opinion adopted in August 2023 supporting a Bill which provides, among other measures, for the amendment of section 172 of the Employment Contract Act to prohibit discriminatory treatment in respect of income, inclusion and promotion of workers on grounds of sex, sexual characteristics, gender, gender identity and expression, sexual orientation, parental responsibility or family responsibilities. **The Committee requests the Government to provide information on progress in the adoption of the above Bill.**

*Indigenous peoples.* With reference to the adoption of measures to guarantee equality of opportunity and treatment in employment and occupation for both indigenous men and women, the Government indicates that: (1) labour skills training has been provided to the indigenous population through the Training and Employment Insurance Scheme and the More and Better Youth Employment Programme; (2) the National Afro-descendancy and Human Rights Programme has been implemented, which ensures the access to public policies of the Afro-Argentinian, Afro-descendent and African population; and (3) various vocational capacity building activities and training courses have been organized for the learning of trades by indigenous persons. With reference to assistance to victims of discrimination, the Government indicates that the responsible body is the National Institute to Combat Discrimination, Xenophobia and Racism (INADI). In this regard, the Committee notes that, according to the report on the complaints received by the INADI in 2008–19, the complaints for discrimination against indigenous peoples represented 0.3 per cent of all the complaints received in 2018 and 2019. **The Committee requests the Government to provide information on: (i) the specific measures adopted within the context of the National Afro-descendancy and Human Rights Programme to promote equality of opportunity and treatment in employment and occupation for indigenous men and women; and (ii) the impact of the measures adopted (for example, statistics on the labour market participation of indigenous workers, disaggregated by economic sector and sex). The Committee also refers to its comments on the application of the Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

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

## Armenia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1994)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee notes with **regret** that the Government did not seize the opportunity of the revision of the Labour Code in September 2019 and May 2023 to bring section 178 of the Labour Code in full conformity with the principle of the Convention that is to include the concept of work of equal *value* in its legislation. It wishes to stress once again that the concept of “work of equal *value*” lies at the heart of the fundamental right of equal remuneration for women and men for work of equal *value* as it permits a broad scope of comparison, including, but going beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal *value* (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 673). The Committee further draws the Government’s attention to the fact that “work of equal *value*” for women and men can: (1) be performed under different working conditions; (2) require different qualifications or skills; (3) require different levels of effort; and (4) involve different responsibilities. When



determining the value of jobs, while examining different jobs, the value does not have to be the same with respect to each factor. Determining the value is about the overall value of the job when factors such as working conditions, qualifications or skills, effort and responsibilities are considered together. The Committee therefore stresses the importance of assessing the “value” – that is, namely the worth of a job for the purpose of determining remuneration – through objective job evaluation, which is used to establish classification of jobs and the corresponding salary scales without gender bias. ***The Committee asks the Government to: (i) take the necessary steps to give full legislative expression and effect to the principle of equal remuneration for men and women for work of equal value set out in the Convention; and (ii) ensure that the determination of work of equal value is based on objective job evaluation, using criteria such as qualifications and skills, responsibility, efforts and conditions of work.***

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

## Australia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

#### Previous comment

*Articles 1 and 2 of the Convention. Legislative developments.* The Committee recalls the Australian Council of Trade Unions (ACTU) concerns regarding the reporting process implemented under the Workplace Gender Equality Agency 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 Committee notes the Government’s indication, in its report, that a review of the Workplace Gender Equality Act 2012 was undertaken in 2021 to consider how progress on gender equality in workplaces could be accelerated and reporting for employers to the Workplace Gender Equality Agency (WGEA) could be streamlined. Following the publication of the WGEA report, the Committee notes with ***interest*** the adoption of the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022, which implements a number of the recommendations of the 2021 Review, namely by: (1) changing the object of the Fair Work Act and introducing “the need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable “value”, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women’s full economic participation” (Part 4 Schedule 2); (2) the establishment and requirement of an Expert Panel to make determinations regarding substantive gender pay equity matters (Part 6 Schedule 1); (3) the prohibition of pay secrecy clauses in contracts of employments, which are used to prohibit employees from divulging and discussing their pay with others (Part 7 Schedule 1); and (4) expanding the right to flexible work for employees. In addition, it notes with ***interest*** the adoption of the Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Act 2023 which further implements some of the recommendations of the 2021 Review of the Workplace Gender Equality Act, including: (1) the new requirement of the WGEA to publish gender pay gap information of relevant employers (with 100 or more workers); and (2) setting of “gender equality standards” (Division 2). ***The Committee welcomes these legislative developments and requests the Government to continue providing information on the measures taken or envisaged to give effect to the principle of the Convention and to indicate how the legislative developments have impacted the reporting process and addressed the ACTU’s previous observations.***

*Queensland.* In reply to the Committee’s previous request, the Government indicates that the Equal Remuneration Principle (ERP), established in 2002, was codified and incorporated into the Queensland Industrial Relations Act 2016, and therefore, the ERP continues to operate as a guiding principle for the decisions of the Queensland Industrial Relations Commission (QIRC). The Committee also notes the Government’s indication that the Five-year Review of the Industrial Relations Act 2016 (IR Act 2016) identified the persistence of gender pay inequality as a central issue in collective bargaining.

The Government indicates that proposed amendments are currently in front of Parliament to update the good faith bargaining requirement set out in section 173 of the IR Act 2016 to give the negotiating parties the opportunity to understand and address the gender pay gap relating to the proposed agreement at the outset of bargaining. The amendments will require the parties to provide detailed wage-related information on the gender pay gap as soon as practicable after bargaining commences. ***The Committee asks the Government to continue to provide information on: (i) the practical implementation of the Industrial Relations Act 2016 and the Industrial Relations Regulations 2018, including on the application of the ERP 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; and (ii) any difficulties encountered in the implementation of the Act and the Regulations, as well as the measures taken or envisaged to overcome them.***

*Victoria.* The Committee notes the adoption of the Gender Equality Act 2020 (GE Act), which came into effect in March 2021, and which now requires Victorian public sector organisations to take positive action towards promoting workplace gender equality and to consider and promote gender equality in their policies, programmes and services. The GE Act applies to around 300 Victorian public sector organisations that have 50 or more employees (defined entities), including universities and local councils. The Committee indicates that the GE Act sets out seven gender equality indicators that represent the key areas where workplace gender inequality persists and where reasonable and material progress towards gender equality must be demonstrated (section 16). One of the indicators is equal remuneration for work of equal or comparable “value” across all levels of the workforce, irrespective of gender (section 3). Entities with obligations under the GE Act (defined entities) are required to conduct a workplace gender audit every four years which requires them to collect and report data on the gender equality indicators, including the gender pay gap (section 11). Defined entities are also required every four years to use their audit data to inform strategies and measures to address the gender pay gap and other gender equality indicators in their Gender Equality Action Plans (GEAP) (section 10). The Committee notes the establishment of the Commission for Gender Equality in the Public Sector (CGEPS) to support the Public Sector Gender Equality Commissioner (Commissioner), who is responsible for education, overseeing the implementation of the GE Act, enforcing compliance and playing a key leadership role in promoting gender equality in Victorian workplaces and communities. ***The Committee requests the Government to provide information on the application in practice of the Gender Equality Act 2020, including: (i) how the adoption of the GE Act has impacted the gender pay gap in the public sector in Victoria; and (ii) the implementation of the GE Act by the CGEPS and the Commissioner, in particular specific strategies and measures undertaken to address any identified gender pay gaps.. The Committee also asks the Government to provide information on the measures in place to ensure that the principle of the Convention is applied to public entities with less than 50 employees.***

*Western Australia.* The Committee welcomes the adoption of the Industrial Relations Legislation Amendment Act 2021 (IRLA Act), which amends the Industrial Relations Act 1979 (IR Act) to include new equal remuneration provisions. The new equal remuneration provisions in Part II Division 3B of the IR Act enable the Western Australian Industrial Relations Commission (WAIRC) to make an equal remuneration order on application from a range of parties, including an individual employee or a group of employees. The Committee notes that the IRLA Act defines equal remuneration as “equal remuneration for men and women for work of equal or comparable value”. Pursuant to section 50A of the IR Act, the WAIRC is also formally required to include an equal remuneration principle in the statement of principles it issues each year when reviewing and adjusting minimum rates of pay for employees in the State industrial relations system. The equal remuneration principle must be applied whenever the WAIRC is determining an application for an equal remuneration order or is otherwise dealing with an equal remuneration matter. The Government adds that when the WAIRC is satisfied that an employee does not receive equal remuneration, it must make a remuneration order. An equal

remuneration order may direct any action that the WAIRC considers appropriate, including (but not limited to): (1) reclassifying work; (2) establishing new career paths; (3) implementing changes to incremental pay scales; (4) providing for an increase in remuneration rates; and (5) reassessing definitions and descriptions of work to properly reflect the value of the work. An equal remuneration order may introduce equal remuneration measures immediately, or progressively in stages. The Committee further notes the Government's indication that, in 2019, the WAIRC introduced an equal remuneration principle in its statement of principles to assist parties in furthering equal remuneration matters. The Government also indicates that, following enactment of the IRLA Act, minor revisions were made to the equal remuneration principle in 2022, to ensure it remains consistent with the new equal remuneration provisions of the IR Act. **The Committee asks the Government to provide information on the application in practice of the IRLA Act, including on the number of equal remuneration orders made by the WAIRC relating to the principle of the Convention.**

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1973)

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

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) received with the Government's report.

*Articles 1 and 2 of the Convention. Legislative developments and enforcement. Gender equality. Federal level.* The Committee notes with **interest** the following legislative amendments: (1) the Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 which amends the Australian Human Rights Commission Act 1986, and changes the threshold from 6 to 24 months for the discretion to terminate a complaint made under the Sex Discrimination Act 1984 since the alleged unlawful discrimination occurred; (2) the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022, which amends the Fair Work Act by, inter alia: (a) widening the scope for employees to request flexible work; (b) extending the right to unpaid parental leave; (c) adding breast feeding, gender identity and intersex status as prohibited grounds of discrimination; and (d) clarifying how and when a 'special measure' clause in an enterprise agreement will be considered as not being discriminatory and when it must cease to exist; (3) the Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022, which further amends the Sex Discrimination Act 1984, the Australian Human Rights Commission Act 1986, the Workplace Gender Equality Act 2012, the Age Discrimination Act 2004, the Disability Discrimination Act 1992 and the Racial Discrimination Act 1975. This Amendment Act introduces, among many other measures, a positive duty on the Australia Human Rights Commission (AHRC) in relation to discrimination and expands its powers to investigate into any matter relating to systemic or suspected systemic discrimination, and to ensure compliance with the legislation; and (4) the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1), to facilitate reporting by employers to the Workplace Gender Equality Agency, following a review of the Workplace Gender Equality Act 2012 undertaken in late 2021.

The Committee notes the information provided by Government in its report according to which, the Australian Human Rights Commission (AHRC) received 3,113 complaints under federal anti-discrimination and human rights laws between 2020–2021. The AHRC finalized 2,624 complaints during this period and conducted approximately 1,517 conciliation processes of which 70 per cent were successfully resolved. Complaints about employment made up 72 per cent of all complaints under the Sex Discrimination Act. **The Committee asks the Government to continue to provide information on: (i) any new legislative developments or amendments made to the federal anti-discrimination laws; and (ii) the application in practice of the above-mentioned legislative amendments and their impact in achieving effective equality of opportunity and treatment in occupation and employment.**

*Article 1(1)(a). Discrimination based on religion. Inherent requirement of the job. State level. Victoria.* The Committee notes with **interest** the Government's indication that it has amended the Equal Opportunity Act 2010 to provide that religious organizations and educational institutions are prohibited from discriminating against people on the basis of protected attributes such as sexuality, gender identity or marital status when making employment decisions (new sections 82A and 83A). The Act now allows religious bodies and educational institutions to discriminate only against employees or potential employees on the basis of religious belief or activity where conformity with religious beliefs is an inherent (defined as "core, essential or important") requirement of the job and the discrimination is reasonable and proportionate in the circumstances. **The Committee asks the Government to provide information on how the amendment to the Equal Opportunity Act has been applied in practice, by providing examples of cases where the "inherent requirement" test was successfully used by an employer to discriminate against an employee or potential employee as well as cases where courts or agencies have rejected an employer's assertion of the test.**

*Discrimination based on sex. Sexual harassment.* With reference to its previous comment, the Committee notes the Government's indication that following a national inquiry into sexual harassment, the AHRC published, in 2020, the "Respect@Work Report", which found that 33 per cent of Australian employees have experienced sexual harassment in the workplace in the past five years (39 per cent of women and 26 per cent of men). While employees in some types of workplaces were more likely to experience harassment than others, the Report concluded that sexual harassment occurs in every industry, in every location and at every level, in Australian workplaces. The Committee notes that the Respect@Work Report made 55 recommendations addressed to all levels of government, the private sector and the community in order to reduce the prevalence of sexual harassment in workplaces, and provide greater support when it does occur, including 12 recommendations that call for the amendment of some of the Commonwealth legislation. The Committee notes that the ACTU welcomes the Government's commitment to implement the recommendations of the inquiry in full. To this end, the Committee notes with **interest** the adoption, in November 2022, of the Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022 which implements some of the 12 legislative recommendations of the Respect@Work Report. Among the changes, the Committee notes: (1) the introduction of a positive duty on employers and persons conducting a business or undertaking (PCBU) under the Sex Discrimination Act 1984 to take reasonable and proportionate measures to eliminate, as far as possible, sexual harassment, sex-based discrimination and harassment, hostile work environments, and related victimization (section 47B and C); and (2) the lower threshold to establish "harassment on the ground of sex" under the Sex Discrimination Act requiring that the relevant conduct be "demeaning" and no longer "seriously demeaning". The Committee also notes that the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 implements all remaining legislative amendments recommended by the Respect@Work Report, including: (1) introducing a vicarious liability of the employer for the sexual harassment by an employee, unless they took all reasonable steps to prevent sexual harassment; and (2) amending the Fair Work Act 2009 to set out a dispute resolution process in which an aggrieved person may apply to the Fair Work Commission to deal with the dispute and/or make a "stop sexual harassment order" (Part 8 Schedule 1). The Committee also notes the information provided on the various actions undertaken by the AHRC and the Sex Discrimination Commissioner to prevent and address sexual harassment in the workplace. It notes that, in 2021, Safe Work Australia published national guidance material to assist employers across Australia in preventing and responding to workplace sexual harassment as well as a tailored information sheet to assist small businesses in preventing workplace sexual harassment. The Committee takes note of the information provided by the Government according to which, between 2020 and 2021, the AHRC received 503 complaints under the Sex Discrimination Act, 252 of these complaints alleged sexual harassment (26 per cent). The largest number of these complaints occurred in the area of employment (67 per cent). 61 per cent of the total complaints lodged under the Sex Discrimination Act were successfully resolved

through conciliation. **The Committee requests the Government to provide information on the application in practice of the new legislative provisions regarding sexual harassment, including by providing information on the number, nature and outcome of any cases or complaints of sexual harassment dealt with by the labour inspectors, the Fair Work Commission, the courts or any other judicial or administrative competent authority, and the impact of these measures on the prevalence of sexual harassment in Australian workplaces. The Committee also asks the Government to continue to provide information on any additional activities undertaken by the Australian Human Rights Commission, the Sex Discrimination Commissioner and the Fair Work Commission to address sexual harassment.**

*Sexual orientation.* The Committee notes with **interest** that the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 introduces “gender identity” and “intersex status” as prohibited grounds of discrimination (Part 9 Schedule 1). It notes the Government’s indication that between 2020 and 2021, the AHRC received 504 complaints under the Sex Discrimination Act, of which 69 related to gender identity, 2 to intersex status and 30 to sexual orientation; 67 per cent of all complaints received over this period related to employment discrimination. The Committee also takes due note of the statistical data provided by the Government on court cases in the different states and territories. **The Committee asks the Government to provide information on the application in practice of the Fair Work Act, as amended in 2022, including by continuing to provide information on the number, nature and outcome of any complaints or cases alleging discrimination on the grounds of gender identity, sexual orientation and intersex status in employment and occupation dealt with by the labour inspectors, the courts or any other judicial or administrative competent authority.**

*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. The Committee notes the Government’s indication that the Native Title Legislation Amendment Act 2021 (Amendment Act 2021) which amends the Native Title Act 1993 and the Corporations (Aboriginal and Torres Strait Islander) Act 2006, was passed in 2021, introducing a number of changes, including: (1) the possibility to make applications for compensation in relation to more areas where native title rights and interests have been impacted; (2) new functions of mediations to the National Native Title Tribunal; and (3) all court matters relating to the Corporations (Aboriginal and Torres Strait Islander) Act must be commenced in the Federal Court. The Government adds that extensive consultation was undertaken on the development of the Amendment Act. During its consultation, the Government received submissions from, and conducted meetings with, a wide range of stakeholders in the native title system, including native title representative bodies, registered native title bodies corporate and other Indigenous stakeholders. The Committee notes the Government’s statement that, as of 29 July 2022, approximately 80 per cent of native title determinations had been made by consent (566 determinations made in total). The Government states that native title has now been recognized over more than 42 per cent of Australia’s land mass and over more than 91,000 square kilometres of Australia’s seas. The Committee further notes the Government’s indication that the Indigenous Rangers Programme and Indigenous Protected Areas (IPA) Programme assists First Nations people to manage land in accordance with Traditional Owners’ objectives. In addition to supporting connection to the land and culture, the Government indicates that these programmes provide economic opportunities for First Nations peoples, and environmental outcomes to benefit all Australians. Finally, the Committee notes the Closing the Gap Strategy 2023, a formal commitment by federal, state and territory governments to achieve equality for Aboriginal and Torres Strait Islander peoples within 25 years, in which Outcome 15 is that Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters. There are two targets under this outcome: (1) Target 15a: by 2030, a 15 per cent increase in Australia’s landmass subject to Aboriginal and Torres Strait Islander people’s legal rights or interests; and (2) Target 15b: by 2030, a 15 per cent increase in areas covered by

Aboriginal and Torres Strait Islander people's legal rights or interests in the sea. The Government indicates that, as of July 2023, the data shows that Target 15a is on track to be met. Despite the Government's indication that substantial areas of sea claims are progressing and that it is expected that the data for target 15b would be on track in the next reporting period, the Committee notes from the 2023 Closing the Gap Report that Target 15b has improved but still not enough for the target to be met. **The Committee requests the Government to pursue its efforts, in collaboration with indigenous peoples and other relevant stakeholders, 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. It therefore asks the Government to continue to provide information on any further steps taken to this end, including by providing information on the implementation of the Indigenous Rangers' Programme and IPA Programme, in as much as it relates to access to vocational training, to employment and to particular occupations, and terms and conditions of employment.**

*Article 2. Equality of opportunity and treatment of indigenous peoples. Constitutional recognition.* The Committee previously noted the Government's commitment to recognizing Aboriginal and Torres Strait Islander peoples in the Constitution. The Committee further notes that in a recent referendum the Australian people rejected the proposal to change the Constitution by inserting "recognition of the Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia" and the establishment of "the Aboriginal and Torres Strait Islander Voice". **The Committee requests the Government to provide information regarding any actions taken in relation to these matters following the result of the referendum.**

*National policy and programmes for indigenous peoples.* The Committee notes the Government's indication that a new National Agreement on the Closing the Gap Strategy came into effect on 27 July 2020. It notes however, from the Closing the Gap Annual Report of 2023, that many of the targets set out are "not on track" to be met by 2031. For example, Target 4, which aims to increase the proportion of Aboriginal and Torres Strait Islander children assessed as developmentally on track in all five domains of the Australian Early Development Census to 55 per cent by 2031, is reported as "not on track" and has actually worsened from 35.2 per cent in 2018 (the baseline year) to 34.3 per cent in 2021. Also, for Targets 5, 6 and 7, which aim to increase the proportion of Aboriginal and Torres Strait Islander youth (15–24 years) who have completed secondary school and/or are in employment, high education or training, the report indicates that while improvements have been achieved, it is not enough for the targets to be met. The Committee takes due note that Target 8, which refers to the proportion of Aboriginal and Torres Strait Islander people between 25 to 64 years who are employed, shows a "good improvement" (from 51 per cent in 2016 (the baseline year) to 55.7 per cent in 2021) with the national target of 62 per cent on track to be met. The Committee notes with **interest** the Government's indication that it has committed to replacing the Community Development Programme (CDP) with a new programme with real jobs, proper wages and decent conditions – developed in partnership with First Nations People. The Government adds that the new programme will increase economic opportunities and jobs in remote areas and give more control to communities to determine local projects that support economic development. The Committee notes, from the ACTU's observations, that it welcomes the Government's commitment to end the CDP, which it considered to be discriminatory against First Nations Peoples. The Committee further notes the Government's indication that it is adapting its First Nations-specific employment investments to ensure it is fit for purpose, supports economic recovery and aligns with the change to mainstream employment services. The Government refers to the Indigenous Skills and Employment Program (ISEP), which is an investment that was announced in the 2021–22 Budget, and that is expected to contribute to closing the gap in employment by supporting pathways to meaningful and sustainable employment for First Nations People through flexible, locally informed investment.

*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. It notes that several states, such as *Queensland, New South Wales* and *Western Australia*, continue to implement affirmative actions to enhance the employment of Aboriginal and Torres Strait Islander peoples in the public sector in particular. Among these, the Committee takes note of the Queensland Women's Strategy 2022-27, which includes a focus on elevating First Nations women as well as strengthening women's overall economic security and includes a specific commitment to work to break down barriers to employment for First Nations women. ***In light of the persistent disadvantaged position of indigenous peoples in education and employment, the Committee asks the Government to pursue its efforts and to provide information on: (i) 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 or envisaged as a result; (ii) any progress made in meeting the Closing the Gap targets, in particular concerning employment, education and vocational training; (iii) the implementation of the ISEP, including details of the contribution it has made to the Closing the Gap targets; and (iv) 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.

## Austria

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

#### [Previous comment](#)

The Committee notes the observations made by the Federal Chamber of Labour (BAK) and the Austrian Federal Economic Chamber (WKÖ), which were attached to the Government's report.

*Articles 1 and 2 of the Convention. Gender pay gap.* The Committee notes the Government's indication, in its report, that the gender pay gap has been decreasing continuously for the last ten years but that it remains very high compared to the rest of the European Union (EU) members (second highest, at 18.8 per cent in 2021 (EU average was 12.7 per cent) according to Eurostat). According to a report from the European Commission, this results from a mix of root causes such as gaps in childcare facilities and adequate day care for school children, a very unequal distribution of paid and unpaid work between women and men, and a high rate of part-time work among female workers. Statistics Austria Office notes that 49.6 per cent of them were working part-time in 2021, compared to 11.6 per cent for men (EU averages were 29.5 and 9.3 per cent respectively), and when looking more specifically at active part-time rates of persons between 25 and 49 years with children under 15, the figures strikingly stand at 72.8 per cent for women and 6.8 per cent for men. The Committee also notes the observations made by the BAK as well as the European Commission and the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) regarding the impact of this pay gap on women's pension benefits (the gender pension gap standing at over 40 per cent) (European Commission, European network of legal experts in gender equality and non-discrimination, Country Report Austria on gender equality, 2022, pages 10, 22 and 44; and CEDAW/C/AUT/CO/9, 30 July 2019, paragraphs 32(a) and 37). The Committee notes that the Government refers to various measures adopted to reduce the structural factors contributing to the large gender pay gap, such as training courses to promote the access of women to non-traditional occupations as well as initiatives to inspire more girls to take science, technology, engineering and mathematics (STEM) subjects; special assistance for those returning to work after a career break for family reasons; and women's career centres to offer individual advice. It also provides examples of measures adopted in the provinces in this regard. In light of the significant gender pay gap in the country, the Committee wishes to stress that, it is important to deal with the persistent underlying causes of pay inequality that still need to be addressed in the country, in addition to the ones already identified above. A comprehensive approach to the reduction and elimination of pay disparity between men and women involving societal, political, cultural and labour market interventions

is required. In that regard, the Committee observes that the Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 to strengthen the application of the principle of equal pay for equal work or work of equal value between women and men through pay transparency and enforcement mechanisms (“EU Pay Transparency Directive”) entered into force on 6 June 2023, and that EU Member States must implement it within three years. ***In view of the remaining significant gender pay gap, the Committee requests the Government: (i) to step up the measures taken to further reduce the gap (in this regard, it refers the Government to the range of proactive measures taken by member States to implement the Convention and described in its General Survey of 2012 on the fundamental Conventions on fundamental Conventions, paragraphs 720-730); and (ii) to provide information on those measures and the results achieved. Please provide information on the transposition of the EU Directive on Pay Transparency into the national legal framework and its implementation.***

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

## Azerbaijan

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1992)

#### Previous comment

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes.* The Committee takes note of the Government’s statement that targeted reforms are being implemented to close the gender pay gap, and that pay reforms were implemented in 2019 to increase the minimum pay and eliminate the gender pay gap. The Committee also notes that, according to the data provided by the Government, in 2021, women’s average monthly wage was at AZN558 while men earned AZN847.7. The Government thus indicates that, in 2021, women’s average monthly earnings represented 65.8 per cent of that of men (a gender pay gap of 34.6 per cent), compared to 54 per cent in 2018 (46 per cent). While taking note of this progress, the Committee notes that the difference in earnings between men and women remains high. The Committee notes the Government’s indication that the gender pay gap may be explained by the fact that women are responsible for housework and family responsibilities and that they prefer to be employed in comparatively light work that requires less responsibilities and are thus paid less than jobs with more responsibilities and higher pay. In this regard, the Committee once again refers to paragraphs 712 and 713 of its [General Survey of 2012 on the fundamental Conventions](#), relating to occupational gender segregation. The Committee notes the Government’s indication that, at the start of 2017, women continued to be overrepresented in certain sectors, including in education (where women represented 68.5 per cent of the workforce), health and social care (73.1 per cent) and leisure, entertainment and the arts (59.9 per cent). The Government further indicates that: (1) women prefer to work in low-paid sectors such as health and social services, leisure, entertainment and the arts, education, and real estate services; and (2) over the last 10 years, the share of women in management positions has stood at an average of 10-11 per cent, with a growth rate of only 0.5 per cent. The Committee further notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), the continued existence of horizontal and vertical segregation in the labour market, as well as barriers to women’s access to management positions, higher-paid jobs and decision-making positions (CEDAW/C/AZE/CO/6, 12 July 2022, paragraph 31). ***Once again recalling that pay inequalities may arise due to the segregation of women and men into certain sectors and occupations, the Committee requests the Government to strengthen its efforts to reduce the wide gender wage gap and address its underlying causes, including any prevailing stereotypes regarding women’s preferences or suitability for certain jobs. In this regard, the Government is requested to provide information on: (i) awareness-raising activities and sensitization initiatives aimed at deconstructing views attributing specific skills, roles and occupations to girls, boys, women or men; (ii) steps taken to promote the participation of more women in male-dominated sectors and jobs, as well as of more men in female-dominated sectors and jobs; and (iii)***



**statistical data on the distribution of women and men in the different sectors of economic activity, occupational categories and positions and their corresponding earnings, both in the private and public sectors.**

*Articles 1(b) and 2(2)(a). Equal remuneration for work of equal value. Legislation.* The Committee notes the Government's indication, in its report, that, as part of the improvement of the national law and its further harmonization with the requirements of the Convention, the Ministry of Labour and Social Protection has drafted a law amending the Law on Gender Equality of 2006, which has been submitted for approval of the relevant government bodies. The Government indicates that the proposed law will amend section 9, on equal remuneration, and will provide that: "Workers who work in the same workplace, have the same level of qualifications and perform the same or different work of the same value in the same working conditions, must receive equal pay, bonuses and other financial incentive payments for equal work irrespective of their sex". The Committee notes that the proposed amendment does not give full expression to the principle of the Convention. Indeed, the proposed draft law, if adopted, would still require workers to work in the same workplace, have the same level of qualification, and perform the same work or different work of same value but in the *same* working conditions, for the principle of equal remuneration to apply. The Committee draws the Government's attention to the fact that "work of equal value" for women and men can: (1) be performed under different working conditions; (2) require different professional skills; (3) require different levels of effort; and (4) involve different responsibilities. When determining the value of different jobs, the value does not have to be the same with respect to each factor taken into consideration. Determining the value is about the overall value of the job when all the factors are taken into account together. In this regard, the Committee once again refers to paragraphs 672 to 675 and 677 of its [General Survey of 2012 on the fundamental Conventions](#). **The Committee once again urges the Government to take the necessary measures to: (i) give full legislative expression to the principle of the Convention by ensuring that equal remuneration for women and men is guaranteed not only for work that is "equal", "the same" or "similar", but also for work that is of an entirely different nature, but which is nevertheless of equal value; and (ii) to ensure that measures are taken to implement this principle in practice, including through 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: 1992)

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

*Article 1 of the Convention. Prohibition of discrimination. Legislative developments.* The Committee recalls that section 16(1) of the Labour Code provides for an open list of prohibited grounds of discrimination (using the wording "and other factors unrelated to the professional qualifications, job performance, or professional skills of the employees") but does not explicitly mention the grounds of "colour" and "national extraction" (i.e. a person's place of birth, ancestry or foreign origin). It notes from the Government's report that section 8 of the Law on Employment of 29 June 2018 guarantees equal opportunities to all, irrespective of race, ethnicity, religion, language, gender, family situation, social origin, place of residence, financial situation, convictions and membership of political parties, trade unions and other voluntary organizations, in the exercise of their right to work and to freely choose their employment. The Committee further notes the Government's repeated indication that a draft law amending the Labour Code will amend section 16(1) of the Labour Code, by inserting "family responsibilities" in the list of prohibited grounds of discrimination in employment and occupation. The Committee also notes, from the concluding observations of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), that while the constitutional and legislative framework contain anti-discrimination provisions, there is no comprehensive anti-discrimination legislation and policy framework (E/C.12/AZE/CO/4, 2 November 2021, paragraph 18). In this regard, the Committee recalls

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 requests the Government to continue to strengthen the legislative protection against discrimination in all aspects of employment and occupation by including “colour” and “national extraction” (enumerated in Article 1(1)(a) of the Convention) as prohibited grounds of discrimination in section 16(1) of the Labour Code. It also requests the Government to provide information on the progress achieved towards the amendment of section 16(1) of the Labour Code, which aims to insert “family responsibilities” in the list of prohibited grounds of discrimination.***

*Articles 2 and 3. Equality of opportunity and treatment between men and women. Private sector.* The Committee recalls that it has been requesting the Government to take effective measures to address the significant occupational gender segregation in the labour market, and to improve women’s participation rates in sectors or occupations in which they are under-represented. The Committee notes from the Government’s report that there was a particular focus on widening women’s opportunities to find employment or start a business in the ILO Decent Work Country Programme for 2016–2020. It also notes the adoption, in 2018, of the Employment Strategy of Azerbaijan for 2019–2030, which, according to the Government, pays particular attention to supporting women’s employment and ensuring gender equality. The Committee notes the Government’s statement that, in 2017, women represented 48.7 per cent of the labour force and men 51.3 per cent, and that the unemployment rate among women was 6 per cent and 4.2 per cent among men. It also notes that, in 2017, women continued to be over-represented in low-paid sectors such as health and social services (75.1 per cent of women versus 24.9 per cent of men) and education (71.4 per cent of women versus 28.6 per cent of men). The Committee notes the Government’s indication that women account for 53.6 per cent of all scientific workers. Women also represent 45 per cent of secondary school pupils; 48.2 per cent of students in vocational technical education; 48.4 per cent of students in secondary specialist education; and 48.4 per cent of students in higher education and on doctoral programmes. The Committee notes, from the concluding observations of the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW), the persisting horizontal and vertical segregation of women and girls in education. The CEDAW also expressed concern: (1) over the persistent barriers to justice for women and girls, including limited knowledge of their rights and the remedies available to claim them, limited capacity of the judiciary and law enforcement officials to apply the Convention and persistent gender stereotypes among the judiciary; (2) that the relevant national action plans, benchmarks and timelines have not yet been finalized or adequately resourced, in particular the draft national action plan on gender equality; (3) over the persistence of patriarchal attitudes and discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society, considering women primarily as mothers and caregivers, which impede progress in advancing gender equality; (4) over the absence of a comprehensive strategy to address discriminatory gender stereotypes, and the absence of capacity-building for media professionals and public officials on the use of gender-sensitive language; (5) over the persistence of discriminatory gender stereotypes and stereotypical portrayals of women in educational materials, advertisements and the media; (6) over the concentration of women’s entrepreneurship in low-profit sectors, such as wholesale and retail trade and agriculture, and home-based entrepreneurship; and (7) that older women, women and girls with disabilities, women and girls belonging to ethnic minority groups, internally displaced women and girls, and refugee, asylum-seeking and migrant women and girls continue to face intersecting and aggravated forms of discrimination (CEDAW/C/AZE/CO/6, 12 July 2022, paragraphs 11, 15, 21, 29, 35 and 39). The Committee also notes, from the concluding observations of the Committee on Economic, Social and Cultural Rights (CESCR) that, despite the Government’s efforts to develop a policy framework to promote gender equality, the unequal distribution of unpaid domestic and care responsibilities between men and women remains a significant barrier to gender equality (E/C.12/AZE/CO/4, 2 November 2021, paragraph 20). ***The Committee therefore once again urges the Government to take steps to: (i) address effectively and***

**without delay gender stereotypes and occupational gender segregation, including through awareness-raising activities; and (ii) adopt targeted measures to improve the participation rates of women in those economic sectors and occupations in which they are under-represented, including by encouraging girls and young women to choose non-traditional fields of studies and career paths and enhancing women's participation in vocational training courses leading to employment with opportunities for advancement and promotion. It also requests the Government to provide information on: (i) the results achieved by any measures taken to these ends, in the framework of the Employment Strategy of Azerbaijan for 2019–2030 or otherwise; and (ii) the adoption, implementation and results of the National Action Plan on Gender Equality 2019–2024.**

*Exclusion of women from certain occupations.* The Committee notes the Government's indication that, with the aim of broadening women's opportunities for employment, draft amendments to the Labour Code have been drawn up and submitted for consideration by the Cabinet of Ministers in July 2022. The Committee notes with **interest** the adoption, in November 2022, of the Law on amending the Labour Code, deleting section 241 of the Labour Code, which previously contained a general prohibition for all women to work in hazardous occupations and workplaces. It notes that, under the new sections 211 and 240 of the Labour Code, the employment of pregnant women and women with children under the age of one year remains prohibited in "productions [and] professions (positions) with harmful and difficult working conditions, as well as underground works". The Committee further notes with **interest** the adoption of Cabinet of Ministers Decision No. 172 of 31 May 2023, which repeals Decision No. 179 of 1999, and thus reduces the list of occupations in which pregnant women and women with children below the age of one year cannot be employed, from 700 to 204 occupations. The Committee refers to paragraph 86 of its [2023 General Survey on Achieving Gender Equality at Work](#), and recalls that lists of types of work or occupations prohibited because of the danger they pose to health, including reproductive health, should be determined on the basis of an assessment based on scientific evidence and progress, as well as technological developments, showing that there are specific risks to the health of women and, if applicable, of men. **The Committee requests the Government to continue to review periodically the provisions relating to the protection of persons working under hazardous or difficult conditions and ensure that they are aimed at protecting the health and safety of both men and women at work, while considering gender differences with regard to specific risks to their health.**

*Article 3(d). Equality of opportunity and treatment between men and women. Public sector.* The Committee notes the Government's statement that a growing number of women are employed in the public administration and the judicial system every year. It notes from the data provided by the Government that women are still largely underrepresented in the public sector (as of January 2021, there were 2,203 women and 3,286 men employed in auxiliary posts; for administrative posts in the fourth to seventh categories, there were 4,520 women and 14,955 men, and in the highest three categories, there were 616 women and 1,092 men). The Committee also notes, from the Government's report to the CEDAW, that the percentage of women judges has increased from 12.3 per cent in 2018 to 15 per cent in 2019 (CEDAW/C/AZE/6, 31 October 2019, paragraph 112). However, the Committee notes, from the concluding observations of the CEDAW that women are still under-represented in decision-making positions, including in the National Assembly, academia, the judiciary, the public service and the foreign service. The CEDAW also expressed concern at the lack of targeted measures, including temporary special measures, to increase women's representation in public life (CEDAW/C/AZE/CO/6, paragraph 27). **The Committee requests the Government to continue to take measures to improve the representation of women in the public service, including in the judiciary and higher-level and decision-making posts. It requests the Government to provide: (i) information on the results of the actions taken and progress made in this respect; and (ii) updated statistical information, disaggregated by sex, on the distribution of men and women in the public sector, including the judiciary.**

*Equal opportunity and treatment of ethnic and national minorities.* Since 2005, the Committee has repeatedly raised concerns regarding discrimination faced by members of ethnic minorities in the fields

of employment and education. It notes the Government's general statement that the National Employment Policy does not allow discrimination on the grounds of religion or ethnicity, and that therefore, there are no statistics on employment disaggregated by religion or ethnicity. The Committee also notes the Government's indications that: (1) section 5 of the Law on Education of 19 June 2009, guarantees the right to education irrespective of gender, race, language, religion, political beliefs, ethnicity, social situation, origin or health-related abilities; (2) in certain provinces, school books are published in the local language; and (3) the Ministry of Labour and Social Protection has not received any reports of discrimination in the workplace or in employment promotion on the grounds of ethnicity. However, the Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed concern that: (1) there is a lack of comprehensive statistics on the demographic composition of the population, disaggregated by ethnic or national origin, limiting the ability to properly assess the situation of such groups, including their socioeconomic status, and any progress achieved by implementing targeted policies and programmes; (2) teaching of the languages of ethnic minorities is reduced in school programmes to a few hours per week or relegated to extracurricular classes, and there are insufficient human and financial resources for teaching these languages in schools and insufficient availability of school textbooks; (3) only a few members of ethnic minorities are part of the judiciary; and (4) there is a lack of detailed information on the presence of ethnic minorities in the public sector, elected bodies, and decision-making and high-ranking positions, particularly among women (CERD/C/AZE/CO/10-12, 22 September 2022, paragraphs 6, 24 and 26). **The Committee therefore requests the Government to: (i) take the necessary measures to promote equality of opportunity and treatment of members of ethnic and national minorities and stateless persons, in education, vocational training and employment, including in engaging in their traditional activities; (ii) collect and analyse information on their situation in the labour market, as well as on the impact of the measures previously implemented in this regard; and (iii) provide such information.**

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

## Bahamas

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

#### Previous comment

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes.* The Committee notes that the Government neither provides the requested information to allow it to assess the gender wage gap in the country, nor does it indicate the steps taken to determine the underlying causes for wage differentials between women and men, and the measures taken to address these differentials. It also notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), that concerns remain over: (1) the disproportionately high unemployment rate among women, notwithstanding their higher level of educational attainment; (2) the continued occupational segregation in the labour market; (3) the concentration of women in low-wage jobs in the formal and informal sectors; and (4) the large amount of unpaid and unrecognized work done by women, which does not count towards their eligibility for retirement and other work-related benefits (CEDAW/C/BHS/CO/6, 14 November 2018, paragraph 35). **The Committee requests, once again, the Government to take all the necessary steps to: (i) determine and address the underlying reasons for wage differentials between men and women, such as occupational gender segregation; and (ii) indicate the measures taken or envisaged to address these differentials in various occupations, particularly in the higher-level occupational category of senior officials and managers. To fully assess the extent of the gender pay gap, the Committee once again asks the Government to provide statistical information on the earnings of men and women in the**

**various economic sectors in the public and private sectors as well as any available statistical data on the gender pay gap.**

*Articles 1 and 2(2)(a). Equal remuneration for work of equal value. Legislation.* The Committee notes the Government's indication, in its report, that efforts are being made towards the adoption of a bill amending the Employment Act. However, it notes with **concern** the Government's statement that no progress was made to amend section 6 of the Employment Act, 2001, which unduly limits the scope of "work of equal value" to work performed in the same establishment, requiring substantially the same skill, effort and responsibility, and which is performed under similar working conditions. The Committee draws the Government's attention to the fact that "work of equal value" for women and men can: (1) be performed under different working conditions; (2) require different professional skills; (3) require different levels of effort; and (4) involve different responsibilities. When determining the value of different jobs, the value does not have to be the same with respect to each factor taken into consideration. Determining the value is about the overall value of the job when all the factors are taken into account together. It also recalls that the application of the Convention's principle is not limited to comparisons between men and women in the same establishment or enterprise. 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. In this regard, the Committee refers to paragraphs 672–677 and 697 of its [General Survey on the fundamental Conventions, 2012](#). **Recalling that the Committee has been asking the Government to bring its legislation in line with the requirements of the Convention since 2004, it once again urges the Government to take the necessary measures to: (i) amend section 6 of the Employment Act, 2001, in order to give full legislative expression to the principle of equal remuneration for men and women for work of equal value; (ii) ensure that the legislation allows for the comparison not only of jobs in the same establishment and requiring substantially the same skills, efforts and responsibility, and performed under similar working conditions, but also of work of an entirely different nature which is nevertheless of equal value, and provides for a broad definition of "remuneration" as set out in Article 1(a) of the Convention; and (iii) provide information on the progress achieved to this end.**

*Article 2. Determining rates of remuneration. Public service.* The Committee welcomes the information provided by the Government, including the Government of Bahamas Salaries Book for 2016, which indicates the applicable pay scales for employment in the civil service, and the Human Resources Policies Document (2017). From the information provided, the Committee notes that it remains unclear how the "minimum of the salary scale" is determined. **The Committee therefore asks the Government to: (i) provide information on the manner in which the "salary scales" are determined in the civil service, including on the method and criteria used to establish them; and (ii) provide a copy of the most recent Salaries Book.**

*Articles 2(2)(c) and 4. Collective agreements. Cooperation with workers' and employers' organizations.* **The Committee notes the repeated indication from the Government that it does not have anything to report on this point and requests the Government to: (i) take measures to encourage the social partners to discuss the principle of equal remuneration between men and women for work of equal value and to include provisions to that effect in the collective agreements; (ii) provide information on the measures taken or envisaged in this regard; and (iii) provide copies of collective agreements which apply the principle of the Convention.**

*Article 3. Objective job evaluation.* **Recalling that the concept of "equal value" requires some method of measuring and comparing the relative value of different jobs and that there needs to be an examination of the respective tasks involved, undertaken on the basis of entirely objective and non-discriminatory criteria, the Committee once again requests the Government to take steps to: (i) develop and use objective job evaluation methods; and (ii) provide for objective job evaluation including the time frames proposed for their implementation.**

*Awareness-raising and enforcement.* The Committee notes the Government's indication that there have not been any courts of law or tribunals that have handed down any decisions with regard to the principle of the Convention. In this regard, the Committee refers to paragraphs 870 and 871 of its [General Survey of 2012 on the fundamental Conventions](#). **The Committee asks the Government to: (i) examine whether the applicable substantive and procedural provisions, in practice, allow claims to be brought successfully; (ii) take measures 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 (iii) provide information on any activities undertaken in this regard.**

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

### [Previous comment](#)

*Article 1(1)(a) of the Convention. Grounds of discrimination. Legislation.* The Committee takes note of the Government's statement, in its report, that the National Tripartite Council and the Department of Labour are reviewing the Employment Act with the hope of prohibiting discrimination on the basis of all the grounds specified in *Article 1(1)(a)*. However, the Committee notes with **concern** that the Government has been referring to its intent to amend the law to this effect since 2012 and that no improvement has been reached so far to include "colour", "national extraction" and "social origin" in the list of prohibited grounds of discrimination. The Committee recalls 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. **In view of the above, the Committee urges the Government to amend the Employment Act of 2001 accordingly so as to include the grounds of "colour", "national extraction" and "social origin". In the meantime, it asks the Government to provide: (i) information on the specific steps taken to ensure protection against direct and indirect discrimination in employment and occupation, in practice, on the basis of the above grounds; and (ii) a copy of any judicial decision relating to cases of discrimination in employment and occupation.**

*Discrimination based on sex. Sexual harassment.* The Committee welcomes the ratification, by the Government, of the Violence and Harassment Convention, 2019 (No. 190) in November 2022. The Committee further notes that, according to section 26 of the Sexual Offences Act 2010, is guilty of the offence of sexual harassment: (1) a prospective employer who importunes or solicits sexual favours from another person; (2) any person in a position of authority over, or being a co-worker of, another person in any place of employment and who importunes or solicits sexual favours from that person; or (3) any person who importunes or solicits from a person in a position of authority any benefit or advantage against the promise of sexual favours. The Committee recalls that criminal provisions are not completely adequate in discrimination cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 792). **The Committee requests the Government to ensure that the above-mentioned amendment of the Employment Act will also include provisions: (i) defining and prohibiting sexual harassment at work in all its forms (quid pro quo and hostile environment), in relation to all aspects of employment; (ii) covering all workers in all economic sectors; and (iii) envisaging the adoption and implementation of prevention measures and complaint, investigation and penalty mechanisms at the enterprise level. In the meantime, the Committee requests the Government to provide information on: (i) the number, nature and outcome of complaints filed on the basis of section 26 of the Sexual Offences Act 2010, and the penalties imposed; and (ii) any preventive and awareness-raising measures implemented, in cooperation with the employers' and workers' organizations, to combat sexual harassment in employment and occupation.**

*Articles 2 and 3. Equality of opportunity and treatment between men and women.* The Committee notes that the Government indicates that the Department of Labour is developing a Gender Unit under the guidance of the Organization of American States, geared towards fostering awareness of employment inequalities and encouraging employers to create safe working environments for all employees. The Committee further notes the Government's indication that it has created an International Labour Relations Unit, dedicated to liaising with international bodies to ensure awareness of all issues relative to persons in the world of work, including gender, and that this creates the framework to ensure that the gender divide in traditionally male jobs is lessened. The Committee notes that no further information is provided: (1) to indicate how it is addressing occupational segregation between men and women in practice, including through the activities of the International Labour Relations Unit; and (2) in reply to its previous requests. It notes, from the 2019 Labour Force Survey, the persisting occupational segregation in the country: 510 women and 18,790 men working in the construction sector; 22,860 women and 16,855 men working in hospitality sector, and 6,290 women and 12,300 men working on transport, storage and communication. **The Committee therefore reiterates its request to the Government to: (i) provide detailed information on the measures taken to address the occupational segregation of men and women and to promote women's participation in a wider range of training courses, including those traditionally undertaken by men; and (ii) indicate, including by means of statistics disaggregated by sex, the results achieved by the adoption of any measures to promote women's access to a wider variety of jobs which have better career prospects in the public and private sectors.**

*Article 5. Special measures.* **In the absence of information provided by the Government in this regard, the Committee reiterates its request that it indicate whether it has taken or intends to take positive measures pursuant to article 26(4)(d) of the Constitution, to promote the employment of women or certain disadvantaged groups and to provide information on any measures adopted in this regard.**

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

## Belarus

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

#### Previous comment

*Articles 1 and 2 of the Convention. Gender wage gap.* For a number of years, the Committee has been asking the Government to adopt measures in order to address the persistent gender wage gap. The Committee notes the Government's indication, in its report, that the gender wage gap has decreased from 23.4 per cent in 2014 to 21.5 per cent in 2016. It notes with **regret** that the gender wage gap increased back to 25.4 per cent in 2017. The Committee once again notes the persistent gender wage gaps in certain sectors: for example, in 2017, women's average monthly wage was 76.9 per cent of that of men in industry, 74.7 per cent in finance sector and 76.3 per cent in repair of cars and motorcycles. It notes that the gender wage gap tends to be higher in sectors traditionally dominated by men and lower in sectors in which women dominate (such as in agriculture, where women's average monthly wage was 88.7 per cent of that of men). The Government once again states that the existing gender wage gap is primarily due to the high proportion of men working in sectors of the economy that feature "unsafe and unhealthy" working conditions and intensive work and therefore high wages, such as industry, construction, transport and communication. In order to increase women's employment opportunities, including in highly paid sectors of the economy, the Government indicates that it is revising the list of heavy manual jobs and jobs with "unsafe and/or unhealthy" working conditions in which women may not be employed, in accordance with Decision No.35 of 12 June 2014 of the Ministry of Labour and Social Protection. In this regard, the Committee recalls the importance of taking measures to protect the safety and health of all workers regardless of their gender, while taking account

of gender differences with regard to specific risks to their health and refers to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Government also indicates that, since gender mainstreaming in education and the media is an effective tool for eliminating gender stereotypes, various aspects of training and education on gender issues are included in professional development and retraining courses for teachers who work with children, adolescents, and young people. ***The Committee asks the Government to strengthen its efforts to reduce the increasing gender wage gap and its underlying causes, including any prevailing stereotypes regarding women's preferences or suitability for certain jobs, for example through awareness-raising activities and sensitization initiatives aimed at deconstructing views attributing specific skills, roles and occupations to girls, boys, men or women which are key to promoting the presence of more women in male-dominated sectors and jobs, as well as of more men in female-dominated sectors and jobs. It asks the Government to continue to provide: (i) information on the measures taken or envisaged to improve the access of women to a wider range of job opportunities, including in higher-level positions and in sectors in which they are currently prohibited to work in; and (ii) up-to-date statistics on the wages of women and men, including sex disaggregated data by industry and occupational category.***

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

### [Previous comment](#)

*Article 1 of the Convention. Direct and indirect discrimination.* The Committee recalls that for a number of years now it has drawn the Government's attention to the need to amend section 14 of the Labour Code as the definition of discrimination it contains (any "other circumstances not related to a worker's professional abilities and not determined by the nature of his or her professional role") does not expressly prohibit indirect discrimination. It notes with **concern** that the Government reiterates that this definition includes indirect discrimination. ***The Committee once again urges the Government to amend section 14 of the Labour Code to provide for an explicit prohibition of indirect discrimination, and to provide information on any progress made in this regard. The Committee also reiterates its request to the Government that it provide copies of any judicial or administrative decisions relating to cases of indirect discrimination in violation of section 14 of the Labour Code.***

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Committee notes with **concern** the Government's statement that it considers section 170 of the Penal Code, which provides for criminal liability for sexual harassment and violations of sexual freedom, to provide an adequate protection against sexual harassment in the workplace, despite the Committee's indications that criminal provisions are not completely adequate in sexual harassment cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment. Likewise, the Committee considers that addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue and the higher burden of proof, which is harder to meet, especially if there are no witnesses (which is often the case) (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 792). ***The Committee therefore urges once again the Government to strengthen the legislative protection against sexual harassment in the workplace, both by employers and co-workers, and to indicate any progress made in this respect. In the meantime, the Committee also requests the Government to indicate any practical measures taken to address both quid pro quo and hostile environment sexual harassment, including through awareness-raising activities.***

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



## Benin

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

#### Previous comment

*Article 1(1) of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee notes the Government's indication in its report that the Supreme Court has examined the preliminary draft Labour Code and made observations which have been examined by the Government. The Government also indicates that: (1) a re-examination of the whole Labour Code is planned; and (2) the draft Labour Code which is being updated takes account of social origin as a ground of discrimination. ***In view of the foregoing, the Committee asks the Government to take the opportunity provided by the re-examination 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 Article 1(1)(a) of the Convention (including colour, national extraction and social origin) are included in the Labour Code. The Committee requests the Government to provide information on the status of the Labour Code reform and to send a copy of the text of the new Code once it has been adopted.***

*Article 1(1)(a). Discrimination on the basis of sex. Sexual harassment.* The Committee notes that, like the previous definition, the new definition of sexual harassment contained in new section 548 of Act No. 2018-16 issuing the Penal Code, as amended and completed by Act No. 2021-11 of 20 December 2021 issuing special provisions for the punishment of gender-related offences and for the protection of women, still only covers one form of sexual harassment (quid pro quo sexual harassment). In this regard, the Committee notes the Government's indications that: (1) even though this new definition does not specifically refer to harassment arising from a work environment which is hostile, intimidating, degrading or offensive, it should be pointed out that new section 549 (which provides that any form of sexual harassment constitutes an offence) criminalizes all forms of harassment without exception; and (2) data on sexual harassment cases which have been prosecuted in the courts have been requested from the Ministry of Justice and Legislation but have not yet been supplied. In view of the foregoing, the Committee regrets the fact that the Government has not taken the opportunity provided by the adoption of Act No. 2021-11 to include harassment arising from a work environment which is hostile, intimidating, degrading, offensive or humiliating in the definition of sexual harassment. Furthermore, the Committee welcomes the protective clauses introduced by Act No. 2021-11, amending Act No. 2017-05 of 29 August 2017 establishing the conditions and procedure for recruitment, job placement and contract termination, adding a new subparagraph to section 27, under which any resignation or agreement of the parties resulting from sexual harassment shall be deemed to be a dismissal, and to section 30, under which any dismissal following sexual harassment shall always be deemed to be wrongful when these offences are established by the competent criminal court. ***The Committee once again requests the Government to: (i) take the necessary measures to amend the definition of sexual harassment contained in new section 548 of Act No. 2018-16 issuing the Penal Code, as amended in 2021; and (ii) clarify how the provisions of the Penal Code, in particular the above-mentioned section, align with those of Act No. 2006-19 of 2006 on punishing sexual harassment and protecting victims (in particular section 1, which defines sexual harassment). The Committee requests the Government to provide information on the application of section 27(6) and 30(2) of Act No. 2017-05 in practice (cases of resignation, dismissal or other forms of contract termination resulting from sexual harassment). In order to protect workers effectively, the Committee once again asks the Government to: (i) include in the Labour Code a clear definition and explicit prohibition of sexual harassment in all its forms (quid pro quo and hostile work environment harassment); and (ii) adopt specific provisions for effective mechanisms to prevent, sanction and remedy sexual harassment in employment and occupation. The Committee once again requests the Government to continue providing information on: (i) the measures***

**taken to raise awareness among workers and employers about sexual harassment; and (ii) any cases of sexual harassment dealt with by labour inspectors or magistrates.**

*Article 2. Measures to promote equality between men and women. Private sector.* In its previous comments, the Committee asked the Government, which had indicated that the issue of gender parity was one of its priorities, to continue to take specific measures, in collaboration with employers' and workers' organizations, to combat social burdens and sexist stereotypes and prejudices concerning the vocational aptitudes and abilities of women, and the role of women and men in employment and in society at large, especially in rural settings, and to take measures to combat horizontal and vertical segregation in the labour market, whereby women are confined to certain sectors or occupations, which are often poorly paid, or to subordinate posts. **Noting that the Government merely states that it takes note of the recommendation, the Committee once again requests the Government to take the necessary steps to promote gender equality in the private sector and to provide information on the measures adopted to this end. It once again requests the Government to provide information on the study on equal opportunities which had been envisaged in order to draw up an action plan in this regard.**

*Public service.* The Committee notes the Government's indications that recruitment in the public service takes place according to equitable and impartial procedures, in accordance with the General Public Service Regulations, and recruitment competitions do not exclude any male or female candidate. It also notes the data disaggregated by sex which indicate that only 22 per cent of ministers and 13 per cent of heads of cabinet are women. The Committee regrets the fact that the Government has not provided data on public service staff disaggregated by sex other than those relating to these high-level posts. **The Committee invites the Government to examine the composition of the public service workforce in the light of the principle of gender equality in order to determine the actions to be taken to achieve genuine equality between men and women and ensure better representation of women at all levels of the public service, including through training. The Committee also requests the Government to provide available statistics, disaggregated by sex, on the staff of the public service at all levels of responsibility.**

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)

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

*Articles 1 to 4 of the Convention. Gender pay gap.* The Committee notes the information provided by the Government in its report on various measures to promote gender equality in employment and occupation, and also the statistical information on access to various levels of education for girls and women. **In order to be able to identify trends in the gender pay gap in the country, the Committee requests the Government to provide statistical information on the remuneration received by women and men, if possible disaggregated by branch of activity and occupation, and on any data available on the gender pay gap.**

Recalling that one of the underlying causes of the gender pay gap is often gender-related occupational segregation (where women tend to be concentrated in certain jobs and occupations which, in turn, are often characterized by lower pay and worse professional prospects), the Committee refers in this regard to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

*Articles 1(b) and 2(2)(a). Equal remuneration for men and women for work of equal value. Legislation.* The Committee notes with **satisfaction** that the Government reports the adoption of Supreme Decree No. 4401 of 2020, which provides that "the State shall promote the entry of women into employment

and also the same remuneration for women and men for work of equal value" (section 5(I)) and that "it shall be prohibited to consider differences or justify the existence of a wage gap through aspects directly or indirectly linked to the fact of being a woman, on grounds of pregnancy, maternity, paternity, breastfeeding or family responsibilities" (section 7(I)). This Decree is applicable in entities of the State and other public institutions, and to natural and legal persons in the private sector that have the status of employer (section 2(II)).

*Article 3. Objective job evaluation.* The Government indicates that, under Supreme Decree No. 4401 of 2020, work of equal value is defined as "work which has substantial similarities in duties, effort, skill and responsibility, and which is performed under similar conditions" (section 3(b)). The Committee observes that this definition includes several of the factors which the Committee considers quite appropriate for objective job evaluation, such as effort, responsibilities and working conditions. However, it observes that this definition does not include qualifications as an evaluation factor and appears to be limited to work performed "under similar conditions", which would be too restrictive in terms of the principle of the Convention (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 675 and 700; and the ILO's "[Equal pay: An introductory guide](#)", pages 31–32 and 38–46). **The Committee requests the Government to provide information on the manner in which Decree No. 4401 of 2020 is applied in practice and, in particular: (i) indicate whether objective job evaluations have been carried out or whether a specific procedure has been established for this; (ii) clarify whether "qualifications" are taken into account as a factor for comparing work of the same value and in what way; and (iii) provide information on any measures taken to enable a comparison of the value of work done under different conditions.**

*Enforcement.* The Committee notes the Government's indication that a total of ten cases involving the levelling up of wages were handled pursuant to Supreme Decree No. 4401. **The Committee requests the Government to continue providing information on any cases involving the levelling up of wages that have occurred pursuant to Supreme Decree No. 4401 and their outcome.**

## Botswana

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

#### [Previous comment](#)

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap.* The Committee notes that there is a lack of availability of up-to-date statistical information disaggregated by sex regarding the remuneration received by women and men, and their participation in the labour market. The Committee draws the Government's attention to the fact 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 make any necessary adjustments in order to better promote the principle of equal remuneration for men and women for work of equal value (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 891). **To allow an assessment to be made regarding the gender pay gap in the public and private sectors, the Committee asks the Government to: (i) collect and compile statistical information disaggregated by sex regarding the distribution of women and men in different occupational categories or sectors of the economy, and their respective levels of earnings; (ii) conduct research or studies on the gender pay gap, if any, and its underlying causes; and (iii) provide such data and information. The Committee asks the Government to consider taking measures to promote equal remuneration for men and women for work of equal value, including measures to address any underlying causes of pay differentials, such as vertical and horizontal job segregation and gender stereotypes.**

*Articles 1, 2(2)(a) and 3. Equal remuneration for work of equal value. Definition of remuneration. Objective job evaluation. Legislative framework.* The Committee recalls that, for a number of years, it has been drawing the Government's attention to the lack of legislative expression of the principle of equal

remuneration for men and women for work of equal value. It notes that the Employment Act only provides that “[i]n formulating its recommendations to the Minister, the [Labour Advisory] Board shall take into account [...] the desirability of eliminating discrimination between the sexes in respect of wages for equal work” (section 133(2)(b)), which is narrower than the principle of the Convention. **With a view to ensuring that women and men have a legal basis for asserting their right to equal remuneration for work of equal value with their employers and before the competent authorities, the Committee asks the Government to take the necessary measures to review the Employment Act, to: (i) give full legislative expression to the principle of equal remuneration for men and women for work of equal value; (ii) introduce a broad definition of the term “remuneration” in line with Article 1(a) of the Convention; and (iii) introduce provisions promoting the use of objective job evaluation methods free from gender bias, to fully implement the principle of the Convention. It also asks the Government to provide information on any steps taken in this regard.**

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1997)

[Previous comment](#)

*Article 1 of the Convention. Protection from discrimination. Grounds of discrimination. Aspects of employment covered. Legislative framework.* The Committee recalls that the 2010 Amendment to the Employment Act of 1982 (restricting the grounds on which employers may terminate a contract of employment): (1) removed the grounds of “national extraction” and “political opinion” from the list of prohibited grounds of termination of employment (section 23(d)); (2) inserted three new prohibited grounds (sexual orientation, health status and disability); and (3) inserted a provision prohibiting termination of the employment contract on the ground of “any other reason which does not affect the employee’s ability to perform that employee’s duties under the contract of employment” (new section 23(e)). It also recalls the “Code of Good Practice: Employment Discrimination” published in 2008, the purpose of which is to eliminate discrimination at the workplace and promote equality of opportunity and treatment in employment. The Committee notes the Government’s indication, in its report, that there was no change in the labour legislation. **The Committee asks the Government to take the necessary measures to review the Employment Act of 1982 as amended to ensure that: (i) section 23(d) prohibits explicitly discrimination based on “political opinion” and “national extraction”; and (ii) the protection against discrimination is extended to all aspects of employment and occupation, including recruitment and terms and conditions of employment. The Committee asks the Government to provide updated information on: (i) the steps taken to review the Employment Act in this regard; (ii) the extent to which the “Code of Good Practice: Employment Discrimination” is applied, in particular regarding workplace policies formulated by employers; and (iii) the application of section 23(e) of the Employment Act by the administrative or judicial authorities, indicating the grounds invoked and the sanctions applied.**

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Committee has consistently stated that sexual harassment is a serious manifestation of sex discrimination and is to be addressed within the context of the Convention. In this regard, it recalls the absence of legislative provisions prohibiting sexual harassment in employment and occupation in the private sector, while including such provision in respect of the public service (section 38 of the Public Service Act, 2008). It further recalls the “Code of Good Practice: Sexual Harassment at the Workplace”, which was also published in 2008 and provides guidance to employers as well as the National Strategy to End Gender-Based Violence in Botswana for the period 2014–2020. **Referring to paragraphs 789 to 794 of its [General Survey of 2012 on the fundamental Conventions](#), the Committee asks the Government to: (i) consider including in the labour legislation a clear definition and prohibition of sexual harassment (both quid pro quo and hostile work environment sexual harassment) in employment and occupation as well as preventive**

**measures and remedies; and (ii) provide specific information on any practical measures taken or envisaged to prevent and address sexual harassment against both men and women workers, such as awareness-raising campaigns or research, in the framework of the National Strategy to End Gender-Based Violence or otherwise. Recalling that the Code of Good Practice provides that employers should establish procedures to lodge sexual harassment grievances, the Committee asks the Government to indicate if such procedures have been put in place by employers since the adoption of the Code and, if so, to provide examples of such procedures.**

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

## Burkina Faso

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Previous comments: observation and direct request

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* In its previous comments, the Committee emphasized that the 2008 Labour Code, in the same way as the 2004 Labour Code, does not clearly reflect the principle of the Convention since, even though it explicitly establishes the principle of equal remuneration for men and women for work of equal value (section 182(3)), it also provides for equal wages for workers irrespective of sex “under equal conditions of work, vocational qualifications and output” (section 182(1)). The Committee drew attention to the fact that the coexistence of these two provisions may be a source of confusion or even conflict when applying the principle in practice. The Committee notes that the Office has been providing technical assistance for more than 15 years with regard to bringing the legislation into conformity with the international labour standards ratified by Burkina Faso, in particular: (1) in 2007, when it provided a “technical note on Act No. 033-2004 issuing the Labour Code” before the latter was revised in 2008; (2) in 2014, when it supported the “study on the alignment of national law and practice with the ILO fundamental and governance Conventions” and a “national validation workshop” in relation to this study, which concluded with the adoption of a road map accompanied by a time-bound action plan; and (3) in 2017, when it provided “technical comments on the bill issuing the Labour Code”. In this regard, the Committee notes that a draft bill issuing a new Labour Code was adopted by the Council of Ministers on 7 September 2022 and was due to be submitted to Parliament for adoption. **The Committee requests the Government to provide information on the adoption of the new Labour Code and to provide a copy if it has been adopted. The Committee expresses the firm hope that the new Labour Code will take account of the technical comments provided by the Office at the Government’s request, particularly with regard to the principle of equal remuneration for work of equal value.**

*Article 2. Application of the principle in practice.* In its reports, the Government indicates that, according to figures available in 2018, the average gender wage gap in the public sector is approximately 20 per cent and that, in the formal private sector, more than one third of women are paid less than the guaranteed inter-occupational minimum wage (SMIG) compared with 17.8 per cent of men. The Committee notes the Government’s indication that this situation does not mean that women are victims of discrimination but that they are employed in sectors of employment which are less well paid than sectors where men are employed or that they are frequently engaged in the informal economy. The Government indicates that, in order to tackle these inequalities, it has implemented a number of specific programmes for women: (1) the “Subprogramme for increasing revenue and promoting decent employment for women and young persons” (PARPED); (2) the “Special job creation programme for young persons and women” (PSCE/JF); and (3) the “Programme for promoting economic autonomy for young persons and women” (PAE-JF). The Committee notes the information provided by the Government on the impact of these programmes and on the activity of the special kiosk for the promotion of women’s entrepreneurship, which has enabled 25,000 women to benefit from financing. The Committee underlines the fact that horizontal occupational segregation (that is, channeling men

and women into different types of activity and employment) and vertical occupational segregation (that is, different levels of responsibility for men and women) are indeed causes of discrimination of which women are mostly the victims (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 710–714). **The Committee requests the Government to provide information on the measures taken or envisaged to specifically combat occupational segregation in the labour market and thereby enable women to have access to better paid jobs, occupations and positions, into sectors of activity dominated by men, and to make occupational gender diversity a priority in its employment policy.**

*Article 3. Objective evaluation of jobs.* The Committee notes the Government's indication that the classification process launched before 2018 with a view to the preparation of an operational directory of occupations and jobs (ROME), which aimed to establish the basis for the objective evaluation of jobs, has been interrupted because of budgetary constraints. **The Committee requests the Government to provide information on the measures adopted or envisaged, in collaboration with employers' and workers' organizations, to finalize a method for the evaluation of jobs based on objective and non-discriminatory criteria which go beyond the qualifications and experience required for a job, and to promote the use of this method in both the public and the private sectors.**

*Monitoring and enforcement.* The Government indicates that labour inspectors' control sheets do not enable information to be collected on infringements recorded according to sex and occupational category but that it is planned to revise the control sheets in order to take account of these observations. **Recalling the importance of gender-specific data in combating discrimination, the Committee requests the Government to indicate the measures taken to ensure that this information can be collected by labour inspectors when they record infringements, particularly in connection with equal pay for work of equal value. The Committee invites the Government also to provide information on any court rulings dealing with the gender pay gap.**

*Statistics.* The Committee notes that the statistics communicated by the Government do not provide details regarding the number and type of infringements recorded. However, it notes the Government's indication that women, being the most disadvantaged in terms of education and training, are the worst affected by unemployment in urban areas; that the gender pay gap is even more pronounced in jobs in agriculture; and that young women have little access to the "modern" sector (only 3.8 per cent are in this sector compared with 9 per cent of young men). **The Committee invites the Government to continue its efforts to collect statistical data disaggregated by sex and refers the Government to its [general observation of 2006 on the Convention](#), which provides guidance on useful types of statistical data. It requests the Government to continue providing available statistical data, disaggregated by sex.**

## Cabo Verde

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1979)

#### [Previous comment](#)

*Articles 1 to 4 of the Convention. Gender pay gap and occupational gender segregation, including employment in the informal economy.* The Committee notes the Government's indication, in its report, regarding the adoption of the National Plan for Gender Equality for 2021-2025 (PNIG), through Resolution No. 1/2022 of 5 January 2022, which sets as main objective the achievement of women's autonomy in three areas, including economic autonomy and autonomy in decision-making. It notes that the PNIG acknowledges that women: (1) still have a greater burden of unpaid work; (2) are poorer; (3) work mostly in the informal sector; and (4) consequently lack social protection coverage and access to finance. As regards the concentration of women in the informal economy, with low salaries and lack of social protection coverage, the Committee notes that, according to the National Institute of Statistics (INE), excluding agriculture, in 2022, more women than men were still in informal employment (45.9 per cent compared to 43.2 per cent, respectively). Observing the lack of information provided by the

Government on the implementation of the National Strategy for 2017–20 to encourage the transition from informal to formal employment, the Committee however notes that, in 2021, in the context of the “Jov@Emprego” project, implemented in collaboration with the ILO, the “Sucupira50 pilot project” was implemented with a view to strengthen the capacities of 50 women entrepreneurs and support the growth and formalization of their businesses. Welcoming this initiative, the Committee notes that the Second National Sustainable Development Strategy for 2022-2026 (PEDS II) highlights the difficulties faced by women in accessing the formal labour market which constitute an important barrier to women’s economic empowerment. According to the INE, the employment rate of women decreased from 45.5 per cent in 2017 to 43.3 per cent in 2022 (compared to 58.7 per cent for men) and remains particularly low in rural areas (29.2 per cent in 2022). The Committee notes the persistent occupational gender segregation with women being still overrepresented in certain sectors, such as trade (22.3 per cent), hospitality (13.1 per cent), domestic work (12.9 per cent) and education (10.4 per cent). In 2022, women were still mainly represented in elementary occupations (33.8 per cent) and personal services (31.0 per cent), while only 3.1 per cent of them were employed in decision-making positions (INE, Continuous Multi Objective Survey - IMC, 2022). The Committee further notes, from the statistical information provided by the Government, that, in the private sector, women are mostly concentrated in lowest remuneration levels (78.0 per cent of women in the four lowest remuneration levels compared to 64.5 per cent of men; while only 3.1 per cent of women were in the four highest remuneration levels compared to 4.4 per cent of men). In the public sector, a higher proportion of women are in higher remuneration levels, while this proportion is still lower than those for men (18.8 per cent of women in the four highest remuneration levels compared to 25.7 per cent of men). Welcoming the efforts made by the Government to provide information on the distribution of men and women in the different remuneration levels, the Committee observes that the data provided does not reflect the average remuneration of men and women or the overall magnitude of the gender pay gap, which does not enable the Committee to fully assess the extent and nature of wage differentials between women and men in practice. It notes, from the 2022 Global Gender Gap Report from the World Economic Forum, that the estimated earned income of women was still 29.2 per cent lower than those of men, in 2022. ***In light of the substantial wage differentials between women and men and the persistent lack of legislation that fully reflects the principle of the Convention, the Committee urges the Government to strengthen its efforts to take proactive measures in order to identify and address the underlying causes of pay differentials between men and women, such as occupational gender segregation and gender stereotypes, in both the formal and informal economy, and to promote women’s access to a wider range of jobs with career prospects and higher pay, in particular in rural areas. It asks the Government to provide information on: (i) any measures implemented to that end, including in collaboration with employers’ and workers’ organizations; (ii) any programmes or activities implemented to enhance the transition from informal to formal employment, which will be especially important for women; and (iii) the earnings of men and women, in both the public and private sectors, if possible disaggregated by sector of economic activity.***

*Articles 1 and 2(2)(a). Equal remuneration for men and women for work of equal value. Legislation.* Recalling the absence of legal provisions that fully reflect 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 indication that several awareness-raising activities have been carried out regarding gender equality and equal pay, including in collaboration with the ILO in the context of the Trade for Decent Work Project (T4DW). The Government adds that, in June 2022, a tripartite workshop was held, in collaboration with the ILO, in order to formulate a roadmap on equal pay. Welcoming this information, the Committee however observes that no information is provided on the implementation of the roadmap. It further notes that, in its last national report published in 2020, the National Commission for Human Rights and Citizenship (CNDHC) specifically recommended the incorporation of the principle of equal remuneration for men and women for work of equal value into the Labour Code, in line with ILO Convention No. 100.

The Committee notes that, in March 2023, the Social Concertation Council (CCS) reaffirmed the need for a third revision process of the Labour Code and that the principle of equal remuneration for men and women for work of equal value was invoked during a parliamentary debate on the revision of the Labour Code on parenthood, as a means to address gender inequalities in the labour market. The Committee again draws the Government's attention to the fact that article 62 of the Constitution and section 16 of the Labour Code are not sufficient to ensure the full application of the principle enshrined in 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 encompassing work 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 urges the Government to take the opportunity of the revision of the Labour Code to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. It asks the Government to provide information on: (i) any progress made in that regard and the provisions adopted; (ii) any proactive measures taken to raise awareness of the meaning and scope of application of the principle of equal remuneration for work of equal value among workers, employers and their organizations, as well as among law enforcement officials; and (iii) the manner in which section 15(1)(b) of the Labour Code, which provides that "equality 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, is implemented in practice.**

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1979)

### [Previous comment](#)

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Direct and indirect discrimination.* The Committee recalls 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. In this regard, it notes the Government's statement, in reply to the Committee's previous comments, that no information is available to present an overview of the manner in which article 24 of the Constitution, which prohibits discrimination on the basis of "lineage" and "origin", has been interpreted in practice. The Committee, however, notes the Government's indication, in its report, that, in 2021, the National Commission for Human Rights and Citizenships (CNDHC) elaborated, in collaboration with various institutions and organizations, a draft legislation that aims specifically at prohibiting direct, indirect and multiple discrimination, including on the ground of "national extraction". The Committee welcomes this information and notes that, according to the information available on the CNDHC's website, this draft legislation was forwarded to the National Assembly in March 2022. **The Committee asks the Government to take every necessary steps to ensure that workers are protected, both in law and practice, from both direct and indirect discrimination on all the grounds enumerated in Article 1(1)(a) of the Convention, including national extraction. It asks the Government to provide information on any progress made in this regard, in particular regarding the draft anti-discrimination legislation elaborated by the CNCDH.**

*Articles 2 and 3. Equality of opportunity and treatment irrespective of race, colour or national extraction.* Regarding the implementation of measures and programmes undertaken in order to combat stereotypes and discrimination based on race, colour or national extraction, in particular with regard to remuneration of migrant workers which was considerably lower than those of nationals, the Committee notes the Government's indication that the assessment of the implementation of the Second National Action Plan for Immigration and Social Inclusion of Immigrants (2018–20) is being finalized and that a Third National Action Plan is still being prepared. The Committee notes that the High Authority for Immigration (AAI) replaced the Directorate General for Immigration in July 2020, under the terms of



Decree-Law No. 55/2020 of 6 July 2020 and is responsible for coordinating and implementing immigration policies and measures, with special focus on creating and monitoring an integrated system for integration of immigrants. In 2022, the AAI launched a website with information on immigrants' rights available in four languages, as well as a radio programme on existing legal instruments to prevent and address racial discrimination. In that regard, the Committee welcomes the fact that the Second National Action Plan for Human Rights and Citizenship (2017–22) provides for a specific awareness-raising campaign on racism, xenophobia and discrimination against immigrants in order to decrease the number of situations of racial discrimination or xenophobia. It further notes that in its National Programme for 2021-26, the Government plans to: (1) consolidate the structure of the AAI with the effective setting-up of Local Units for Immigration; (2) deepen knowledge on the migratory situation, dynamics and trends in the country and its impact on society and economy; and (3) develop strategies for immigrants in vulnerable situations in order to prevent and address discrimination based on colour, nationality, language, ethnic origin or religion. Welcoming the measures planned by the Government, the Committee however notes that since 2018 no data has been made available regarding employment of immigrants, in particular in the context of the Annual Statistical Survey carried out by the National Institute of Statistics (INE). Recalling that the Labour Code only confers equality of rights and duties to migrant workers in a regular situation and that no protection is explicitly afforded by the national legislation on the ground of "national extraction", it further notes the Government's statement that the CNDHC received complaints whose victims of discrimination were immigrants mostly from African countries but that such complaints represented a small proportion among the total number of cases received annually by the CNDHC. In this regard, the Committee refers to its pending comments on the application of the Forced Labour Convention, 1930 (No. 29). The Committee notes that, in its 2022 concluding observations, the United Nations (UN) Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) expressed concern about: (1) persistent discriminatory attitudes against migrant workers; (2) reports that migrant workers are paid considerably less than their Cabo Verdean counterparts who perform the same work; (3) the fact that alleged violations are rarely investigated; and (4) the fact that alleged perpetrators are not prosecuted or convicted. The CMW also remained seriously concerned about reports that migrant workers employed in the agricultural and fishing sectors, including from China, Guinea, Guinea-Bissau, Nigeria and Senegal, may be subjected to extremely poor working conditions and be vulnerable to forced labour, and that the General Labour Inspectorate has not detected any situation of forced or compulsory labour in the country (CMW/C/CPV/CO/1-3, 2 June 2022, paragraphs 27, 37 and 45). The Committee notes with **concern** this information. **The Committee therefore urges the Government to take every necessary steps to address stereotypes and prejudices as well as discrimination based on race, colour or national extraction in order to effectively ensure equality of opportunity and treatment of migrant workers, including those in an irregular situation, in particular in the agricultural and fishing sectors and regarding their remuneration. It asks the Government to provide information on: (i) any measures and programmes implemented in that regard, including in the framework of the National Programme for 2021-26 and any new Immigration and Social Inclusion Action Plan, and any follow-up actions and results; (ii) any public awareness-raising activities undertaken on the relevant legislative provisions, the procedures and remedies available, targeting in particular migrant workers; and (iii) the number, nature and outcome of any cases or complaints of discrimination against migrant workers dealt with by the labour inspectors, the courts or any other competent authorities.**

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

## Cambodia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1999)

#### Previous comment

*Articles 1(a) and 2(2)(a) of the Convention. Definition of remuneration. Legislation.* The Committee recalls that the definition of “wage” set out in section 103 of the Labour Law of 1997 excludes healthcare, legal family allowance, travel expenses and benefits granted exclusively to help the worker do his or her job, and thus is narrower than the definition of remuneration under the Convention. **Noting that the Government’s report does not contain information in response to its previous request, the Committee asks the Government to take steps to amend the Labour Law in order to bring the definition of “wage” in line with Article 1(a) of the Convention for the purpose of applying the principle of equal remuneration for men and women for work of equal value, and to provide information on any progress made in this regard.**

*Articles 1(b) and 2(2)(a). Equal remuneration for work of equal value. Legislation.* The Committee recalls that section 106 of the Labour Law provides for equal wages for workers for “work of equal conditions, professional skill and output ... regardless of their [...] sex [...]”, which is narrower than the principle of equal remuneration for men and women for work of equal value set out in the Convention. The Committee emphasizes that the concept of “work of equal value” 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 overall. It further draws the Government’s attention to the fact that “work of equal value” for men and women can: (1) be performed under different working conditions; (2) require different professional skills; (3) require different levels of effort; and (4) involve different responsibilities. When determining the value of different jobs, the value does not have to be the same with respect to each factor taken into consideration. Determining the value is about the overall value of the job when all the factors are taken into account together. While factors such as “conditions” and “professional skill” mentioned in section 106 of the Labour Law are clearly relevant in determining the value of jobs for the purpose of equal remuneration, they do not have to be “equal” and may not be sufficient by themselves to assess the overall value of jobs. In addition, the Committee observes that the criteria of “output” relates more to the performance appraisal of the individual worker which is different from the objective job evaluation. In this regard, the Committee stresses the importance of assessing the “value” – that is, namely the worth of a job for the purpose of determining remuneration – through objective job evaluation, which is used to establish classification of jobs and the corresponding salary scales without 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 skills, efforts, responsibilities and working conditions. It also makes it clear that differential rates between workers are compatible with the principle of the Convention if they correspond, without regard to sex, to differences determined by such evaluation. **Noting that, once again, the Government’s report does not contain information in response to its previous request, the Committee urges the Government to: (i) take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value is duly reflected in the Labour Law; and (ii) ensure that the determination of work of equal value is based on objective job evaluation, using objective criteria such as qualifications and skills, responsibilities, efforts and working conditions. It asks the Government to provide specific information on the steps taken in this regard.**

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

### Previous comment

*Articles 1, 2 and 3 of the Convention. Equality of opportunity and treatment irrespective of race, colour and national extraction. Indigenous peoples.* For many years, the Committee has been asking the Government to provide information on the measures taken to ensure that indigenous peoples can engage in their traditional occupations if they so choose, and have access without discrimination to the material goods and services necessary to carry out these occupations, including land and other natural resources. The Committee has solicited, in particular, information on the implementation of the 2001 Land Law, the 2009 Sub-Decree on procedures to register indigenous communal land, as well as the policy on the registration of, and right to use, indigenous communal land, and the policy on indigenous peoples' development. It has also asked for information on the practical application of the Inter-Ministerial Circular No. 001 of 31 May 2011 on interim measures protecting lands of indigenous peoples. The Committee notes with **concern** that the Government's report does not contain any information in this regard. The Committee recalls that the above-mentioned legislation and implementing decrees provide for a three-steps procedure to be complied with in order to claim and obtain collective communal land titles for indigenous peoples. They encompass, firstly, the recognition of the community by the Ministry of Rural Development as an indigenous community; secondly, the registration of the said community with the Ministry of Internal Affairs as a legal entity; and, thirdly, the application by the registered community to the Ministry of Land Management, Urban Planning and Construction for the registration of their communal land title. The Committee notes from the report of the United Nations Special Rapporteur on the situation of human rights in Cambodia that: (1) as of 2020, 30 indigenous communities had received collective land titles from the Ministry of Land Management, Urban Planning and Construction; (2) a total of 131 communities received recognition of their status from the Ministry of Interior; (3) 151 communities received recognition of their indigenous identity from the Ministry of Rural Development; and (4) the existing land titling process remains cumbersome and slow to secure protection for indigenous peoples, largely undermining procedural safeguards rendered by current national legislation (A/HRC/45/51, 24 August 2020, paragraphs 32 and 33). The Committee further notes the deep concerns expressed recently by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) about reports of dispossession, displacement and relocation of indigenous peoples from their land and territories, including natural, protected areas that they have traditionally occupied, often without respecting their right to be consulted with a view to obtaining their free, prior and informed consent. The CESCR also expressed concern about the complex and slow process for the registration and demarcation of indigenous peoples' land and the lack of effective mechanisms for protecting their rights related to their lands, territories and resources, particularly when those have not been registered in ongoing land acquisition processes (E/C.12/KHM/CO/2, 27 March 2023, paragraph 14). Furthermore, the Committee notes that the United Nations Human Rights Committee (HRC) remains concerned about shortcomings in the implementation of the legal framework and safeguards in place for the protection of the right of indigenous peoples to use and occupy their land and territories (CCPR/C/KHM/CO/3, 18 May 2022, paragraph 42). Likewise, the United Nations Committee for the Elimination of Racial Discrimination (CERD) expressed concerns about the current land titling process, which is too lengthy and bureaucratic and therefore prevents some indigenous groups from being able to efficiently register their collective land (CERD/C/KHM/CO/14-17, 30 January 2020, paragraph 27). Finally, the Committee notes that the Government accepted the recommendation made through the Universal Periodic Review (UPR) of the Human Rights Council that it should simplify the allocation of community land to indigenous peoples (A/HRC/41/17/Add.1, 18 April 2019, paragraph 2).

The Committee recalls that unsecure land tenure and biased approaches towards the traditional occupations engaged in by certain ethnic groups, which are often perceived as outdated, unproductive or environmentally harmful, continue to pose serious challenges to the enjoyment of equality of

opportunity and treatment in respect of occupation, for many of them. It emphasizes that promoting and ensuring access to material goods and services required to carry out an occupation, such as secure access to land, and access to credit and resources, without discrimination, should be part of the objectives of a national policy on equality. Any discriminatory law and practice affecting access to and performance of an occupation, contrary to the equality policy, must be repealed in accordance with *Article 3* of the Convention (see [2018 general observation](#) of the Committee on discrimination based on race, colour and national extraction, page 6). The Committee also wishes to stress that one of the main issues faced by indigenous peoples relates to the lack of recognition of their rights to land, territories and resources, undermining their right to engage in traditional occupations. Recognition of the ownership and possession of the lands they traditionally occupy and access to their communal lands and natural resources for traditional activities is essential (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 768). ***In light of the above, the Committee urges the Government to take immediate and effective steps to ensure that indigenous communities enjoy equal opportunity and treatment in respect of the occupation of their choice. These steps should cover their access to productive resources, market facilities and inputs, such as technology and financial services, and, in particular, to the lands and resources that they traditionally occupy or use. Pending the issuance of the land titles, whether under the Inter-Ministerial Circular No. 001 of 31 May 2011 or otherwise, the Committee requests the Government to adopt measures to protect their access to and use of such lands and resources. It encourages the Government, in cooperation with the social partners and the interested groups, to make an assessment of the current situation of indigenous peoples in employment and occupation, including in the context of local or rural development programmes affecting their activities, and the main obstacles they face to the full enjoyment of equality of opportunity and treatment. The Committee asks the Government to provide detailed information on the number of: (i) requests for land titling filed by the registered communities; (ii) land titles issued under the relevant legislation; and (iii) communities registered, and awaiting the issuance of their land titles. The Committee recalls that the Government can avail itself of the technical assistance of the ILO with regard to the matters raised above.***

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

## Canada

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1972)

#### [Previous comment](#)

*Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation.* As in the past, the Committee draws the Government's attention to the fact that the legislation in a number of provinces and territories does not give full expression to the principle of equal remuneration for men and women for work of equal value. More specifically, it recalls that: (1) the legislation in *Nunavut* does not appear to contain any provision regarding the principle of the Convention; (2) the Human Rights Acts applicable in *Alberta, British Columbia, Newfoundland and Labrador* and *the Northwest Territories* limit the application of the principle of equal remuneration to the exercise of the "same", "similar" or "substantially similar" work; and (3) the Pay Equity Acts in force in *Manitoba, New Brunswick, Nova Scotia, Prince Edward Island* and *Saskatchewan*, while recognizing the principle of equal remuneration for work of equal value in the public sector, do not apply in the private sector. The Committee notes with ***deep concern*** that the Government's report does not provide information on any initiatives undertaken in these jurisdictions with a view to giving full legislative expression to the concept of work of equal value. ***The Committee once again urges the Government to take, without delay, the necessary measures to ensure that the legislation gives full expression to the concept of work of equal value, so that the principle of the Convention is applied in all provinces and territories, in both the public and private sectors. It therefore once again asks the Government to provide detailed information on the concrete steps taken, in each***

**province and territory, to ensure conformity with the Convention, including any consultations with the workers' and employers' representatives, as well as the representatives of the provinces and territories.**

*Article 2. Legislative developments. Federal level.* The Committee notes with **satisfaction** the Government's indication that, on 31 August 2021, the Federal Pay Equity Act as well as the Pay Equity Regulations entered into force. The Pay Equity Act requires federally regulated private and public sector employers with at least 10 employees to develop, periodically review and update a pay equity plan (sections 6, 12 and 13). It also requires companies with unionised employees, as well as companies with 100 or more employees, to establish a pay equity committee composed of employer's and employees' representatives, whose role consists in developing and reviewing a pay equity plan (sections 16, 17 and 19). The plans established by the employers or the pay equity committees must first identify "job classes" (i.e. positions with similar duties, responsibilities and qualifications) that are predominately male or female, then determine the compensation associated with each job class according to the value of the work performed (sections 31–46). If pay gaps are identified between predominately male job classes and predominately female job classes, employers must implement ongoing wage adjustments as needed and make retroactive lump-sum payments for the gaps identified (sections 47–63). Furthermore, the Pay Equity Act establishes a Pay Equity Commissioner (section 104), who has the power, among other things, to order an employer to conduct internal audits (sections 118–124), issue administrative monetary penalties for non-compliance with the law (sections 125–146), as well as investigate complaints alleging contravention of the Pay Equity Act and issue orders to implement a pay equity plan or to pay compensation and interest (sections 149–160). While the Committee welcomes these legislative developments, it observes that the provisions of the Pay Equity Act do not apply to the governments of Yukon, the Northwest Territories and Nunavut, until a date that may be specified by the Governor (section 10). **The Committee requests the Government to: (i) provide information on the application of the federal Pay Equity Act in practice, including information on the number of companies covered by this Act and the number of companies that have proceeded to wage adjustments or retroactive lump-sum payments in application of pay equity plans; (ii) communicate statistical data on the number, nature and outcome of any complaints submitted to the Pay Equity Commissioner, as well as on any penalties imposed or compensations awarded; and (iii) provide information on the measures taken or envisaged to extend the application of the Pay Equity Act to the governments of Yukon, the Northwest Territories and Nunavut.**

*Provinces.* The Committee notes the Government's indication that, in Quebec, the Pay Equity Act was amended in April 2019, with a view to improving the pay equity audit process conducted by employers with at least ten employees every five years. The amendments provide, among other things, that the correction of the gender pay gaps identified during the pay equity audit process must now be retroactive to the date that led to the pay gap. The Committee further notes the Government's indication that, in April 2022, Ontario has enacted the Supporting Retention in Public Services Act (SRPSA), which authorises the provision of funding for employers to enhance the compensation paid to employees for the purpose of supporting public services. The Government explains that, while the SRPSA does not change the existing pay equity obligations of employers, it deems wage enhancements to be attributable towards pay equity gaps that may exist to help public sector employers to meet their obligations under the Pay Equity Act. **The Committee asks the Government to provide information on: (i) the application in practice of the 2019 amendments to Quebec's Pay Equity Act, including information on the number of companies which have proceeded to retroactive corrections of gender pay gaps identified during the pay equity audit process; and (ii) the impact of Ontario's 2022 Supporting Retention in Public Services Act (SRPSA) on helping public sector employers to fulfil their obligations under the Pay Equity Act. Please also provide up-to-date information on any other legislative measures taken or envisaged at the provincial level to ensure the application of the principle of equal pay for men and women for work of equal value.**

*Equal pay for work of equal value of residential welfare workers in Quebec. Indirect discrimination.* The Committee takes note of the collective agreement signed by the Quebec's Minister of Health and Social Services and the RESSAQ in February 2022, which includes provisions on the job classification methods applied to residential welfare workers.

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)

### Previous comment

*Article 1(1)(a) of the Convention. Discrimination on the grounds of political opinion and social origin.* For a number of years, the Committee has been drawing the Government's attention to the fact that the Canadian Human Rights Act (CHRA) does not give full expression to the principle of the Convention, as it does not prohibit discrimination based on social origin (or social condition) and political opinion in employment and occupation. It has also repeatedly urged the Government to take the necessary measures to amend the legislation applicable to specific provinces and territories, since: (1) the legislation in *Alberta, British Columbia, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Saskatchewan* and *Yukon* does not include "social origin" (or "social condition") as a prohibited ground of discrimination in employment and occupation (in *Manitoba*, it is the ground of "social disadvantage" that is prohibited); and (2) the legislation in *Alberta, Nunavut, Ontario* and *Saskatchewan* does not prohibit discrimination on the ground of "political opinion" in employment and occupation. The Committee notes with **regret** that the Government's report still provides no information on any initiatives undertaken, at the federal or the provincial level, to give full legislative expression to the principle of the Convention. ***The Committee once again urges the Government to take, without delay, the necessary steps to amend the CHRA with a view to including both social origin (or social condition) and political opinion as prohibited grounds of discrimination in employment and occupation, as required under Article 1(1)(a) of the Convention. It further urges the Government to indicate the steps taken to this effect in the provinces and territories that have not yet included them as prohibited grounds of discrimination in their legislation, and to report on the progress made. It also again asks the Government to provide information on the manner in which workers are protected in practice against discrimination on the grounds of social origin and political opinion.***

*Article 2. National equality policy.* The Committee recalls the Government's indication that the federal Government is not in a position to develop and implement laws, regulations, policies and programmes at the federal level with respect to matters such as employment discrimination, where the provinces and territories exercise jurisdiction. ***The Committee encourages the Government to cooperate with employers' and workers' organizations with a view to promoting the development of a coherent national policy on equality in employment and occupation at the provincial and territorial level. Please provide information on the steps taken in this regard and on the results achieved.***

*Articles 2 and 3. Occupational gender segregation.* The Committee notes the Government's indication that, in 2018, it introduced the Gender Results Framework (GRF), which represents Canada's vision for gender equality and measures the country's ability to meet various objectives regarding this issue. One of the general goals set by the GRF is "economic participation and prosperity [for women]", mainly through: (1) increased labour market opportunities for women, especially women in under-represented groups; (2) better gender balance across occupations; and (3) more women in higher-quality jobs, such as permanent and well-paid jobs. The Committee further notes the information provided by the Government on the measures undertaken and the investments made at the provincial level to advance women's representation in skilled trades and technical professions. In *Alberta*, for example, the Government has recently invested 2.9 million dollars to support skills development training for women in Information Technology (IT) and Science, Technology, Engineering and Mathematics (STEM) fields. Despite these developments, the Committee observes from the data

available on the website of Statistics Canada that the participation rate of women has remained stagnant since 2017 (61.5 per cent) and that the employment rate has only slightly increased (58.3 per cent in 2022 compared to 57.9 per cent in 2017). The data also show that women are still over-represented in certain lower-paid occupations, such as health occupations (79.6 per cent women), while they remain significantly under-represented in management occupations (35.3 per cent women). In this regard, the Committee notes that, according to a study entitled “A Labour Market Snapshot of Black Canadians during the Pandemic”, published by Statistics Canada in February 2021, almost one third of employed Black women (31.7 per cent) worked in health care and social assistance in January 2021, and over four-fifths (81.2 per cent) of these women were immigrants. The same study also shows that employed Black women were also under-represented in management occupations (4.3 per cent), compared with non-visible minority women (6.9 per cent). **Consequently, the Committee asks the Government to provide information on the specific measures undertaken, within the framework of the Gender Results Framework as well as at the provincial level, to effectively address gender-based occupational segregation (both horizontal and vertical), and urges the Government to take all necessary measures to promote the access of women, especially Afro-Canadian women, to a wider range of employment and training opportunities in areas traditionally dominated by men, and to report on the results achieved.**

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

## Chile

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation.* The Committee notes that, in response to its previous comment, the Government indicates that it seeks to review equal pay legislation and that a number of parliamentary motions are being considered. These include Bulletin No. 9322-13 (the text of which refers to equal pay for work of “equal value”) and the draft consolidating Bulletins Nos. 10576-13, 12719-13 and 14139-34 (which refers to equal pay for equal work or “work to which equal value, function or responsibility is attributed”). **The Committee trusts that section 62bis of the Labour Code will be amended in the near future and that it will give full 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.

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1971)

#### Previous comment

The Committee received observations from the Single Central Organization of Workers of Chile (CUT-Chile) on 13 September 2018 containing allegations of acts of discrimination on the basis of political opinion in a context of a change of government. In this regard, the Committee notes that the CUT has also made a representation under article 24 of the ILO Constitution containing the same allegations. The Committee notes that an ad hoc tripartite committee of the ILO Governing Body examined the representation and made conclusions and recommendations. The Governing Body concluded the procedure at its session in March 2023 (GB.347/INS/18/5).

*Article 1(1)(a) of the Convention. Discrimination based on sex. Legislation.* The Committee notes that, according to the database of the Chamber of Deputies of Chile, the Bill to amend section 349 of the Code of Commerce which, when adopted, will allow married women who are not covered by the separate property regime to conclude a commercial partnership agreement without the need for special authorization from their husband, is still going through the second constitutional procedure (Bulletin

No. 7567-07). **The Committee requests the Government to take the necessary measures to amend section 349 of the Code of Commerce.**

*Article 2. Pensions.* With reference to its previous comments, the Committee notes that, according to the 2021 report “Gender gaps in the Chilean social insurance system, direct and indirect factors” (“Brechas de género en el sistema previsional chileno: factores directos e indirectos”), prepared by the Department of Social Insurance Studies of the Subsecretariat for Social Insurance, the establishment of different retirement ages by sex (65 years for men and 60 years for women) and the use of mortality tables differentiated by sex are two parameters which particularly affect gender gaps in pensions. The report indicates that women have to finance a longer period of retirement than men as their statutory retirement age is lower and their life expectancy upon retirement is higher, which requires them to distribute their lower savings over a longer period of retirement than men, implying that their pensions are lower. The Committee observes that, according to the information published by the Government and the Pensions Supervisory Authority, a project is being carried out to reform the pensions system in the country. In this regard, the Committee refers to its [General Survey of 2023 on achieving gender equality at work](#), paragraph 400. **The Committee encourages the Government to take the opportunity of the current reform of the pensions system to adopt measures with a view to ensuring respect for the principle of equality between men and women in relation to pensions, such as the adoption of mixed mortality tables and the equalization of the retirement ages of men and women.**

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

## China

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1990)

#### [Previous comment](#)

*Articles 1(b), 2 and 3 of the Convention. Work of equal value. Concept and application.* For a number of years now, the Committee has indicated that the principle of “equal pay for equal work” in the Labour Law, the Labour Contract Law as well as the 1994 Notice on the Description of Certain Regulations of Labour Law does not encompass the principle of “work of equal value” set out in *Article 1(b)* of the Convention. The principle enshrined in the Convention encompasses not only the same work, or work in the same occupation or activity, performed by men and women under the same conditions and specifications, but should also allow for the comparison of work traditionally performed by men (for example, construction work) and women (for example, nursing) that is of an entirely different nature, but which may or may not be of equal value. The Committee also points out that the application of the principle of equal remuneration for work of equal value is not limited to comparisons between men and women in the same establishment or with the same employer (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 673–697). The Committee notes that section 45 of the Law of the People’s Republic of China on the Protection of Women’s Rights and Interests (2022 Revision, which was adopted on 30 October 2022), reproduces, without changes, the provision included in the earlier version of the Law at article 24, which stipulated that equal pay for equal work shall be applied to men and women alike. Concerning the application of the principle of the Convention, the Committee notes that, in its report, the Government informs that the Ministry of Human Resources and Social Security provides guidance to employers on establishing a salary distribution system in line with the principle of the Convention, without discriminating between workers on the basis of gender. The Government also reiterates that enterprises are entitled to determine the wage levels and their distribution, provided that they comply with relevant laws. The Committee considers that it remains unclear the extent to which the national wage fixing system reflects the principle of equal remuneration for men and women for work of equal value, given that the principle of the Convention is currently understood to cover only “equal”, “the same” or “similar” work and is not fully reflected in relevant legislation. In this regard, the Committee notes from the report of the ILO-UN Women seminar on gender equality and the future of



work in China, held in July 2020, that the meaning of “equal pay for work of equal *value*” has not been understood by the Chinese society including tripartite constituents, the academia, and Chinese women’s organizations (page 31). Furthermore, the Committee notes the absence of information on the implementation of objective job evaluation methods, including in the context of the “job-post wage system”.

The Committee underscores that a clear understanding of the concept of “work of equal *value*” is essential to ensuring the full application of the Convention and refers the Government to its 2006 [general observation](#) on the subject. It recalls that “value”, in the context of the Convention, refers to the worth of a job for the purpose of fixing remuneration. While *Article 1* indicates what cannot be considered in determining rates of remuneration, *Article 3* presupposes the use of appropriate techniques for objective job evaluation to determine value, comparing factors such as skill, effort, responsibilities and working conditions. Comparing the relative *value* of jobs in occupations which may involve different types of skills, effort, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize the value of work performed by women and men free from gender bias (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 675). The Committee also emphasizes that legal provisions that are narrower than the principle laid down in the Convention hinder progress in eradicating gender-based pay discrimination (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 679). ***In light of the above, the Committee once again urges the Government: (i) to take the necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, so that it covers not only situations where men and women perform the same work, but also encompasses work that is of an entirely different nature and which is nevertheless of equal value, and to provide information on the progress made in this regard; (ii) to take appropriate measures, in cooperation with workers’ and employers’ organizations, to ensure that the national system for wage setting fully reflects the principle of equal remuneration for men and women for work of equal value, and to provide information on the progress made in this regard; and (iii) to provide detailed information on any progress made in implementing objective job evaluation methods in the public and private sectors, including in the context of the “job-post wage system”. It also strongly recommends that the Government makes every effort to promote the public understanding of the principle of the Convention and asks it to provide information on the measures taken in this regard in cooperation with the social partners. The Committee recalls that the Government can 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.

## Macau Special Administrative Region

### Equal Remuneration Convention, 1951 (No. 100) (notification: 1999)

*Article 1(b) of the Convention. Equal pay for work of equal value. Legislation.* Previously, the Committee brought to the Government’s attention the inconsistencies existing between the Portuguese and Chinese language versions of section 57(2) of the Labour Relations Law (No. 7/2008), which are equally authoritative. While the former refers to “equal work or work of equal *value*”, the Chinese text refers only to “equal work”, with no specific reference to “work of equal *value*”. The Committee also recalled that section 9 of Legislative Decree No. 52/95/M of 9 October 1995, provides for equal remuneration for men and women for equal work or work of equal *value*. In its report, the Government states that the circumstances mentioned in its previous reports have not changed. The Committee wishes to reiterate that consistency between the two authoritative language versions of the Law is essential to ensure full application of the Convention. It also emphasizes that legal provisions that are narrower than the principle laid down in the Convention hinder progress in eradicating gender-based pay discrimination (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 679). ***The***

**Committee thus requests the Government to take immediate steps to harmonize the language versions of the Labour Relations Law (No. 7/2008) and Legislative Decree No. 52/95/M to ensure that full legislative expression is given to the principle of the Convention and to provide information in this regard.**

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

## Croatia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1991)

#### Previous comment

*Articles 2 and 3 of the Convention. Gender equality and promotion of women's access to employment and occupation.* The Committee takes note of the indication in the Government's report that: (1) the project "Women in the Labour Market" was implemented from 2011 to 2012; (2) from 2017 to 2021, more than half of the persons employed through the Croatian Employment Service (CES) were women; (3) in 2021, more than half of participants in CES education and training programmes were women; (4) 30 per cent of participants to CES programmes were employed within 6 months after their completion; (5) in 2021, women represented 47.6 per cent of the active population and the number of women and men in the structure of civil servants was approximately equal; and (6) the National Gender Equality Plan 2023-2027 and the corresponding Action Plan 2023-2024 were adopted. The Committee also observes that the study "How are EU rules transposed into national law? Gender Equality: Country report - Croatia", published by the European Commission in 2022, points to a lack of adequate protection against non-hiring, non-renewal of a fixed-term contract, and non-continuation of a contract for women who are pregnant and/or have given birth (pages 46–50). In this respect, while the Committee acknowledges that the extinction of fixed-term contracts at the end of the specified period is in their very nature, any difference in the renewal of such contracts or the initial determination of their duration that are based on the maternity, real or potential, of the worker, are discriminatory. **The Committee asks the Government to provide information on: (i) the results achieved under the current National Gender Equality Plan and its action plan to promote that women access, progress and remain in employment and occupation; (ii) measures adopted to ensure that the reasons for the non-renewal of fixed-term jobs held by women are genuine and not linked to maternity; and (iii) the number and proportion of women and men in the labour force by sector of activity.**

*Equality of opportunity and treatment in employment and occupation of the Roma.* The Government informs that: (1) 0.45 per cent of the total population is Roma and there were 3,534 unemployed Roma people in 2021; (2) the CES carried out a number of activities to support the employability of Roma people, including information and counselling initiatives, forums on self-employment, contacts between employment counsellors and employers, and other employment policy interventions to encourage employment, self-employment, education and the inclusion of Roma people; (3) the implementation reports on the National Strategy for Roma Inclusion 2013-2020 for 2016, 2017 and 2018 are available, the latter pointing, among others, to a positive shift and a noticeable decline in the recorded number of unemployed members of the Roma minority; (4) the National Plan for Roma Inclusion 2021-2027 and the corresponding Action Plan 2021-2022 encompass measures to support first work experiences, employment, apprenticeships and career development, access to training, and the acquisition of skills in information and communication technology; and (5) the Operational Programmes of National Minorities 2017-2020 and 2021-2024 include measures to prevent discrimination against national minorities, particularly Roma people. **The Committee asks the Government to provide information on: (i) the main findings of the implementation reports of the National Strategy for Roma Inclusion 2013-2020; and (ii) the measures adopted under the current National Plan for Roma Inclusion 2021-2027 and their impact in promoting equality of opportunity and treatment of Roma people in employment and**

**occupation. The Committee asks again the Government to inform about the measures adopted to ensure access to education, including pre-school education, for Roma children without discrimination.**

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

## Cuba

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1954)

#### Previous comment

*Articles 1 and 2(2)(a) of the Convention. Definition of remuneration and work of equal value. Legislation.* The Committee notes that the Government is examining amendments to the Labour Code and will take account of the Committee's previous comments on: (i) the introduction of a concept of "remuneration" that, with a view to the application of the principle of equal remuneration for men and women for work of equal *value*, includes all the elements in *Article 1(a)* of the Convention; (ii) the amendment of section 2 of the Labour Code so as to give full effect to the expression of the principle of equal remuneration for men and women for work of "equal *value*", as the current formulation is more restrictive than that of the Convention. **The Committee hopes that the legislative reforms mentioned will be carried out in the near future and trusts that the comments that it has been making for several years will be taken fully into account. The Committee requests the Government to provide information on progress achieved in this respect.**

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)

#### Previous comment

*Article 1(1)(a) of the Convention. Legislation. Definition and prohibition of direct and indirect discrimination.* The Committee notes the Government's information in its report that article 42 of the 2019 Constitution sets forth that all persons shall be equal before the law, shall receive the same protection and treatment from the authorities and shall enjoy the same rights, freedoms and opportunities, without discrimination of any kind on grounds of sex, gender, sexual orientation, gender identity, age, ethnic origin, skin colour, religious belief, disability, national or regional origin, or any other personal condition or circumstance that implies a distinction detrimental to human dignity. All persons shall have the right to enjoy the same public spaces and service establishments. They shall also receive equal pay for equal work, without discrimination whatsoever. The violation of the principle of equality is prohibited and punishable by law; and that this covers direct and indirect forms of discrimination. The Government also adds that the country is going through a legislative process following the adoption of the Constitution, that the instruments to be assessed include the Labour Code and its regulations, and that the Committee's comments will therefore be taken into account. **The Committee welcomes this initiative and hopes that direct and indirect discrimination in employment and occupation will be explicitly defined and prohibited. The Committee requests the Government to provide information in this respect.**

*Discrimination based on sex. Sexual harassment.* The Committee notes the Government's indication that the legislative process of the revision of the Labour Code and its regulations will take into account the Committee's comments in this area. The Government also reports that: (1) during 2018–2022, one complaint was processed for sexual harassment, the facts of which were not corroborated; (2) in 2021, the National Programme for the Advancement of Women was passed, which provides for more in-depth analysis with a gender perspective of issues such as violence and harassment at work; (3) the National Labour Inspection Office is training its inspectors to identify forms of sexual harassment in the workplace; and (4) the Federation of Cuban Women (FMC) together with the Cuban Institute of Radio

and Television (ICRT) are carrying out a programme to help women, and the general population, to identify and combat all forms of discrimination, including harassment in the workplace. The Committee takes due note of the initiatives reported by the Government. ***The Committee requests the Government to take the necessary measures to include in labour legislation a provision that clearly defines and prohibits all forms of sexual harassment in employment and occupation, both quid pro quo and hostile work environment sexual harassment, and requests it to provide information on progress made in this respect. The Committee also requests the Government to: (i) assess the results of the above-mentioned programmes, and of the training for labour inspectors; and (ii) continue to provide information on the number of complaints of sexual harassment in employment and occupation made to the competent authorities, the sanctions imposed and remedies granted.***

*Discrimination on grounds of political opinion.* The Committee notes the Government's reference to the 2019 Constitution of the Republic, which recognizes freedom of the press (article 55) and the right of all persons to file complaints and requests with the authorities, which are bound to process them and provide appropriate, relevant and substantiated responses within the timelines and according to the procedures established by law (article 61). The Government also reports that between 2018–2022, the public services office, the Public Prosecution bodies and the courts of justice did not receive or process complaints concerning discrimination on political grounds, and that the Labour Inspectorate did not identify any such acts. ***The Committee notes this information and requests the Government to continue to provide information on cases of discrimination in employment and occupation on grounds of political opinion.***

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)

#### Previous comment

*Articles 2 and 3 of the Convention. Equality of opportunity and treatment for men and women.* The Committee notes from the Government's report the various initiatives undertaken since 2020 to enhance women's economic empowerment and access to decision-making positions, such as: (1) the development by the Ministry of Energy, Trade and Industry of a 2022 "Scheme for the Enhancement of Women's Entrepreneurship"; and (2) the organization, within the framework of the National Mechanism for Women's Rights Council (NMWR), of a series of training seminars to strengthen the participation of women in politics. It also notes the measures mentioned by the Government to address gender stereotypes in education, as well as vertical and horizontal gender segregation in employment and occupation, mainly through: (1) the development by the Ministry of Education, Sport and Youth of an Action Plan, revised every three years, promoting gender equality; and (2) the operation, within the framework of the Human Resource Development Authority of Cyprus (HRDA), of several specific schemes providing the employees and the unemployed, including women, with the opportunity of acquiring new skills. The Committee observes, however, that the HRDA schemes mentioned by the Government do not target specifically women. It also observes from the statistical data provided by the Government that, while the proportion of women participating in HRDA training activities remained relatively stable from 2018 to 2021 (43.3 per cent in 2021), it was still significantly lower than that of men (56.7 per cent in 2021). More generally, the Committee notes that, according to Eurostat data for 2022, the employment rate of women (72.1 per cent) was still substantially lower than that of men (84.2 per cent), with Cyprus being one of the nine Member States of the European Union (EU) with a greater gender employment gap than the employment gap for the EU as a whole. It further observes from the data available on the Statistical Service of Cyprus (CYSTAT) website that, in 2022, women were still under-represented in senior and decision-making positions (3,946 women were employed as legislators and

managers compared to 13,153 men), and remained mainly concentrated in specific sectors, such as education (23,095 women compared to 7,293 men), and human health and social work activities (18,202 women compared to 6,757 men). ***In light of the persistent employment gap between men and women and gender segregation of the labour market, the Committee asks the Government to assess the measures taken and implemented with a view to tackling more effectively the gender employment gap and occupational segregation. It also asks the Government to continue providing information on: (i) the specific measures taken to enhance women's economic empowerment and access to decision-making positions, including through the 2022 Scheme for the Enhancement of Women's Entrepreneurship developed by the Ministry of Energy, Trade and Industry, and the impact of such measures; (ii) the concrete initiatives undertaken to address gender stereotypes in education, including through the Action Plans on gender equality developed by the Ministry of Education, Sport and Youth, and the impact of such initiatives; (iii) the specific measures taken or envisaged to effectively tackle vertical and horizontal occupational gender segregation, by promoting women's access to a wider range of jobs with career prospects and higher pay; and (iv) statistical data 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.

## Dominican Republic

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal pay for work of equal value. Legislation.* The Committee takes note of the Government's information about awareness-raising on "equal pay for men and women workers who perform equal work, under equal conditions, according to occupation, skills and abilities, regardless of their physical characteristics or situations". However, the Committee notes that the principle of the Convention is equal pay for work of equal value, which is not exactly the same as what is being addressed in awareness-raising measures. In any case, the Committee notes with **regret** that despite the time elapsed since the ratification of the Convention, measures have not been taken to give full legal expression to the principle of the Convention. ***The Committee requests the Government to take the necessary steps to amend section 194 of the Labour Code, section 3(4) of Act No. 41-08 and section 4 of the General Regulations of May 2014 on wage regulation so as to include in these provisions the principle of equal remuneration for men and women for work of equal value, as provided by Article 1 of the Convention, and to provide information on all progress made in that respect. The Committee also requests the Government, in a future amendment of the Constitution, to provide for the amendment of section 62(9) in fine, to give full expression to the principle of the Convention. The Committee reminds the Government that, if it so wishes, it may avail itself of technical assistance from the Office in this regard.***

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)

#### Previous comment

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), received on 3 September 2018 and 14 July 2022.

*Article 1(1)(a) of the Convention. Discrimination on the grounds of colour, race or national extraction.* The Committee notes with **regret** that the Government does not provide any information in reply to its

previous observation. The Committee notes that, according to the CNUS, CASC and CNTD, there are cases of discrimination against Haitians. The Committee also notes that the United Nations Human Rights Committee refers to systematic racial discrimination against persons of Haitian descent and the vulnerable situation of Haitian migrants (CCPR/C/DOM/CO/6, 27 November 2017, paragraph 9). ***The Committee urges the Government to take the necessary steps to combat discrimination against Haitian workers and Dominicans of Haitian origin and to promote equality of opportunity and treatment in employment and occupation for these workers, ensuring that migration status or lack of documentation does not exacerbate their vulnerability to discrimination in employment and occupation on the grounds covered by the Convention. The Committee requests the Government to provide detailed information on this matter. The Committee also requests the Government to provide information on any complaints of discrimination submitted by workers of Haitian origin or dark-skinned Dominicans, the follow-up action taken, sanctions imposed and remedies granted.***

*Discrimination on the basis of sex. Sexual harassment and mandatory pregnancy testing to secure or retain employment.* The Committee notes with **regret** that the Government does not provide information in reply to its previous observation. The Committee notes the indications from the CNUS, CNTD and CASC that: (1) cases of pregnancy testing persist, and the measures taken to combat sexual harassment in the workplace are insufficient; and (2) workers do not report these cases to the Ministry of Labour for fear of losing their jobs or not having sufficient evidence. The Committee also notes the “Strategic Plan for a life free of violence for women”, adopted in 2020, which: (1) addresses, among other forms of violence against women, work-related violence, defined as violence “against women in the work environment, in the public or private sector, in the formal or informal economy, which obstructs them by restricting or impeding their access to work, recruitment, career advancement, job stability or permanence, as well as requirements regarding their civil or family status, age, physical appearance, requests for pregnancy or HIV testing, or others relating to their health status, outside what is established in the legal frameworks”; (2) addresses any act whose intention or result is a hostile work environment, such as sexual harassment; and (3) sets out six strategic areas for action, namely: prevention; detection; comprehensive care; investigation; prosecution and sanctions; and full remedies. ***The Committee urges the Government to: (i) provide information on the measures taken under the six strategic areas of the “Strategic Plan for a life free of violence for women”, adopted in 2020; (ii) take the necessary measures to ensure that legal provisions are adopted that define and expressly prohibit both quid pro quo and hostile work environment sexual harassment; (iii) take the necessary measures without delay to establish an explicit prohibition in law of mandatory pregnancy testing to secure or retain employment; and (iv) send information on all progress made in this respect, and also on complaints made in relation to sexual harassment and mandatory pregnancy testing, the follow-up action taken, sanctions imposed and remedies granted.***

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

## El Salvador

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1995)

#### Previous comment

The Committee notes the observations made by the Trade Union Confederation of Workers of El Salvador (CSTS), received on 13 July 2023, in which it indicates that it is necessary to amend the Civil Service Act and the Municipal Administrative Careers Act to explicitly prohibit sexual harassment and harassment at work of women and men workers in the public and municipal sectors, and to establish the respective penalties and provide training to the labour inspection services. ***The Committee requests the Government to provide its comments in this regard.***

*Article 1(1)(a) of the Convention. Discrimination on the basis of sex. Pregnancy and maternity.* In reply to the Committee's previous comment, the Government indicates in its report that, following its reform in 2018, section 113 of the Labour Code protects women workers against termination of employment from the beginning of the pregnancy until six months following postnatal leave, including where there has been a justified reason for termination prior to or during the protected period. The Committee notes with **satisfaction** that in 2023 section 113-A was added to the Labour Code which guarantees the immediate reinstatement of a woman who has been dismissed while pregnant or during the postnatal period. The Committee also notes the information provided by the Government that, between 2018 and 2021, a total of 1,771 inspections were carried out to enforce the labour rights of women, of which 23 were based on discrimination against pregnant women. **The Committee requests the Government to continue providing information on the number of complaints lodged during the period covered by the report alleging discrimination based on pregnancy and maternity, including complaints under sections 113 and 113-A of the Labour Code, and to indicate the sectors concerned – including the maquila sector, the violations observed, the penalties imposed and the remedies granted.**

*Sexual harassment.* The Committee notes the Government's indications that: (1) section 55 of the Regulations on workplace risk prevention management of 2012 envisages educational measures to promote a healthy work environment, including awareness-raising on the causes and effects of sexual harassment, and the establishment of an investigation and early warning mechanism for problems associated with psychosocial risks, and that 40,073 workers received training between 2018 and 2021; (2) the El Salvador Institute for the Development of Women has developed institutional guidance which includes the establishment in each institution of an institutional gender unit and a gender commission, the responsibilities of which include the development of protocols to combat violence at work, harassment at work and sexual harassment at the workplace; (3) the General Act on workplace risk prevention of 2014 envisages 49 violations for breaches of its provisions, and there are 133 administrative cases of violations; and (4) there has been a conviction for sexual harassment under section 165 of the Penal Code. The Committee also observes that section 29 of the Labour Code was amended by Decree No. 900/2018 to set out the requirement for employers to refrain from engaging in sexual harassment and harassment at work. The Committee notes this information with **interest**. The Committee finally notes that the CSTS indicates in its observations that sexual harassment and harassment at work should be explicitly prohibited in the public sector. **The Committee requests the Government to take the necessary measures to: (i) define and prohibit in law sexual harassment in employment and occupation (both quid pro quo and hostile working environment harassment); and (ii) establish penalties for acts of sexual harassment that are sufficiently dissuasive, as well as adequate remedies. The Committee also requests the Government to continue providing information on the prevention and awareness-raising measures adopted and the number of complaints of sexual harassment received, the sanctions imposed and the remedies granted.**

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

## Eritrea

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

#### [Previous comment](#)

*Article 1 of the Convention. Protection against discrimination. Definition of discrimination. Prohibited grounds of discrimination. Legislation.* For more than ten years, the Committee has been asking the Government to amend the Labour Proclamation No. 118 of 2011, 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

indication in its report that: (1) it has taken due note of the Committee's comments regarding the terms "national extraction" and "social origin"; (2) it is aware 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; and (3) both the draft Labour and Civil Service Proclamations will be transmitted to the Office, once measures are taken over the general laws according to the priorities set. The Committee recalls that previously, the Government has been providing information on draft amendments to these pieces of legislation. The Committee notes with **regret** that to date no such amendment has been adopted and Eritrea still has no national assembly to adopt laws, including those regulating fundamental rights (see A/HRC/50/20, 6 May 2022, paragraph 36; A/HRC/47/21, 12 May 2021, paragraph 30). It further notes that the United Nations Special Rapporteur on the situation of human rights in Eritrea recommended the Government to "[r]econvene the national assembly to adopt laws and to enable the Eritrean people to participate freely in the public affairs of their country, as an important step towards building a democratic society, ensuring the separation of powers and providing checks and balances as inherent requirements of the rule of law in the country" (A/HRC/47/21, paragraph 81(b)). The Committee emphasizes that where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all of the grounds of discrimination specified in *Article 1(1)(a)* of the Convention, as well as a clear and comprehensive definition of discrimination. **The Committee urges that the Government will make every effort to: (i) ensure that the labour legislation is amended so as to include explicit definitions of direct and indirect discrimination in employment and occupation; (ii) take the necessary steps in consultation with the social partners to ensure that amendments to the Labour Proclamation are adopted rapidly so as to provide explicitly for the protection of all workers against discrimination based on national extraction; and (iii) 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.**

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

## Estonia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2005)

#### [Previous comment](#)

*Article 1 of the Convention. Protection against discrimination. Legislation.* The Committee notes the Government's indication, in its report, that: (1) in January 2022, a Bill amending the Equal Treatment Act (ETA) was approved by the Government and succeeded in the first reading in Riigikogu (the Parliament); and (2) amendments were being prepared for the second reading in Parliament. It notes that the Bill aims at widening the scope of protection against discrimination on the grounds of religion or belief, disability, age and sexual orientation to the same level as it is currently on the grounds of nationality (ethnic origin), race or colour, for which protection against discrimination not only covers access to employment, occupation and vocational training, as well as working conditions, but also social protection (including social security and health care and social advantages) and education (sections 2(1)(5) and (6) of the ETA). Welcoming this information, the Committee however notes the repeated lack of information provided by the Government on any steps envisaged, in law or in practice, to address discrimination on the grounds of political opinion and social origin. **The Committee therefore asks the Government to take steps, in particular in the context of the revision of the Equal Treatment Act, to explicitly prohibit in the national legislation discrimination based on at least all of the grounds listed in Article 1(1)(a) of the Convention, including political opinion and social origin, in all aspects of employment and occupation. It asks the Government to provide information on any progress made in that regard.**



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

## Eswatini

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1981)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation. Employment Bill.* The Committee notes from the Government's report that, according to the Attorney General's Office, the Employment Bill was at its final vetting stage in September 2022. It further notes that, according to information communicated to the ILO Office in Pretoria, the Employment Bill is not adopted yet. The Committee nevertheless welcomes the inclusion in the Employment Bill, as approved by the Attorney General in November 2022, of provisions reflecting the principle of equal remuneration for men and women for work of equal value. It notes however that, according to the Bill, "work of equal value" means "work performed by male and female employees in which the duties and services to be performed require similar or substantially similar levels of qualification, experience, skill, effort, responsibility and which is performed under similar or substantially similar working conditions". The Committee would like to point out that this is too restrictive to give full effect to the principle of equal remuneration for work of equal value set out in the Convention. The concept of "work of equal value" must permit a broad scope of comparison. While factors such as qualification, skill, effort, responsibility 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 factor – determining value is about the overall value of the job when all the factors are taken into account. Men and women should receive equal remuneration where they perform work that is of overall equal value. Work can be of equal value even if the work is different in content and requires different qualifications, skills or efforts, involves different responsibilities or is performed under different conditions. **The Committee asks once again 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 the Employment Bill: (i) fully reflects the principle of equal remuneration for men and women for work of equal value enshrined in the Convention; and (ii) provides for a definition of "work of equal value" 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 overall.**

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1981)

#### Previous comment

*Article 1 of the Convention. Protection against discrimination. Private sector. Legislation. Employment Bill.* The Committee takes note of the "Code of Good Practice: Employment Discrimination" that applies both to the public and the private sectors and provides that "every employer should take steps to eliminate discrimination in any employment policy or practice and must promote equal opportunity at the workplace". The Committee further notes from the Government's report under the Equal Remuneration Convention, 1951 (No. 100), that the National Gender Policy (reviewed) 2019–30 provides for the following definition of "discrimination": "any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by any person, of human rights and fundamental freedoms in the political, economic, social, civil and any other field". It notes from the Government's report under the Convention that, according to the Attorney General's Office, the Employment Bill was at its final vetting stage in September 2022. It further notes that, according to information communicated to the ILO Office in Pretoria, the Bill is not adopted yet. The

Committee nevertheless welcomes the inclusion in the Employment Bill, as approved by the Attorney General in November 2022, of provisions: (1) protecting not only employees but also explicitly part-time, casual and migrant workers against discrimination at all stages of employment, including recruitment; (2) prohibiting discrimination based “on any one or more grounds, including but not limited to colour, gender, race, religion, marital status or family responsibility, ethnic or social origin, pregnancy or intended pregnancy, sexual orientation, sex, tribal or clan extraction, political affiliation or opinion, culture, language, trade union, staff association or organization affiliation, social origin or status, health status, real or perceived HIV/AIDS status, age or disability, conscience, belief” (section 16(1)); and (3) defining and prohibiting “violence and harassment in the world of work”, including “gender-based violence” the definition of which indicates that it includes sexual harassment (sections 2 and 17(1)). The Committee observes however that the Employment Bill: (1) does not provide for a definition of “direct and indirect discrimination” nor an explicit reference to “national extraction” as a prohibited ground of discrimination (whereas “national origin” was mentioned in the 1980 Employment Act); (2) does not refer anymore to the ground of “sexual orientation” unlike the draft reproduced in the Government’s report; and (3) does not cover the Royal Eswatini Police Force, the Umbutfo Eswatini Defence Force and His Majesty’s Correctional Services. **The Committee asks once again the Government to take steps without further delay towards the adoption of the Employment Bill. It trusts that this opportunity will be taken to: (i) include a definition of direct and indirect discrimination in line with Article 1 of the Convention; and (ii) add “national extraction” to the list of prohibited grounds of discrimination. It also asks the Government to: (i) provide information on the legislative developments regarding the adoption of the Employment Bill and a copy of the text once adopted; and (ii) indicate how it is ensured that employees excluded from the scope of the Employment Bill are protected against discrimination in law and in practice. Finally, the Committee asks the Government: (i) to provide information on the steps taken by employers to eliminate discrimination in any employment policy or practice and promote equal opportunity at the workplace, pursuant to the above Code of Good Practice; and (ii) to indicate whether such steps have been initiated or discussed with the Labour Inspectorate.**

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

## Fiji

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation.* For a number of years, the Committee has been asking the Government to take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal *value* is duly reflected in section 78 of the Employment Relations Act (ERA). The Committee reiterates that the 2015 amendments to section 78 of the ERA, to which the Government refers once again in its report, restrict equal remuneration to “persons of the same or substantially similar qualifications employed in the same or substantially similar circumstances” and therefore does not give full effect to the principle set out in the Convention. The Committee also notes that the National Gender Policy, to which the Government refers in its report, advocates the promotion of laws and policies which recognise the right to equal pay for *equal work*. The Committee emphasizes that the concept of “work of equal *value*” 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 overall. It further draws the Government’s attention to the fact that “work of equal *value*” for men and women can: (1) be performed under different working conditions; (2) require different qualifications or skills; (3) require different levels of effort; and (4) involve different responsibilities. When determining the value of different jobs, the value does not have to be the same with respect to each factor. Determining the value is about the overall value of the job when all the factors are taken into

account together. While factors such as “qualifications” and “circumstances” mentioned in section 78 of the ERA are clearly relevant in determining the value of jobs for the purpose of equal remuneration, they do not have to be the “same” or “substantially similar” and may not be sufficient to assess the overall value of jobs. The Committee therefore stresses the importance of assessing the “value” – that is, namely the worth of a job for the purpose of determining remuneration – through objective job evaluation, which is used to establish classifications of jobs and the corresponding salary scales without 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. It also makes it clear that differential rates between workers are compatible with the principle of the Convention if they correspond, without regard to sex, to differences determined by such evaluation. ***In light of the above, the Committee urges once again the Government to: (i) take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value is duly reflected in the Employment Relations Act, and (ii) ensure that the determination of work of equal value is based on an objective job evaluation, using criteria such as qualifications and skills, responsibility, efforts and conditions of work.***

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

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 2002)

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

*Article 1(1) of the Convention. Protection against discrimination. Public service. Legislation.* The Committee recalls that the Public Service Act of 1999 does not contain any provision linked to discrimination. In its previous comment, it noted that, following the adoption of the Public Service (Amendment) Decree, No. 36 of 2011, section 10B(2) and section 10C prohibit discrimination in all aspects of employment, based on ethnicity, colour, gender, religion, national extraction and social origin, but omitting political opinion. The Committee asked the Government to: (1) take the necessary measures to include political opinion among the prohibited grounds of discrimination listed in the Public Service (Amendment) Decree; and (2) indicate how public service employees and applicants for public service employment are protected against discrimination based on political opinion in practice. The Committee notes the Government’s indication in its report that Decree No. 36 of 2011 was amended by the Employment Relations (Amendment) Act, 2016, and that Parts 2A and 2B, including sections 10B and 10C of the Public Service (Amendment) Decree, have been repealed. The Amendment Act also amended the definition of “workers” to include contractual civil servants under the Employment Relations Act 2007 (ERA).

The Committee recalls that section 6(2) of the ERA prohibits discrimination on the grounds listed in the Convention, including the ground of political opinion. It also notes that Part I (interpretation), section 4, of the ERA provides that a worker is employed under contract of service, and that the concept of employer includes the Government, other Government entities or local authorities and a statutory authority. The Committee observes that the Public Service Act, 1999, as well as Decree No. 36 of 2011, cover employees in the public sector who are civil servants (career public servants) and that workers in the public sector who are employed under a contract of service are covered by the ERA. In that regard, it stresses once again that sections 10B(2) and 10C of Decree No. 36 of 2011 do not prohibit discrimination on the ground of political opinion. It recalls once again that, where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in *Article 1(1)(a)* of the Convention. ***The Committee once again asks the Government to take the necessary measures to ensure that political opinion is included among the prohibited grounds of discrimination listed in the Public Service Act 1999. The Committee also requests the Government to indicate how in the meantime public service employees and applicants to public service employment are protected against discrimination based on political opinion in practice.***

*Enforcement and access to justice.* The Committee recalls that the Conference Committee on the Application of Standards (CAS) (International Labour Conference, 100th Session, 2011) noted that section 266

of Decree No. 21 of 2011 prohibits any action, proceeding, claim or grievance “which purports to or purported to challenge or involves the Government (...) any Minister or the Public Service Commission (...) which has been brought by virtue of or under the [Employment Relations Act]”. The CAS urged the Government to ensure that government employees have access to competent judicial bodies to claim their rights and adequate remedies. Consequently, the Committee asked the Government to provide detailed information on the procedure and means of redress available to workers excluded from the scope of the ERA alleging discrimination in employment and occupation which purport to challenge or involve public authorities. The Government indicates that the Employment Relations (Amendment) Act 2016 repealed the Essential National Industries Decree 2011 (ENI) to allow civil servants and workers in statutory authorities and commercial banks to lodge their claims either through their trade unions as a trade dispute or as individual grievances. The Government adds that any worker, including civil servants, may file or lodge their employment grievance with the Mediation Services of the Ministry of Employment, Productivity and Industrial Relations, including for any matters pertaining to being discriminated against by their employer. According to the Government, in 2019, the Mediation Services received 22 grievances relating to discrimination, of which 13 were individual grievances reported by workers themselves and nine were reported by unions.

The Committee notes that, with regard to workers in the private sector, the ERA provides for a range of avenues of redress, such as the mediation services, the employment relations tribunal and the employment relations court. Regarding civil servants, the Public Service Regulations (L.N. 48 of 1999) provide in paragraph 28 that a chief executive must put in place, in his or her Ministry or department, appropriate procedures for employees to seek review of action that they consider adversely affects their employment. The Committee notes that section 266 of Decree No. 21 of 2011 may apply to both workers in the private and public sectors, as it prohibits any action, proceeding, claim or grievance “which purports to or purported to challenge or involves the Government (...) any Minister or the Public Service Commission”.

The Committee further notes that the National Commission on Human Rights and Anti-Discrimination (CHRAD), established in 2009 under article 45 of the Constitution, can receive and investigate complaints of discrimination and seek to resolve them through conciliation. Where complaints remain unresolved, the CHRAD can refer these to a legal process. ***The Committee asks the Government to: (i) take the necessary measures to ensure that workers who purport to challenge the public authorities, in case of discrimination in employment or occupation have a formal avenue of redress; (ii) provide information on the application in practice of section 266 of the ERA; and to provide information on the anti-discrimination activities of the National Commission on Human Rights and Anti-Discrimination in employment and occupation; and (iii) report any cases brought before it and their outcome.***

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

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

## France

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

#### Previous comment

The Committee notes the observations of the French Confederation of Management – General Confederation of Professional and Managerial Employees (CFE-CGC) and of the General Confederation of Labour – Force ouvrière (CGT-FO), communicated by the Government with its report, and the Government’s responses.

*Articles 1 to 4 of the Convention. Data on remuneration gaps between women and men.* The Committee notes that, according to the dashboard on the French economy (published in 2022) of the National Institute for Statistics and Economic Studies (INSEE), in 2020: (1) women’s full-time equivalent salaries were 14.8 per cent lower than those of men, compared with 19.4 per cent in 2010; (2) for the various occupational categories, the gap was 16.4 per cent for managerial staff (22.2 per cent in 2010), 14.1 per cent for manual workers (17.2 per cent in 2010), 11.9 per cent for intermediary occupations (12.9 per

cent in 2010) and 4.6 per cent for employees (6.8 per cent in 2010). **The Committee notes this new information and requests the Government to: (i) continue taking measures to evaluate and analyse gender pay gaps in all economic sectors and, if possible, by occupational category; and (ii) provide information on the measures adopted, the studies carried out and the gaps measured.**

*Legislative developments.* The Committee notes the Government's indication in its report that it has made equality between women and men, particularly in occupational matters, one of its principal priorities and has reinforced the legislation on equal remuneration for women and men by establishing a requirement for transparency and results for all enterprises with at least 50 employees. In this regard, the Committee notes with **interest** the adoption of: (1) Act No. 2018-771 of 5 September 2018 on the freedom to choose one's professional future, which inserts into the Labour Code a chapter on measures to remove remuneration gaps between women and men at the enterprise level and creates the professional equality index for women and men (sections L.1142-7 to L.1142-11) and; (2) Act No. 2021-1774 of 24 December 2021 to accelerate economic and professional equality, which reinforced these measures (particularly through the publication of corrective and catch-up measures in the event that the index is lower than 75 points and the annual publication on the website of the Ministry of Labour of the results achieved by enterprises for all the indicators on the index). The Committee notes that, during the Social Conference held on 16 October 2023, the Government announced the establishment in the near future of a High Council for Remuneration, which will follow and accompany the revision of classifications and prevent the compression of wage scales, and will also focus on the wage situation of women with the objective of achieving equality. **With a view to ensuring the implementation of this mechanism, the Committee encourages the Government to take measures to raise awareness of the new provisions regarding the new professional equality index among employers, workers and their respective organizations, as well as officials responsible for controlling the implementation of the mechanism. It requests the Government to provide information on the action taken in this regard.**

*Measures to combat remuneration gaps. Transparency of salaries. Professional equality index for women and men. Private sector.* The Committee notes the detailed information provided by the Government on the professional equality index for women and men. It notes that each year enterprises with fewer than 50 employees are required to calculate and publish on their websites, in a visible and readable manner, the overall score for the equality index for women and men, and the score obtained for each of the four or five following indicators (depending on the size of the enterprise): the average remuneration gap between women and men, by age category; the gap in the individual rates of wage increases (excluding promotions) for women and men, by socio-occupational category; the percentage of women employees who have received an increase during the year following their return from maternity leave; the number of employees of the sex with the lowest representation among the ten employees receiving the highest remuneration; and the gap in the promotion rate for women and men, by socio-occupational category (only for enterprises with over 250 employees). Since 2022, if they have a score lower than 85 out of 100, enterprises have been required to set and publish objectives for progress in each of the indicators and, if the score is below 75 points, enterprises are required to publish their corrective and catch-up measures. These annual or pluriannual measures and these objectives must be determined within the framework of compulsory negotiations on occupational equality or, if there is no agreement, by unilateral decision of the employer following consultation of the enterprise social and economic committee. In the event of failure to comply with these requirements, the enterprise is liable to a financial penalty of up to 1 per cent of its wage bill.

The Committee notes that the CGT-FO, in its observations, emphasizes that the professional equality index is only compulsory for enterprises with at least 50 employees, but that the obligation of equality of remuneration set out in the Convention covers all workers. The Committee notes that, in its reply, the Government refers to sections L.3221-2, L.1142-7 and L.2242-1 of the Labour Code and emphasizes that all of these provisions require all French enterprises to ensure compliance with the principle of equal remuneration for women and men.

The Committee also notes the CFE-CGC's indication that the index is still incomplete and would benefit from being corrected, as the "relevance threshold", the scale and the weighting serve to mask part of the gap. The CFE-CGC emphasizes the need to improve the methods for the calculation of the index, including on the following points: (1) the progressive nature of the points scale used for the index and the fact that the five indicators compensate for each other, which allows enterprises to avoid penalties despite remuneration gaps of 15 per cent; (2) the fact that wage gaps lower than 5 per cent are considered to be tolerable and allow enterprises to obtain the maximum score of 40 out of 40; (3) the components of remuneration, which should include a broader range of elements so as to include all benefits and additional emoluments; (4) the parity indicator for the ten highest remunerations, which should be changed to carry more points; and (5) the *average* amount of the wage increase received following the return from maternity leave, which should be mentioned on an indicative basis. The CFE-CGC adds that it is also essential to reinforce other levers: transparency requirements and the information and social dialogue resources of enterprise social and economic committees and the systematic unfreezing of the wage catch-up packages required to overcome salary gaps. According to the union: (1) the establishment of a wage catch-up package should be made compulsory as soon as the 40 points for the first indicator (remuneration gap) are not achieved; (2) it would be preferable to focus on a distribution of salaries other than by socio-occupational category in order to refine data on remuneration gaps; and (3) it is necessary to apply penalties immediately in the event of unsatisfactory outcomes, as the three-year period accorded to enterprises to achieve conformity with the requirement of achieving a score of at least 75 out of 100 appears to be excessively long. Finally, the CFE-CGC recalls that the index is not an end in itself, or in other words that it is not in itself a tool for the reduction of remuneration gaps (it is a photograph at a given moment) and that the use of this tool makes it possible to know the situation of women and men in the enterprise, open up dialogue where necessary on this subject and take the necessary corrective measures. It adds that the results of the 2021 index were both encouraging in certain respects in relation to the previous year (the increase in the number of enterprises that had published the index, the increase by one point in the average score – 85 out of 100), and worrying in other respects (only 2 per cent of enterprises achieved 100 points, increases in remuneration when returning from maternity are not respected by 13 per cent of enterprises, while 43 per cent of enterprises with over 1,000 employees have fewer than two women among the highest earners, etc.).

The Committee notes the Government's response that the progression of the results obtained in the index show its effectiveness (the average score of enterprises with 1,000 or more employees rose by 6 points between 2019 and 2022; only 10 per cent of enterprises had an overall score of under 75 points). With reference to the 2022 results, the Government adds that: (1) the average score was 86, one point higher than in 2021, and was 89 for enterprises with over 1,000 employees, that is one point higher than in 2021 and two points higher than in 2020; (2) 95 per cent of enterprises with over 1,000 employees and 88 per cent of enterprises with between 250 and 1,000 employees calculated and declared their index; and (3) there is room for improvement among enterprises with between 50 and 250 employees, of which 72 per cent have complied with the declaration requirement. The Government adds that it is important not to modify the methods for the calculation of the index before the completion of the penalty cycle in 2023 so as to be able to guarantee the application of penalties, where necessary, and specifies that the first penalties for the absence of results can be imposed as from 2023 for enterprises with between 50 and 250 employees (which declared their index in 2020 for the first time). It further specifies that the mechanism has been strengthened by the Act of 24 December 2021 and it remains attentive to the issue of wage transparency, which is covered by a European Directive. The Committee observes that Directive 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, adopted on 10 May 2023, sets out the requirement for employers to report data on the remuneration gap. Finally, the Committee notes that the Government announced at the Social

Conference on 16 October 2023 the forthcoming creation of a new more ambitious index on equality between women and men which will be more transparent and reliable. ***In light of the above, the Committee requests the Government to take the necessary measures, in collaboration with employers' and workers' organizations, to: (i) implement effectively the current and revised mechanisms of the professional equality index, particularly through training; (ii) evaluate the corrective measures taken by enterprises and the results achieved in terms of the reduction, or indeed elimination of remuneration gaps between women and men and, where appropriate, adapt the envisaged indicators; and (iii) analyse and eliminate the obstacles encountered in this context. The Committee requests the Government to provide information on the establishment and the components of the new index and the operation of the penalty mechanism, with an indication of the number of controls undertaken and the enterprises concerned, and the level of the penalties imposed in the event of failure to comply with obligations related to the professional equality index.***

*Public sector.* The Committee notes that, according to the report of the Court of Accounts of September 2023, progress has been achieved in the public sector in identifying the sources of the remuneration gaps identified, but it is still necessary to obtain a better understanding of gaps in relation to bonuses and promotions in order to take action on any discrimination. In this regard, the Committee notes with **interest** the adoption of Act No. 2023-623 of 19 July 2023 to reinforce the access of women to positions of responsibility in the public service, which: (1) is intended to combat vertical occupational segregation by raising gradually over time from 40 to 50 per cent the minimum number of persons of each sex benefiting from internal promotions to higher level and managerial positions in the public service (with a minimum rate of 40 per cent of persons of each sex in higher level and managerial positions); and (2) creates obligations in relation to transparency in remuneration through the establishment of the vocational equality index for women and men in the public service (administrative units with over 50 employees) based on the model of the index introduced in the private sector. ***The Committee requests the Government to take measures, in collaboration with workers' organizations, to: (i) evaluate and eliminate gaps between women and men public employees in respect of bonuses and other benefits which form part of remuneration within the meaning of the Convention; (ii) give effect to Act No. 2023-623 of 19 July 2023, and particularly the professional equality index in the public service (awareness-raising and training for the personnel concerned); and (iii) compile and analyse the results achieved.***

*Article 3. Application of the principle of equal remuneration for women and men for work of equal value. Objective job evaluation. Development or revision of job classifications.* The Committee recalls that the implementation of the concept of "work of equal value" requires the adoption of some method of measuring and comparing the relative value of different jobs on the basis of objective criteria exempt from any sexist prejudices. ***The Committee requests the Government to take measures to promote the objective evaluation of jobs among workers' and employers' organizations, administrations and the bodies or persons concerned, particularly through the development or revision of occupational classifications. It also requests the Government to provide information on any revision of occupational classifications that is being undertaken or has already been carried out, the results achieved, the good practices identified and the difficulties encountered.***

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1981)

### [Previous comment](#)

*Article 1(1)(a) and (b) of the Convention. Prohibited grounds of discrimination. Legislative developments.* The Committee notes with **interest** the Government's indication in its report that two new grounds of discrimination – the exercise of an elected office and being a whistleblower, a facilitator or a person linked to a whistleblower – have been added to the list of the grounds prohibited by the Labour code

(section L.1132-1) following the adoption of Act No. 2019-1461 of 27 December 2019 on participation in local life and the proximity of public action and Act No. 2022-401 of 21 March 2022 to improve the protection of whistleblowers.

However, the Committee observes once again that, although “social origin”, is one of the seven prohibited grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention, it is still not among the grounds of discrimination prohibited by the national legislation. ***The Committee therefore urges the Government to take the necessary measures to include “social origin” in the list of grounds of discrimination prohibited by the Labour Code on the occasion of a forthcoming revision, and to provide information on any measures adopted in this respect, as well as on any other measures taken to combat discrimination on the basis of social origin in practice.***

*Discrimination on the basis of race, colour and national extraction.* For many years, the Committee has been emphasizing that the adoption of plans and the implementation of measures do not appear to be achieving sufficient results in combating discrimination effectively on the basis of race, colour and national extraction (“origin”, according to the terms of the national legislation) in employment and occupation, particularly with regard to access to employment for young persons of foreign origin, and it has requested the Government to reinforce its efforts in this regard. The Committee notes that, according to the 2022 report on the activities of the Defender of Rights, of the complaints received for discrimination on the basis of (foreign) origin, 36 per cent arise in private employment and 18 per cent in public employment.

The Committee notes that, in her contribution to the examination of the situation of France by the United Nations Committee on the Elimination of Racial Discrimination (CERD) (October 2022), the Defender of Rights recommends: (1) the establishment of a legal requirement for enterprises to publish non-financial and statistical indicators to measure discrimination and evaluate the discriminatory effects of certain practices, and to make full use of them to combat discrimination; (2) the implementation of a public policy to make visible and correct forms of discrimination related to (foreign) origin by creating a legal requirement for audits and follow-up action in enterprises and administrative units; (3) action to combat the systemic dimension of forms of discrimination (through public strategies against poverty, unemployment, poor housing, geographical and school segregation; and through policies to combat discrimination on the basis of origin as such); and (4) the adoption of proactive policies, on the one hand, to neutralize the prejudices that contribute to direct discrimination and, on the other, ensure objectivity in decision-making procedures and criteria which may result in indirect discrimination. In this regard, the Committee notes the concluding observations of the CERD, in which it expressed concern at “the fact that systemic racial discrimination, as well as stigmatization and the use of negative stereotypes regarding certain minorities, such as Roma, Travellers, Africans, persons of African descent, persons of Arab origin and non-citizens, remain entrenched in French society and often result in these minorities being socially excluded and having limited enjoyment of their rights, particularly their economic, social and cultural rights” (CERD/C/FRA/CO/22-23, 14 December 2022, paragraph 9).

In this context, the Committee welcomes the adoption of the National Plan to combat racism, antisemitism and discrimination related to origin 2023–26, which is designed to: (1) integrate content on action to combat racism, anti-Gypsy feeling and discrimination in all training for young persons; (2) train employees in the public service in combating discrimination; (3) adopt systematic tests for discrimination relating to and in employment; and (4) improve the protection and support for employees and enterprises in relation to situations involving racism and discrimination.

***In view of the above, the Committee urges the Government to: (i) continue taking specific measures to prevent and eliminate any form of discrimination on the basis of race, colour and national extraction (“origin”) in employment and occupation, particularly in the context of the Plan 2023–26, in respect of recruitment, promotion and terms and conditions of employment, including remuneration; and (ii) establish mechanisms for the evaluation of the results of the measures adopted for this***



**purpose. It requests the Government to provide information on any action taken to give effect to the recommendations of the Defender of Rights.**

*Roma.* The Committee welcomes the adoption of the French Strategy 2020–30 in response to the Recommendation of the Council of the European Union of 12 March 2021 on Roma equality, inclusion and participation, which indicates that: (1) the 2021 report of the National Consultative Commission for Human Rights refers to high levels of anti-Gypsy feeling and stereotypes that are still very present in the collective conscience; and (2) action should be based on the legal framework of anti-discrimination legislation, the imposition of penalties in cases of discrimination and the mobilization of criminal policy instruments to combat discrimination. The Committee notes the concluding observations of the CERD, according to which it remains concerned at the social exclusion and persistent poverty faced by Roma, in particular with regard to the low rate of school enrolment among Roma children, and the high unemployment rate among Roma, especially women, compared to the rest of the population (CERD/C/FRA/CO/22-23, paragraph 13). **The Committee urges the Government to take measures, in collaboration with the organizations representing Roma and within the framework of the French Strategy 2020–30, to: (i) take effective action to combat discrimination and stigmatization against Roma, particularly in relation to access to employment and specific occupations; (ii) ensure the school attendance and maintenance at school of Roma children, and the vocational training of young and adult Roma; and (iii) promote respect and tolerance for this community within society.**

*Article 2. National policy of equality of opportunity and treatment between women and men.* The Committee notes the report of the Court of Accounts entitled “The policy of equality between women and men implemented by the State: Limited progress in relation to the objectives established”, published in September 2023, according to which: (1) in the private sector, occupational equality has particularly been seen from the viewpoint of wage inequalities (professional equality index); (2) ambition has been lower in relation to action to combat the more structural causes of inequality, such as gender balance in training branches and trades, which require socio-cultural changes in relation to parental responsibilities, vocational guidance and the value attached to certain skills; and (3) progress in the reduction of inequalities is slow, despite the growing legislative arsenal over recent decades. With regard to the professional equality index, which essentially relates to inequalities in the remuneration of women and men, the Committee refers the Government to its comments on the application of the Equal Remuneration Convention, 1951 (No. 100).

In this context, the Committee welcomes the adoption of the Inter-Ministerial Plan for Equality between Women and Men 2023–27, the objectives of which include: (1) occupational and economic equality, particularly through the promotion of greater gender balance in all occupations and taking the brakes off women’s entrepreneurship; and (2) a culture of equality in order to combat prejudices and stereotypes. It also notes the announcement by the Government at the Social Conference on 16 October 2023 of a reform of parental leave so that it can become a period of leave that is chosen, paid better and shared between parents and can facilitate the return to employment.

**While welcoming the commitment of the Government to give priority to professional equality between women and men, the Committee requests it to continue adopting specific measures, in collaboration with employers’ and workers’ organizations, to: (i) combat horizontal and vertical occupational segregation and promote gender balance in jobs at all levels, particularly through the implementation of action in the field of vocational guidance and training; (ii) actively combat gender stereotypes and sexist prejudices, for example through awareness-raising campaigns at the national level; (iii) identify and eliminate obstacles to equality and women’s employment; (iv) develop and reinforce measures to allow parents to reconcile work and family responsibilities better, including parental leave; and (v) evaluate the effectiveness and impact of the measures adopted and programmes implemented, particularly on gender balance in the various jobs. It requests the Government to provide information on any measures adopted for this purpose.**

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

## French Polynesia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

#### Previous comment

*Article 1 of the Convention. Protection against discrimination. Grounds of discrimination. Legislation. Public sector.* The Committee notes the Government's indication regarding the General Public Service Regulations of French Polynesia, that: (1) it is not opposed to reviewing the list of grounds of discrimination on the basis of the list in the Labour Code of French Polynesia; and (2) the ground of "origin", mentioned in section 5 of the abovementioned Regulations may refer, inter alia, to a person's geographical, social, ethnic or cultural origin, thus rendering superfluous the addition of the term "social origin". The Committee notes that the Government adds that a complete reform of all regulatory provisions is envisaged, which would result in the adoption of a public service code of French Polynesia. The Committee also recalls that the Labour Code of French Polynesia was amended in 2019 to specify that the term "origin" included "social origin". ***In order to allow public service workers protection against any discrimination based on their social origin and to enjoy this protection before the competent authorities, the Committee requests the Government to take the opportunity presented by the reform of provisions applicable to the public sector to include "social origin" among the list of prohibited grounds of discrimination so as to cover all the grounds enumerated in Article 1(1)(a) of the Convention. It also asks the Government to envisage, under this reform, aligning the anti-discrimination provisions applicable to the public sector with those applicable in the private sector and, more generally, with the provisions applicable in metropolitan France, which extend workers' protection against discrimination on many other grounds.***

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

## New Caledonia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

#### Previous comment

*Article 1 of the Convention. Protection against discrimination. Prohibited grounds of discrimination. Legislation.* The Committee notes that in response to its request concerning grounds of discrimination listed in *Article 1(1)(a)* of the Convention (colour and social origin), the Government indicates that the wording of section Lp. 112-1 of the Labour Code of New Caledonia has not been amended. The Government's report also states that: (1) reflection and discussion on the incorporation of the grounds of "colour" and "social origin" will be held; and (2) no proceedings have been brought based on section L. 225-1 of the Criminal Code, which covers "physical appearance" and the "particular vulnerability arising out of the worker's economic situation, which is supposed or known to the perpetrator of the discrimination" in the area of employment and occupation. The Committee recalls once again that, when legal provisions are adopted to give effect to the principle of the Convention, they must cover as a minimum all the grounds of discrimination set out in *Article 1(1)(a)* of the Convention. ***The Committee urges the Government to take the necessary measures, in consultation with the social partners, to include "colour" and "social origin" in the list of prohibited grounds of discrimination set out in section Lp. 112-1 of the Labour Code of New Caledonia. Noting that the report is silent in this regard, the Committee reiterates its request to the Government to examine the possibility of extending the list of prohibited grounds of discrimination under the Labour Code of New Caledonia in order to align it with the list of grounds of discrimination which are prohibited in metropolitan France under the Labour Code, and thus to provide the same legal protection to all workers against discrimination in employment and occupation in France.***

*Article 2. Non-discrimination and equality of opportunity and treatment for women and men. Legislative development and practical measures.* The Committee notes that, according to the Government's report on the application of the Equal Remuneration Convention, 1951 (No. 100), the study of the New Caledonian labour market reveals that: (1) women are concentrated in 12 of the 87 occupational groups, which implies significant inequality in terms of the distribution by sector of activity; (2) women are over-represented in the lowest paid jobs and represent up to 98 per cent of domestic workers, household helpers, assistants and secretaries; (3) although more women than men hold graduate degrees (after four years of further education), men enter the world of work more easily; (4) women's career development is curbed and they have more difficulty in accessing positions of responsibility; (5) women face considerably higher job insecurity than men; and (6) women's economic activity slows significantly when they start a family, as the parental responsibility seems to weigh more heavily on mothers. In this regard, the Committee welcomes the detailed information communicated by the Government on the actions and measures taken to encourage gender diversity in training, occupational guidance and employment, reconciliation between family life and work life (the 2021 Interoccupational Act and agreement on teleworking, awareness-raising of nursing in the workplace), women's entrepreneurship and, more generally, women's empowerment, in the provinces of New Caledonia. At the legislative level, the Committee notes with **interest** the adoption, on 26 May 2023, of Territorial Act No. 2023-3 promoting substantive occupational equality between women and men, setting forth that, in enterprises of more than 50 employees, the employer must carry out an annual assessment of compliance with the obligation of substantive occupational equality in his or her enterprise and establish a plan of action to this end. This plan, the results of which are evaluated each year, is intended to support women's access to employment, particularly to positions of responsibility, close the wage gaps between women and men occupying equivalent posts, raise awareness of equality, combat gender stereotypes, encourage gender balance in employment and improve reconciliation between family life and work life. The Act also contains provisions on parenthood (specific provisions concerning pregnant women and leave for fathers or the second parent of 11 days). **Noting this significant legislative advancement, the Committee requests the Government to take specific measures to ensure compliance with and dissemination of the new obligations relating to gender equality set forth in Territorial Act No. 2023-3 promoting substantive occupational equality between women and men, and to provide information on its implementation and its impact on vocational training and employment for women at all levels, including Kanake women. It also requests the Government to continue and intensify its efforts to raise awareness among workers, employers and their organizations, and society as a whole, of gender equality and non-discrimination in employment and occupation, including the need to tirelessly fight against gender stereotypes and occupational segregation between women and men in the labour market.**

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

## Gabon

### Equal Remuneration Convention, 1951 (No. 100) (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(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee recalls that for very many years it has been emphasizing the need to amend section 140 of the Labour Code, the provisions of which are too restrictive in relation to those of the Convention and do not allow the comparison of work that is of a different nature and performed under different conditions (skills/qualifications, responsibilities, effort, conditions of work), but which could be of equal value overall. The Committee recalls that section 140 makes the application of equal remuneration conditional on the existence of "equal conditions of work, skills and output", on the one hand, and work "of equal value and of the same nature", on the other. The Committee notes the Government's indication in its report that the

Labour Code is currently being updated, which is a priority project for the Government. It indicates that section 140 will be modified and become section 171 of the draft Labour Code, which provides that: "For work of equal value, remuneration shall be equal for all workers, irrespective of their origin, opinion, sex and age. Equal remuneration for men and women for work of equal value and of the same nature refers to the remuneration rates set without discrimination on the basis of sex." The Committee notes with **regret** that this wording still does not provide for equal remuneration for men and women for work of equal value as set out in the Convention, as it retains the concept of "the same nature". It also emphasizes that the wording in the draft text of section 171 "of equal value of vocational skills and output" limits the application of equal remuneration to a comparison of the value of vocational skills and output. In this regard, the Committee recalls that in order to eliminate discrimination in relation to remuneration, which inevitably arises if the value of the work performed by men and women is not recognized free from any sexist bias, it is essential to compare the value of work in occupations in which the work may require different types of skills and also involve different levels of responsibility and conditions of work, but which are nevertheless of equal value overall. It emphasizes in this respect that the concept of equal "value" as set out in the Convention permits a broad scope of comparison, including "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, but which is nevertheless of equal value. This is crucial for the full application of the Convention as, in practice, men and women are often not engaged in the same jobs. Furthermore, the Committee recalls that, as effective application of the principle of the Convention is needed, where women are more heavily concentrated in certain sectors or occupations, there is a risk that the possibilities for comparison at the enterprise or establishment level will be insufficient (see the [General Survey of 2012 on the fundamental Conventions](#), paragraphs 673, 675 and 698). **The Committee therefore urges the Government to take the necessary measures to ensure that the future Labour Code gives full expression and full effect to the principle of equal remuneration for men and women for work of equal value, without limitations that are contrary to the Convention, and to provide information on any progress achieved in this regard.**

*Articles 2 and 3. Determination of rates of remuneration. Public service. Objective job evaluation.* In its previous comment, the Committee requested the Government to explain in detail the methods and criteria used to determine pay levels following the introduction in 2015 of a new pay system in the public service, in order to ensure that jobs principally occupied by women have not been undervalued in relation to those mainly occupied by men. The Committee notes the information provided by the Government to the effect that the calculation of the pay of a State official takes into account the following elements: the basic pay, the reference indicative pay scale and the indicative scale of bonuses. These elements are uniform, calculated and paid pro rata based on the days worked, although the final remuneration may vary as it is based on collective results, the individual performance of the official and the payment of different bonuses and additional allowances. Noting that, according to the detailed explanations provided by the Government, one of the important components of final remuneration is based on the individual performance of officials, the Committee recalls that there is a significant difference between the concept of the evaluation of professional performance, which aims to evaluate the manner in which a particular worker carries out the job (output), and the concept of objective job evaluation, which evaluates the job (and not the worker) with a view to measuring the relative value of jobs that do not have the same content. The Committee also recalls that *Article 3* of the Convention presupposes the use of appropriate methods for the objective evaluation of jobs. As women are very often engaged in different jobs to men, it is necessary to have a method of comparison through which it is possible to measure and compare the relative value of different jobs on the basis of objective and non-discriminatory factors (such as the required skills/qualifications, effort, responsibilities and working conditions) to prevent any sexist bias in their evaluation. Experience shows that skills that are often considered to be "female", such as manual dexterity and those required in the caring professions, are frequently undervalued or even overlooked, in comparison with traditionally "male" skills, such as heavy lifting, which contributes to perpetuating the undervaluation of women's jobs and to the widening of the pay gap between men and women (see the [General Survey of 2012 on the fundamental Conventions](#), paragraphs 695 to 701). **The Committee requests the Government to indicate the measures adopted to ensure that the pay system for employees of the public service established in 2015 is free of gender bias. Noting the Government's indication that the jobs predominantly held by women have not been undervalued in relation to those occupied by men, the Committee requests it to provide information on the methods used to evaluate and establish the classification of the various jobs in the public service and to provide the corresponding salary scales, disaggregated by sex.**

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(1) of the Convention. Definition of discrimination. Legislation.* The Committee welcomes the inclusion in the draft new Labour Code of a definition of the concept of "discrimination" that is identical to that of the Convention. ***The Committee hopes that the draft text of the new Labour Code will soon be adopted and promulgated and requests the Government to provide information on the progress achieved in this respect. It also requests the Government to take the necessary measures to disseminate these new provisions, once they have been adopted, to employers, workers and their respective organizations and to those responsible for the enforcement of the legislation and to provide a copy of the text.***

*Articles 1(1)(a) and 3. Discrimination on the basis of sex. Legislation.* Further to its previous comment concerning the lack of conformity of certain provisions of the Civil Code that are in force (sections 253, 254 and 261) with the provisions of the Convention, the Committee notes the Government's indication in its report that the Civil Code is still under revision and that the Committee's comments will be examined. The Committee recalls that laws governing personal and family relations which do not yet provide for equal rights of men and women also continue to have an impact on the enjoyment of equality with respect to work and employment ([General Survey of 2012 on the fundamental Conventions](#), paragraph 787). ***The Committee once again urges the Government to take the necessary measures to ensure that the provisions of the Civil Code that have a discriminatory impact on women's employment, namely sections 253, 254 and 261, are repealed and to provide a copy of the new Civil Code once it has been adopted and promulgated.***

With regard to night work by women, as regulated by sections 167 and 169 of the Labour Code, the Committee notes that, in the draft new Labour Code, the provisions prohibiting night work by women in general have been removed, and that the protection measures only concern pregnant women, which is not incompatible with the Convention, insofar as they are strictly limited to the protection of maternity and not based on stereotypes concerning their capacities and role in society. ***While welcoming the withdrawal of the provisions prohibiting the principle of night work of women in the draft Labour Code, the Committee requests the Government to examine the possibility of the adoption in parallel of accompanying measures to assure the safety of workers, both men and women, during night work and measures for the development of adequate means of transport.***

*Article 2. Equality of opportunity and treatment of men and women in employment and occupation. Constitution.* The Committee welcomes Act No. 001/2018 of 12 January 2018 revising the Constitution of the Republic of Gabon, which amends several articles of the Constitution in support of gender equality, principally in relation to elections, and provides that "the State shall promote equal access by women and men to electoral office and to political and professional responsibilities" (article 24). ***Welcoming the will of the Government to promote gender equality at the highest level, the Committee requests the Government to provide information on the implementation of article 24 of the Constitution, which promotes the equal access of women and men to professional responsibilities, as well as equal access to political responsibilities, in law and practice, and on any specific measures adopted for this purpose.***

*National policy on equality.* The Committee previously requested the Government to adopt measures to: (1) take effective action to combat stereotypes regarding women's aspirations, preferences and occupational capacities; and (2) resolve the difficulties faced by women in gaining access to resources and means of production, and particularly credit and land, and to encourage women's entrepreneurship. The Committee notes that the Government refers once again to the creation of a platform wholly dedicated to women entrepreneurs, the "Women's Business Centre", in order to provide support to women wishing to start up their own enterprises. The Committee also notes the Government's indication that it has introduced a Women's Day on 17 April each year and that it has decreed that 2015–25 shall be the Decade of the Women of Gabon. According to the information provided by the Government in its 2020 report to UNESCO on the application of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions,

ratified in 2007, the objective of the Decade of the Women of Gabon is the autonomy of women, and the expected results are training, improvement and the deep-rooted transformation of the condition of women at all levels (legal, political, economic and social). The Government adds in the report that the National Advisory Commission of the Decade of the Women of Gabon has been created in this context and that it is engaged in the collection of data on the ground throughout the national territory with a view to improving understanding of the situation of women. **The Committee notes these initiatives and requests the Government to provide the results of the national data collection exercise on the condition of the women of Gabon undertaken by the National Advisory Commission of the Decade of the Women of Gabon. It also requests the Government to provide information on: (i) the measures adopted or envisaged to promote equality of opportunity and treatment for men and women, including in relation to employment and occupation; and (ii) information (including statistics) on the activities of the platform for women entrepreneurs since its establishment. In the absence of a response on the following points raised in its previous comments, the Committee reiterates its request concerning the measures adopted to: (i) combat effectively stereotypes regarding women's aspirations, preferences and professional capacities and their role in society and to enable them to gain access to a broader range of jobs and occupations (through vocational guidance and training free from gender bias); and (ii) resolve the difficulties faced by women in gaining access to resources and means of production, and particularly credit and land. The Government is also requested to provide information on the activities of the Ministry of Equality of Opportunity in relation to the promotion of equality of opportunity and treatment for men and women in employment and occupation.**

*Promotion of equality of opportunity and treatment without distinction on grounds other than sex.* In its previous comments, the Committee requested the Government to formulate and implement a national policy on equality of opportunity and treatment without distinction on grounds of race, colour, religion, political opinion, national extraction or social origin. The Committee notes the Government's indication that since 2016 it has been developing its policy of equality of opportunity and that many seminars have been organized since then to reinforce capacities to combat more effectively undue privilege and social inequality. In this regard, the Committee recalls that the primary obligation of ratifying States is to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination in this respect. It also wishes to emphasize that the implementation of a national equality policy in relation to employment and occupation presupposes the adoption of a range of specific measures, which generally 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 (General Survey of 2012 on the fundamental Conventions, paragraphs 841 and 848). **In light of the above, the Committee urges the Government to indicate any obstacles encountered in completing the formulation of a policy of equality of opportunity, which it indicates that it has been developing since 2016. It also requests the Government to indicate whether it is planned that the national equality policy will also cover the other grounds of discrimination prohibited by the Convention, with an indication of the specific strategies and measures envisaged or adopted with a view to: (i) combating all forms of discrimination on the basis of race, colour, religion, political opinion, national extraction and social origin; (ii) promoting equality of opportunity and treatment in employment and occupation; and (iii) monitoring and evaluating regularly the results achieved as a basis for reviewing and adapting existing measures and strategies, where necessary.**

*Articles 2, 3(d) and 5. Equality of opportunity for men and women in the public service. Special affirmative measures. Quotas.* With reference to the under-representation of women at the higher categories (A1 and A2) of the public service, the Committee notes with **interest** the adoption of Act No. 09/2016 of 5 September 2016 establishing quotas in favour of women and young persons, and particularly a quota under which 30 per cent of higher level State positions are reserved for women. **The Committee requests the Government to indicate the measures taken in practice for the implementation of this quota and to provide statistical data on personnel in the public service disaggregated by gender and category, with a view to measuring the impact of this measure on the representation of women in the higher categories of the public service. In the absence of information on this point, the Committee once again requests the Government to provide the conclusions of the audit of the public service carried out in 2016.**

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.***

## Georgia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls that for many years now it has drawn the Government's attention to the fact that the principle of equal remuneration for men and women for work of equal "value" is not properly reflected in the legislation. Neither the Labour Law, nor the Law on the Public Service entitle workers to equal remuneration for work that is entirely different but nonetheless of equal "value". The Committee notes with **regret** the Government's reiterated statement that the equal remuneration principle is included in both pieces of legislation. The Committee recalls the discussion held by the Conference Committee on the Application of Standards when reviewing the application of the Convention by Georgia at its 107th Session (June 2018) and the [adoption of a set of conclusions](#). ***Once again, the Committee urges the Government to: (i) amend the labour legislation, in cooperation with the social partners and the Council for Gender Equality, in order to give full legislative expression to the principle of "equal remuneration for men and women for work of equal value", with a view to ensuring the full and effective implementation of the Convention without delay; and (ii) take the necessary steps to amend section 57(1) of the Law on the Public Service (2015) to capture the concept of "work of equal value" so as to ensure that public officials covered by the Law are entitled not only to equal remuneration for equal work, but also for work that is entirely different but nonetheless of equal value. The Government is requested to provide information on the progress achieved in this regard.***

*Article 2. Measures to address the gender pay gap and promote equal remuneration.* The Committee notes the Government's indication that in 2021 Georgia joined the Equal Pay International Coalition (EPIC) and that the renewed State Concept on Gender Equality representing the country's vision for eliminating all forms of gender discrimination and ensuring gender equality in the civil, political, economic, social, and cultural spheres, both in public and private relations was adopted on December 2022. It further notes that the National Concept Document on Women's Economic Empowerment was adopted on March 2023, as part of the Human Rights National Strategy's Action Plan. It proposes seven directions, including: acknowledging, reducing, and distributing unpaid and care work; equal access to economic resources; improving public sector procurement and employment practices; improving employment practices in the private sector; reducing shadow economy and supporting a smooth transfer in the formal sector; strengthening the gender-sensitive legal framework, and combating contradictory social norms. The Committee notes that a subsequent 2022-2024 Action Plan and communication strategy was developed, and welcomes the information provided in the reports regarding the implementation and the impacts of previous action plans. The Committee notes that the Civil Service Bureau started a Gender Impact Assessment of the Civil Service Law to reveal gender inequities in professional development, work-life balance, and pay gaps. It notes that wages and pay arrangements within civil service will be analysed to find and address gender discrimination. The Committee notes the information provided by the Government about the Working Group created to conduct a thematic inquiry on the rights of women in the informal economy and the COVID-19 impact, which included 29 recommendations. The Committee takes note of the Government's efforts. However, from the statistical data provided, it observes that in most sectors of activity there has been little to no improvement in reducing the gender pay gap. The Committee further notes the concerns of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) about the widening gender pay gap, despite economic and income growth in the State party, which unevenly benefits women; and its recommendations to regularly review wages in sectors in which women are

concentrated and adopt measures to close the gender pay gap, including regular pay surveys, and consider raising the minimum wage fixed in 1999 (CEDAW/C/GEO/CO/6, 2 March 2023, paragraphs 35–36). **Given the persisting horizontal and vertical segregation prevailing in the country, the Committee requests the Government to: (i) step up its efforts to address the underlying causes of inequalities in remuneration such as occupational gender segregation into lower-paying jobs or occupations or positions without career opportunities, including through targeted vocational training, occupational quotas, incentives and awareness-raising activities; (ii) provide detailed information on specific measures taken under the framework of the Equal Pay International Coalition, the State Concept on Gender Equality, the National Concept Document on Women's Economic Empowerment and the associated 2022-2024 Action Plan and Communications Strategy, and the Thematic Inquiry on the rights of women in the informal economy and the COVID-19 impact; (iii) provide a summary of the findings from the Gender Impact Assessment of the Civil Service Law, and any measures taken or envisioned in this regard; and (iv) continue to provide statistical data on the number of men and women employed, disaggregated by economic sector and occupational level.**

*Enforcement.* The Committee notes that with the 2020 amendment to the Labour Code, the Labour Inspection's mandate was extended to enforce the prohibition of discrimination, and that section 78 of the Labour Code establishes sanctions for violating the provision of equal remuneration for equal work, including a warning, or a fine. It notes, however, that the Labour Inspection in 2021-2022 undertook 5,295 inspections at 2,767 worksites and no violations regarding equal remuneration were found. The Committee notes that from 2019 to 2022, 5 trainings were held on discrimination, international labour standards and the Labour Code, with 54 judges and 34 officials attending the trainings, but that no specific information was provided on the equal pay aspect of the trainings. The Committee notes the general indication of the Government that awareness-raising activities, information campaigns, and other measures were undertaken during the reporting period, and that between 2021 and 2022 the Labour Inspection held 215 meetings with employees, employers and the representatives of employers and employee organizations, where information related to equal remuneration was disseminated. Noting the Government's information according to which the courts have reported no cases regarding equal pay between men and women, the Committee recalls that when no cases or complaints are being lodged it 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 [General Survey of 2012 on the fundamental Conventions](#), paragraph 870). **The Committee asks the Government to provide information on: (i) its efforts to train and raise awareness, not only of labour inspectors but also of judges, lawyers, public officials, workers, employers and their organizations, as well as the public, on the principle of the Convention; (ii) the different complaint mechanisms available; and (iii) any studies or information gathered on the practicability and accessibility of substantive and procedural provisions which allow claims to be brought. The Committee further asks the Government to provide information on decisions handed down by the competent authorities or bodies about the application of the principle of the Convention.**

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1993)

### [Previous comment](#)

*Article 1 of the Convention. Discrimination based on sex. Sexual harassment.* The Committee recalls that in 2020 the Government introduced a definition and prohibition of sexual harassment in the Labour Code and that it had noted that the definition does not cover the full range of behaviours that constitute sexual harassment in employment and occupation, that is, both: (1) quid pro quo (any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men which is unwelcome, unreasonable and offensive to the recipient; and a person's rejection of,



or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job); and (2) hostile work environment (conduct that creates an intimidating, hostile or humiliating working environment for the recipient). The Government's report provides detailed information on the measures taken to prevent sexual harassment in the workplace and promote awareness on the newly adopted legislation and regulations, such as for example the fact that: (1) an electronic course on "Prevention of Sexual Harassment" was developed; (2) information meetings were held with representatives of self-government bodies, students, police officers, representatives of trade unions, labour inspectors, and private companies (human resources management departments); (3) a response mechanism to sexual harassment complaints has been developed by 17 State agencies; (4) regional meetings were organized to raise public awareness on the newly adopted regulations on sexual harassment; (5) in May 2022, the Government conducted, in cooperation with UN Women, a competency-building training on the topic of investigations focused on victims of sexual harassment for civil servants and representatives of state agencies who are directly involved in the implementation of the aforementioned mechanism; (6) a webinar was held on the following topic "Implementation of Legal Norms Regulating Sexual Harassment: Results Achieved and Challenges", which was aimed, on the one hand, at obtaining information about the progress in terms of implementation and, on the other hand, at identifying gaps in the enforcement of legal regulations; (7) in 2021, UN Women and the Civil Service Bureau conducted a study on workplace sexual harassment in the civil service, which helped in the development of the Sexual Harassment Prevention and Response Policies and Mechanisms; and (8) in 2022 meetings were held by the Labour Inspectorate with 1,200 business representatives in order to familiarize employers with legislative requirements related to labour issues, including sexual harassment and non-discrimination in the workplace.

The Committee notes that the Labour Inspectorate has been supervising labour rights, including in relation to discrimination, harassment and sexual harassment, since January 1, 2021, and that in the period from January 1, 2021 to December 31, 2022, four applications were received alleging workplace sexual harassment. The Committee notes the Government's indication that: in the first case, although there was a possible case of sexual harassment, the Labour Inspection Service did not have the authority to examine the legality of the employees' actions; in the second case, the complaint could not be examined due to the statute of limitations and the lack of subordination; in the third case, it seems that the applicant had to pay a fine; and in the fourth case, although the facts were established, the claim could not be examined due to the statute of limitations (an administrative fine was imposed nevertheless). The Committee notes that the Office of the Public Defender (Ombudsman) made a recommendation to establish sexual harassment in 7 cases out of the 14 cases it reviewed. With the recommendations issued, the Office of the Public Defender called on the harassers, whether at the workplace or in another field, asking them to refrain from committing sexual harassment and from creating an environment that is offensive, humiliating or inappropriate for people. It also addressed the recommendations to employers to: (1) effectively, timely and immediately study the alleged cases of sexual harassment; (2) develop sexual harassment prevention mechanisms to eliminate sexual harassment; and (3) work on raising awareness employees. In the remaining cases, a decision was made to terminate the proceedings (in 3 of these cases the applicants withdrew their complaints). The Committee wishes to recall that: (1) sexual harassment can be perpetrated by a person in a position of authority (subordination), but also a colleague, a subordinate or by a person with whom workers have contact as part of their job (a client, supplier, etc.); therefore, the scope of protection against sexual harassment should cover all workers, with respect to all spheres of employment and occupation, including vocational education and training, internships, access to employment and conditions of employment; (2) the absence or relatively low number of sexual harassment complaints 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; and (3) 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 [General Survey of 2012 on the fundamental Conventions](#), paragraphs 790–791). The Committee also notes that a workplace culture tolerating or implicitly encouraging sexual harassment may also discourage victims from trusting procedures and filing complaints. ***The Committee again asks the Government: (i) to take steps to include in the labour legislation a complete definition of sexual harassment (which includes both quid pro quo and hostile work environment, as well as harassment perpetrated not only by a person in a position of authority, but also by a colleague, a subordinate or by a person with whom workers have contact as part of their job), and to provide information on any progress made in this regard; (ii) to indicate the time limit to file a charge of discrimination at work in general, as well as in the specific case of harassment, and the measures taken to ensure that this information is largely disseminated; (iii) to continue providing information on any cases of sexual harassment dealt with by the courts or any other competent authorities, including information on the sanctions imposed and remedies granted; and (iv) to provide information on the findings and recommendations from the seminar on “Implementation of Legal Norms Regulating Sexual Harassment: Results Achieved and Challenges” and the study on workplace sexual harassment in the civil service carried out by UN Women and the Civil Service Bureau of Georgia.***

*Discrimination based on sexual orientation.* The Government indicates that, during the period 2019–2022, the Labour Inspectorate considered only one complaint on the grounds of sexual orientation but that the legal standard in that case was not met, and that the Office of the Public Defender received three applications for which discrimination could not be established. The Committee recalls that it had previously noted the report of the United Nations Independent Expert on protection against violence and discrimination, which referred to the pervasiveness of discrimination based on sexual orientation and gender identity in the country, the existence of beatings, harassment and bullying, and the exclusion from education, work and health settings. It wishes thus to reiterate its statement above that the absence or relatively low number of complaints does not necessarily indicate that this form of discrimination does not exist. ***In view of the lack of information in this regard, the Committee asks again the Government to indicate any steps taken or envisaged to prevent and address discrimination based on sexual orientation in employment and occupation, including awareness-raising measures. Please continue to provide information on prosecutions brought and penalties imposed in case of proven discrimination based on sexual orientation.***

*Article 1(3). Discrimination in recruitment.* The Committee notes that, with the 2020 Amendment to the Labour Code, the prohibition of discrimination has been expanded to the recruitment process. Section 11.1, previously section 5.1, now provides that “an employer may obtain information about a job candidate, except for information which is not related to the performance of the job or is not designed to evaluate the ability of a candidate to perform a specific job and to make an appropriate decision in respect thereof”. The Committee notes however that, under section 11.8, the employer is still not obliged to justify its decision to refuse to hire a candidate and that, in practice, this provision may affect women disproportionately because of their family responsibilities. The Government indicates that the Office of the Public Defender published guidelines for preventing discrimination in job postings and that, in 2021–2022, the Labour Inspection Service reviewed 62 cases of alleged discrimination in pre-contractual relations, which were concluded by the payment of a fine in one case and a warning in the remaining cases. From 2019 to 2022, the Office of the Public Defender received 20 cases, which outcomes included negotiating to conclude an employment contract; providing direction to amend hiring practices; and addressing a general proposal to various private companies to refrain from including discriminatory criteria in their posted job vacancies. ***The Committee asks the Government to continue to provide information on: (i) its efforts to eliminate discriminatory practices in recruitment; (ii) the application of section 11.8 of the Labour Code in practice, in light of the fact that termination***

***on discriminatory grounds is prohibited by the Convention; and (iii) the number and nature of cases handled by the Labour Inspection Service, the courts or the Office of the Public Defender regarding discrimination in pre-contractual relations, including the sanctions imposed and remedies granted.***

*Article 2. Equality of opportunity and treatment for men and women.* The Committee recalls that in 2019 the Gender Equality Council conducted thematic inquiries on vocational education and women's participation in State economic programs. Regarding vocational education, the Committee notes that the Government is implementing a social marketing campaign to attract women to vocational education and training (VET) in non-traditional or so called "male" skills areas, developing gender sensitive career guidance programs, and introducing mechanisms that strengthen women's participation in VET. Gender aspects were also taken into consideration to ensure a selection process free from gender stereotypes and biases and give students more chances to get an education in the professions they want, regardless of the established gender prejudices towards these professions. Additional services for women are offered in several colleges. Namely, VET colleges in Telavi (Prestige), Kobuleti (Akhali Talgha) and Alvani (Aisi) offer a specially equipped room for children of their students to accommodate needs of young parents. In order to ensure gender equality in the VET system and to strengthen gender issues in vocational education, a gender specialist has been contracted to gender audit all documents and action plans developed by the Skills' Agency. The Government indicates that, in the last six years, the gender distribution of VET students shows that the share of female students has changed somewhat. It also underlines that the representation of women is increasing in sectors such as electricity, mechanics and transport services, and the representation of men is increasing in healthcare, textile production, hotel, restaurant and catering.

With regard to the Government's efforts to promote women participation to the labour market, the Committee notes that in 2021, the Rural Development Agency started a new program, which provides financial and technical assistance to women in the municipalities of Marneuli and Lagodekhi, to organize a new greenhouse. The program aims to increase women's motivation to engage in agricultural activities and economic empowerment. It is worth mentioning that non-dominant ethnic groups mainly inhabit Marneuli. The evaluation reported several issues in the implementation process; therefore, the Gender Equality Council will be revisiting the monitoring process in the upcoming years to reflect on the outcomes. The Government indicates that, in recent years, it has noticed a growing interest for its women's economic empowerment program through entrepreneurship development. One of the goals of the micro and small entrepreneurship part of the state program "Enterprise Georgia" is to improve the economic status of women. In the framework of the micro and small entrepreneurship promotion program, additional benefit is provided when applied by women entrepreneurs, to encourage them as much as possible to start a business. The Committee notes the adoption of an Action Plan by the Civil Service Bureau aimed at establishing a gender-sensitive civil service system to enable the full and effective participation and leadership of women in decision-making processes; and the development of a 2022-2024 action plan and communication strategy by the Gender Equality Council.

The Committee however notes from the 2022 "Women and Men in Georgia" statistical publication, that women continue: (1) to have a higher unemployment rate, particularly those with higher education; (2) to be concentrated in lower paid sectors; and (3) to earn significantly less in each sector. It also notes the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) that women's representation at senior levels in the public service is critically low or has decreased (CEDAW/C/GEO/CO/6, 2 March 2023, paragraph 29). Finally, the Government points out that higher standards of maternity and parental leave that can be used by both parents were introduced in the recent amendments to the Labour Code to promote inter alia a more equitable sharing of family responsibilities between men and women and women participation to the labour market. In that regard, the Committee takes note in particular of section 22.2 of the Labour Code which states that, after the end of a period of maternity leave, parental leave, or newborn adoption leave, upon the request of the employee, the employer shall ensure that the qualifications of the employee are

upgraded if this is necessary for the performance of the work under the employment agreement, and does not impose a disproportionate burden on the employer. ***In light of the statistical data provided on the situation of women in the labour market, the Committee asks the Government to: (i) step up its efforts to promote gender equality in employment and occupation and reduce occupational segregation; and (ii) to address existing stereotypes regarding women's professional aspirations, preferences and capabilities, and their role in the family. The Committee further asks the Government to provide information on the results of the Gender Equality Council Action Plan 2022-2024. The Committee asks the Government to continue to provide detailed statistics about men and women in different occupations, including at the decision-making level, and in all sectors of the economy.***

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

## Ghana

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1968)

#### Previous comment

*Articles 1(a) and (b) and 2(2)(a) of the Convention. Definition of remuneration. Equal remuneration for work of equal value. Legislation. Private sector.* For a number of years, the Committee has been asking the Government to take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value is duly reflected in sections 10(b) and 68 of the Labour Act, 2003 (Act No. 651). The Committee welcomes the Government's indication that in the context of the current revision of the Labour Act, the Government has validated with the social partners the various comments and inputs received from the major stakeholders, as well as the Committee's request to include the principle of the Convention in its national legislation. The Committee takes due note of the Government's indications. ***The Committee firmly hopes that in the context of the revision of the Labour Act, the Government will take the necessary steps, in cooperation with employers' and workers' organizations, to amend sections 10(b) and 68, 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. The Committee also asks the Government to take the necessary measures to ensure that all components of remuneration enumerated in Article 1(a) of the Convention are included in the definition of "remuneration" for the purpose of the principle, and all categories of workers in the private sector are covered by the principle of the Convention.***

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1961)

#### Previous comment

*Article 1 of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee notes the Government's indication in its report that, with the support of the ILO, the Labour Legislation Review Technical Committee is continuing the process of revision and will endorse the Committee's request that the new Labour Act includes as a minimum the seven prohibited grounds of discrimination listed in Article 1(1)(a) of the Convention, in particular "social origin" and "political opinion". ***The Committee asks the Government to provide information of the progress achieved towards the amendments of the relevant sections of the Labour Act of 2003, in order to include "social origin" and "political opinion" as prohibited grounds to be in full conformity with the Article 1(1)(a) of the Convention.***

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Government indicates that, in the framework of the current review of the Labour Act of 2003, it will be considering amending section 175, which covers sexual harassment in a broad way, to ensure full conformity with the Convention, including by explicitly covering hostile environment sexual harassment. The Government also provides

examples of awareness raising activities, such as a workshop held from 23 to 25 November 2022 for 45 labour inspectors on the topic of sexual harassment with the assistance of the non-governmental organization “Action Aid Ghana”, as well as workshops organized jointly with the social partners to sensitize stakeholders on the provisions of the Violence and Harassment Convention, 2019 (No. 190). The Government further refers to the existence of various complaint mechanisms and means of redress for victims of sexual harassment. For example, pursuant to section 17 of the Domestic Workers’ Regulations (DWR) a domestic worker may report a case of sexual harassment or domestic violence to the District Labour Officer, the Commission on Human Rights and Administrative Justice (CHRAJ) or the police. Pursuant to section 18 of the DWR, if a domestic worker terminates the employment due to sexual harassment or domestic violence and lodges a complaint with the District Labour Officer, the latter can direct the employer to pay to the domestic worker two months’ salary, any outstanding salary, the cost of accommodation for a month (in the case of live-in domestic workers) and other appropriate benefits. The domestic worker may also seek any other relief in court. Additionally, the Labour Department, the National Labour Commission (NLC), and the court of competent jurisdictions can handle cases of sexual harassment. While taking note of this information, the Committee notes that the Government’s report is silent on complaints in respect to sexual harassment that have been examined by the above-mentioned mechanisms. **The Committee requests the Government to provide information on: (i) the measures taken to amend section 175 of the Labour Act of 2003 so that it also covers hostile environment sexual harassment, and (ii) the number of complaints or cases of sexual harassment (including those lodged by domestic workers) dealt with by the District Labour Officer, the Commission on Human Rights and Administrative Justice (CHRAJ), the police, the Labour Department, the National Labour Commission (NLC), or the courts, as well as the sanctions imposed and remedies granted.**

*Article 2. National equality policy. Equality of opportunity and treatment irrespective of race, colour, religion or national extraction.* The Committee notes the Government’s indication that no awareness raising activities have been undertaken on the issues of discrimination on the grounds of race, colour, religion, or national extraction since its last report. It also notes the Government’s request to benefit from the technical assistance of the ILO. The Committee stresses that *Article 2* of the Convention requires Members to declare and pursue a national equality policy with a view to eliminate discrimination based on *all* the prohibited grounds listed in the Convention. In this regard, it wishes to point out that the Convention leaves considerable flexibility to each country regarding the most appropriate methods from the point of view of their nature and timing ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 734 and 849). **The Committee asks the Government to take the necessary measures to declare and pursue, in consultation with workers’ and employers’ organizations, a comprehensive national equality policy directed at addressing discrimination in employment and occupation based on all the grounds covered by Article 1(1)(a) of the Convention as a minimum, by methods appropriate to national conditions and practice. The Committee encourages the Government to avail itself of the technical assistance of the ILO in this regard.**

*Enforcement.* The Committee recalls that, for a number of years, the Government has indicated that the labour inspection form was going to be amended to include a specific reference to discrimination on all the grounds listed in the Convention (including sexual harassment) to better assess the prevalence of discrimination at work. It notes the Government’s indication that no new labour inspection form has been adopted and no training has been conducted for labour inspectors, court officials and other authorities on the identification of cases of discrimination in employment and occupation as the Government had undertaken to do. The Committee notes that the Government is asking to benefit from the technical assistance of the ILO in this regard. **The Committee asks the Government: (i) to speed up the adoption of a more targeted labour inspection form that will include specific reference to discrimination on the grounds listed in the Convention (including sexual harassment); (ii) to raise the capacity of enforcement officials and magistrates to identify and address discrimination in employment and occupation; and (iii) to provide information on the number of cases**

**of discrimination in employment and occupation brought to or identified by the authorities, and their outcome (including information on sanctions imposed and remedies granted). Finally, the Committee encourages the Government to 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.

## Guatemala

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1961)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee notes the Government's indication in its report that there are at present no legislative initiatives linked to the Convention. **The Committee trusts that 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 points 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.* In its previous comment, the Committee underlined that Act No. L/2014/072/CNT issuing the Labour Code of 2014 excludes public officials from its scope of application (section 2) and 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. The Committee has been underlining in its comments since 1990 that the legal protection of public officials is inadequate both regarding the grounds of discrimination, since it does not cover discrimination based on race, colour, national extraction and social origin, and regarding the scope of application, as recruitment is not covered. **The Committee notes that the Government's report contains no information concerning the protection of public officials from discrimination, and requests the Government to 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 to a post in the public service are effectively protected against any direct or indirect discrimination on the basis of at least the seven grounds of discrimination listed in 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 during recruitment.**

*Discrimination on the basis of sex. Sexual harassment.* The Committee notes that the Government's report contains no information on sexual harassment. In that regard, it notes the concluding observations of the United Nations Committee on Economic, Social and Cultural Rights, which emphasize that "the number of cases of violence against women, particularly [...] sexual violence, remains very high" (E/C.12/GIN/CO/1, 30 March 2020, paragraph 20). **The Committee again requests the Government to take measures to: (i) prevent sexual harassment in employment and occupation, such as awareness-raising campaigns (for example, by radio or through other media) or reinforcing prevention activities by the labour inspectorate in this area; and (ii) inform workers, employers and their respective organizations of their rights and obligations in this area. It requests the Government to provide information on any measures adopted for this purpose. The Government is once again requested to consider whether complaint and appeal mechanisms established at the national and enterprise levels are sufficiently accessible to complainants and whether they allow perpetrators of sexual harassment to be sanctioned. The Government is requested to provide information, as the case may be, on results obtained and the follow-up measures envisaged.**

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.***

## Iceland

### 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.

*Article 1 of the Convention. Prohibited grounds of discrimination.* For a number of years, the Committee has been requesting the Government to take the necessary measures for the adoption of anti-discrimination legislation addressing all aspects of employment and occupation and covering at least all the grounds enumerated in *Article 1(1)(a)* of the Convention. The Committee notes the adoption in 2018 of two laws covering equal treatment and non-discrimination: (1) Act No. 85 on Equal Treatment irrespective of Racial and Ethnic Origin, which requires equal treatment of persons irrespective of their race and ethnic origin in all fields of society, with the exception of the labour market; and (2) Act No. 86 on Equal Treatment in the Labour Market. The Committee notes that section 1 of Act No. 86 provides for equal treatment of individuals on the labour market, irrespective of their race, ethnic origin, religion, life stance, disability, reduced working capacity, age, sexual orientation, gender identity, sexual characteristics or gender expression. The Act applies, inter alia, to: (a) access to jobs, self-employment or occupational sectors, including with regard to engagement and promotion; (b) access to educational and vocational counselling, vocational education and vocational training; (c) decisions in connection with wages, other terms of service and notice of termination; and (d) participation in workers' and employers' organizations, including the services that they provide for their members. The Committee welcomes the inclusion of a range of prohibited grounds of discrimination in Act No. 86, but observes that it does not cover all the grounds of discrimination listed in *Article 1(1)(a)* of the Convention, namely the grounds of colour, political opinion, national extraction and social origin. ***The Committee requests the Government to take the necessary steps to amend Act No. 86 to ensure the inclusion of all the prohibited grounds of discrimination enumerated in Article 1(1)(a) of the Convention, and particularly colour, political opinion, national extraction, and social origin.***

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.***

## Islamic Republic of Iran

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)

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

*Articles 1 and 2 of the Convention. Protection against discrimination in employment and occupation. Legislation.* The Committee recalls that the Labour Code provides that "skin colour, race, language and the like do not constitute any privilege or distinction" and "all individuals, whether men or women, are entitled to the same protection of the law". With reference to its previous comments and to the conclusions of the Committee on the Application of Standards of the International Labour Conference (June 2013), the Committee recalls that the adoption of a law on non-discrimination in employment and education had been envisaged and a Bill passed by the Parliament some ten years ago. It further recalls that over the years a number of bills, policies, plans and proposals had been referred to by the Government but have never come to fruition. In this context, the Committee notes with **concern** that, either through a national equality policy or through legislation, there is still no comprehensive protection of workers against discrimination based on all the grounds enumerated in *Article 1(1)(a)* of the Convention and covering all aspects of employment and

occupation, including recruitment, in accordance with *Article 1(3)*. In this regard, the Committee recalls that the Convention requires the State to review whether legislation is needed to secure the acceptance and observance of the principles of the Convention. The necessity of legislative measures to give effect to the Convention must thus be assessed within the framework of the national policy as a whole, having regard in particular to the other types of measures which may have been taken, and to the effectiveness of the overall action pursued, including whether there are adequate and effective means of redress and remedies. The enactment of constitutional or legislative provisions or regulations continues to be one of the most widely used means to give effect to the principles of the Convention (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 734–737). ***In light of the above, the Committee asks the Government to take appropriate steps to ensure that effective and comprehensive legal protection for all workers is ensured, whether nationals or foreigners, against direct and indirect discrimination on at least all of the grounds enumerated in Article 1(1)(a) of the Convention, including political opinion, religion, national extraction and social origin, and with respect to all aspects of employment and occupation, including access to vocational training and employment. The Committee asks the Government to provide information on the steps taken to that end and their outcome.***

*Articles 1(1)(a) and 3(c). Discrimination based on sex. Legal restrictions on women's employment.* The Committee recalls that since 1996, it has been asking the Government to repeal or amend section 1117 of the Civil Code, which allows a husband to prevent his wife from engaging in an occupation or technical profession which, in his view, is incompatible with the family's interests or his dignity or the dignity of his wife. Recalling that, pursuant to *Article 3(c)* of the Convention, ratifying States undertake to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the equality policy, the Committee notes once again with ***deep regret*** that there has been no significant development in this regard. It notes, however, the Government's indication, in its report, that "the issue of addressing ambiguity or amendment of article 1117 of the Civil Code is still on the Government's agenda" and "is under consideration by the Judiciary in close collaboration with the Government". The Government also indicates that the Bill for the Amendment of certain provisions of the Family Protection Act of 2012 provides, in its section 7, that "[i]f the wife is employed prior to marriage and the husband is informed or ask employment to be a condition within the marriage contract, or the future employment of the wife is inferred from the wife's status and the husband has not conditioned prohibition of employment, or in cases where the husband after marriage has agreed with the employment of the wife, the husband's lawsuit regarding employment prohibition against the wife is not admissible". ***While taking note of this draft provision that could mitigate some of the effects of section 1117 of the Civil Code on women's access to employment in certain cases if it is adopted and applied in practice, the Committee strongly urges the Government, once again, to take the necessary measures to repeal section 1117 of the Civil Code to ensure that women have the right, in law and in practice, to freely pursue any job or occupation of their own choosing, in accordance with the Convention. To be able to assess the impact of section 1117 of the Civil Code on women's employment in practice, it asks the Government to provide information on the number, nature and result of cases in which a husband has invoked section 1117 of the Civil Code to oppose his wife's engagement in an occupation.***

*Sexual harassment.* The Committee notes the Government's indication that all forms of harassment at work, whether in the form of sexual harassment from a superior or hostile work environment, are prohibited and, according to criminal law, any sexual assault, harm, harassment and violence is recognized as a crime and penalties exist for it. The Government adds that: (1) complaints regarding any kind of sexual harassment, harm and violence are addressed by criminal courts; (2) the non-governmental organizations active in supporting women can lodge complaints for women with the competent judicial authorities and be present during proceedings; and (3) a trained woman officer will be responsible for investigating a woman's case. The Committee notes this information and the Government's indication that it has translated the Violence and Harassment Convention, 2019 (No. 190), and its accompanying Recommendation No. 206, and had them disseminated in both the private and public sectors. The Committee notes the Government's indication that the Protection, Dignity and Security of Women against Violence Bill was: (1) approved on 14 January 2021 by the Government and the President; (2) sent to Parliament for approval; and (3) referred to the Legal and Judiciary Committee of Parliament for examination. It further notes the Government's indication that the legal, policy and executive measures it has taken on sexual harassment at the workplace include: (1) the organization of awareness-raising activities with employed women; (2) the setting up of a task force on women's security at the workplace; (3) the pilot implementation of a women's security plan at the workplace



in the Judiciary; and (4) the proposal to include women's security at the workplace (i.e. no violence and no sexual harassment at the workplace) in the gender equity indicators under article 101 of the 6th Development Plan as well as the draft 7th Development Plan.

In this regard, the Committee considers that, to prevent and address effectively all forms of sexual harassment in employment and occupation and protect workers against such practices, explicit and comprehensive legislation, applicable to both women and men workers and taking into account the specificities of the workplace, including the fear of losing their job and therefore their earnings, is necessary and would enable workers to avail themselves more efficiently of their right to a workplace free from sexual harassment. In this regard, the Committee recalls that addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue, the higher burden of proof, which is harder to meet, especially if there are no witnesses (which is often the case), and the fact that criminal law generally focuses on sexual assault or "immoral acts", and not the full range of behaviour that constitutes sexual harassment in employment and occupation (General Survey of 2012 on the fundamental Conventions, paragraph 792). **While noting the steps taken by the Government on "women's security", the Committee once again asks the Government to take the necessary steps to ensure that clear and comprehensive legal provisions aimed at preventing and addressing all forms of sexual harassment against all workers not only by a person in a position of authority but also by a colleague or a person with whom workers have contact as part of their job (client, supplier, etc.), including provisions against victimization, appropriate complaint mechanisms and procedures, sanctions and remedies, are included in the Labour Code. The Committee also asks the Government to provide information on the progress made with regard to the adoption and implementation of the Protection, Dignity and Security of Women against Violence Bill and to provide information on the manner in which sexual harassment in employment and occupation is addressed, and to specify the relevant provisions. Finally, the Committee asks the Government to continue undertaking specific activities to prevent sexual harassment at work, through the Committee for Prevention of Violence and the Special Taskforce on the security of women at the workplace, including awareness-raising campaigns at both the national and workplace levels in the public and private sectors.**

*Equality of opportunity and treatment for men and women.* The Committee takes due note of the detailed statistics provided by the Government, disaggregated by major occupational group, regarding the employment of men and women in the private and public sectors in 2019. It notes that, according to this data, women represented 16.2 per cent of employees in the private sector and 36.6 per cent in the public sector. The Committee also notes the data concerning the number of women judges. In addition, it takes note of the information on the situation of women in employment provided by the Government to the United Nations (UN) Human Rights Committee in its fourth periodic report under the International Covenant on Civil and Political Rights. The Government indicates that: (1) the rate of women's economic participation has increased from 12.4 per cent in 2013 to 16.4 per cent in 2018; (2) the number of women working in governmental organizations has increased from 34.64 per cent in 2009 to 41.67 per cent in 2018; (3) more than 4,000 women active entrepreneurs; (4) by 2018, 223 centres had been established and are operating throughout the country, of which about 20 per cent are managed by women entrepreneurs; (5) between 2011 and 2019, a total of 523,371 companies and institutions were registered by women (CCPR/C/IRN/4, 23 August 2021, paragraph 20). The Committee recalls that it previously noted the Government's indication that women's economic participation was 17.3 per cent in 2016, which seems to indicate that their level of participation fell in 2018 (16.4 per cent) and clearly shows that women's participation in the labour market remains very low and change is occurring slowly. It further notes from the Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran that "women's access to formal employment is restricted, with 29.7 per cent of women between the ages of 18 and 35 being unemployed in 2019. Despite major advances in education, female labour force participation in the country is 17 per cent. The majority of working women are employed in the informal sector with minimal labour law protection; female university graduates make up 67.5 per cent of all unemployed individuals. Women from minority backgrounds face intersectional discrimination, with the highest unemployment rates found in provinces where the majority of the population are from ethnic and religious minorities" (A/HRC/46/50, 11 January 2021, paragraph 57). The Committee also notes, from the 2021 Report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran that, "between December 2019 and December 2020, the annual rate of individual economic activity fell by 2.9 per cent with close to 1.5 million people leaving the job market, the vast majority of them women" (A/HRC/47/22, 14 May 2021, paragraph 53). In addition, the Committee recalls that, in its previous comment, it noted that the Special Rapporteur on the situation of human rights in the

Islamic Republic of Iran regretted that discrimination on the basis of gender pervades society and that the pace of change concerning the protection of women from discrimination was slow (A/75/213, 21 July 2020, paragraph 46), and that discrimination in the job market continued to prohibit women from working in certain professions (A/HRC/37/68, 5 March 2018, paragraph 63).

The Committee notes the Government's indication in its report that it is identifying and supporting capable women with a view to recruiting them into management positions, thereby implementing the 30 per cent employment quota, and that it has set up a database in order to increase women's share in such positions. The Government adds that it has organized tens of specialized training workshops, including on marketing, production, sales, entrepreneurship, innovation, for 53,000 female graduates in order to facilitate their access to employment. Since 2000, it has been implementing the Plan on rural and tribal women micro-credit funds, with more than 2,200 micro-credit rural funds active, covering about 100,000 members (direct beneficiaries) and 300,000 others (indirect beneficiaries), as well as other plans to develop micro-businesses and sustainable farming. The Government also indicates that technical economic working groups to manage the damage caused by the COVID-19 pandemic on the status of women's production units and home workshops were set up, and support was provided for home businesses and production units during the pandemic. With regard to technical and vocational training, the Committee notes from the data provided by the Government, that female students represented 37.5 per cent of total students in 2019–20. ***In light of the above and the persistent low participation rates of women in the labour market, the Committee asks the Government to take steps to: (i) address actively the obstacles that exist in law and practice to women's access to the labour market, including prejudice and stereotypes regarding women's aspirations and capabilities, their suitability for certain jobs or their interest or availability for full-time jobs; (ii) continue to promote and encourage the participation of women in the labour market in a wider range of occupations at all levels on an equal basis with men; and (iii) continue to provide up-to-date statistics disaggregated by sex and occupation in both the public and private sectors. The Committee asks the Government to provide information on the measures adopted to that end and the results achieved on the equal participation of women in the labour market in all sectors of the economy.***

*Draft Comprehensive Population and Family Excellence Plan and other measures.* In its previous comment, the Committee took note of the new draft of the Comprehensive Population and Family Excellence Plan (Bill No. 264) with the same objective as the former Bill, which is to achieve a fertility rate of 2.5 children per woman by 2025. The Committee recalls that Bill No. 264 maintains some of the hiring priorities: section 10 provides that governmental and non-governmental departments shall give priority in employment to married men with children and to married men without children, and the employment of single persons is permitted only in the absence of qualified married applicants. It further recalls that it expressed its concern on the approach taken to restrict women's access to employment in Bill No. 264, and particularly that of single women and women without children, in contravention of the protection against discrimination set out in the Convention. The Committee notes that the Government also emphasizes that the right of women after their maternity leave to return to their job is protected by labour inspectors and the courts. It takes note of the Government's indication that the draft Comprehensive Population and Family Excellence Plan is still under consideration. ***In light of the above, the Committee once again urges the Government to ensure that the measures taken to promote population policies and maternity protection do not constitute obstacles to the employment of women in practice. More specifically, the Committee asks the Government to ensure that all of the restrictions on women's employment and the prioritization of men's employment in draft Bill No. 264 are removed from the Comprehensive Population and Family Excellence Plan. In the absence of information in the Government's report, the Committee once again urges the Government to ensure that restrictive measures are not taken in practice through the introduction of quotas which serve to limit women's employment in the public sector. It asks the Government to provide information on any developments regarding the adoption of the Comprehensive Population and Family Excellence Plan and its content regarding gender equality.***

*Discrimination based on religion and ethnicity.* With regard to its previous comments on the situation of non-recognized minorities and the practical impact of the Selection Law based on Religious and Ethical Standards, 1995, which requires prospective state officials and employees to demonstrate allegiance to the state religion (*gozinesh*), the Committee notes the Government's repeated statement that the education, employment and occupation of religious minorities are protected in law and in practice. The Government adds that, according to the Constitution, religious minorities enjoy the right to education; they can freely

study at regular schools, as well as in their special schools, and teach their religious studies and enjoy their own local and ethnic language in press, media and schools. It further indicates that religious minorities are entitled to participate in Islamic labour councils, and the role of the Special Adviser to the President for religious and ethnic minority affairs is to help the President make decisions to facilitate the affairs of ethnic groups and religious minorities. While noting this general information, the Committee notes that the Government's report does not contain any reply to its previous requests regarding the practical impact of the Selection Law on the access to employment of members of religious minorities and the situation of non-recognized religious minorities. **The Committee therefore once again urges the Government to take the necessary steps to eliminate discrimination in law and practice against members of religious minorities, especially non-recognized religious groups, in education, employment and occupation, and to adopt measures to foster respect and tolerance of all religious groups in society. The Committee once again asks the Government to consider amending or repealing the Selection Law in order to ensure that people from all religions and ethnic backgrounds have equal access to employment and opportunities in both the public and private sectors, as well as to training and educational institutions. Noting once again the lack of information communicated in this regard, the Committee again asks the Government to provide information on the labour market participation rates of men and women from religious minorities in the public and private sectors.**

*Article 3(a). Social dialogue.* Further to its request regarding activities and efforts for cooperation with employers' and workers' organizations to promote the application of the Convention, the Government indicates that it monitors the application of ILO conventions by organizing tripartite meetings and continues to consult workers' and employers' organizations and "other beneficiary organizations on various grounds and occasions, including during phases of formulating laws and regulations". **While noting this general information, the Committee encourages the Government to formulate and adopt awareness-raising, training and capacity-building measures aimed at employers and workers and their respective organizations to promote equality in employment and occupation and a better understanding of how to identify and address discrimination. It asks the Government to provide information on any steps taken to that end.**

*Enforcement.* The Committee notes the Government's indication that petitions, claims and disputes lodged with the courts and the Administrative Court of Justice are not registered under the heading of "discrimination in employment and occupation", and it is therefore impossible to provide exact data and statistics on litigation regarding this issue. In this regard, the Committee stresses the need to collect and publish information on the nature and outcome of discrimination complaints and cases as a means of raising awareness of the legislation and of the avenues for dispute resolution, and in order to examine the effectiveness of the procedures and mechanisms (General Survey of 2012 on the fundamental Conventions, paragraph 871). **Recalling that data collection and analysis is an important aspect of monitoring the implementation of the Convention in practice and is necessary to determine whether the measures taken have had a positive impact on actual situations and to inform future decisions, the Committee asks the Government to take steps to begin compiling information on the number and nature of claims and disputes relating to discrimination in employment and occupation filed with the competent authorities and to provide such information, when it is available.**

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

## Japan

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

#### Previous comment

The Committee notes the observations of the Japanese Trade Union Confederation (JTUC-RENGO) and the Japan Business Federation (NIPPON KEIDANREN) communicated with the Government's report. It further notes the observations of the National Confederation of Trade Unions (ZENROREN) received on 11 September 2023. **The Committee requests the Government to provide its comments in this respect.**

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes, including legislative developments on disclosure of information on wages.* The Committee welcomes the detailed statistical information provided by the Government concerning men's and women's earnings. It observes that, although the average gap in the earnings of men and women in all occupations has been decreasing since 1989 (39.4 per cent) it is still significant with an average gap of 22.4 per cent in 2021. The Committee notes that, in its observations, the JTUC-RENGO states that: (1) women's wages amounted to 75.2 per cent of men's wages in 2021 (a gender wage gap of 24.8 per cent); and (2) the gender wage gap is very high compared to other developed countries. The Committee notes that, in its observations, the National Confederation of Trade Unions (ZENROREN) refers to statistical information from the National Tax Agency Survey (2021) according to which the average yearly salary of workers is 5.45 million yen for men (US\$36,538,16) and 3.02 million yen for women (US\$20,247,89). With respect to the underlying causes of the gender pay gap, the Committee further notes that: (1) the NIPPON KEIDANREN explains that the gender pay gap is mainly caused by differences in job rank and length of service and suggests improving the ratio of female executive or managers and reducing the gender gap in length of service; and (2) the ZENROREN attributes the gender pay gap to a range of factors, including the imposition of long working hours on men and precarious work on women based on the employment model which considers men as the breadwinner in the family.

Regarding the legal framework and its developments, the Committee welcomes the following measures taken by the Government to address some of the issues leading to the gender pay gap, including reconciliation of work and family responsibilities and occupational gender segregation: (1) the revision of the Child Care and Family Care Leave Act, in 2021, to establish a flexible child care leave framework ("postnatal father child care leave"), and similar revisions of laws and regulations in the public sector according to the Government's report; and (2) the formulation in 2022 of the "Plan for Female Digital Human Resource Development" to promote labour mobility, which includes subsidies for employers who work to convert non-regular workers (who are mainly women) into regular workers, and improve their wages. The Committee recalls that the Act on the Promotion of Women's Active Engagement in Professional Life No. 64 of 2015, (hereinafter "the Women's Advancement Promotion Act") requires private-sector employers with more than 300 regularly employed workers to identify and analyse the status of the active participation of female workers, including the differences between women and men in the ratio of management positions and length of service, which are considered as principal drivers of the wage gap between men and women, and to develop action plans including setting numerical targets based on such analyses. The Committee notes with **interest** the revision of the Women's Advancement Promotion Act, by Act No. 24 of 2019 which: (1) extends the obligation of analysing the active participation of female workers to employers of more than 100 regularly employed workers; and (2) provides that the information disclosed will contribute to enhance work-life balance for female workers. In addition, the Committee notes with **satisfaction** that, in July 2022, the Women's Advancement Promotion Act was amended by Ministerial Ordinance of MHLW No. 104 of 2022, to require private employers with more than 300 regularly employed workers to disclose "differences in wages between men and women" in addition to the 2015 obligation to analyse the active participation of female workers. The Committee observes that the JTUC-RENGO reiterates that this measure is limited (as approximately nine out of ten enterprises in Japan are medium or small-sized) and suggests extending this obligation to all employers regardless of the scale of their business. The Committee notes the Government's indication that the same obligation is imposed on the public sector.

As regard measures to collect data on wage gaps in the public sector, the Government also indicates that: (1) in December 2022, the system based on the Women's Advancement Promotion Act was revised, and the "difference between male and female employees' wages" was newly positioned as an item for essential status monitoring, analysis and information publication at each national and local government agencies; and (2) the information will be made public in 2023.

Finally, the Committee notes that, in its observations, the NIPPON KEIDANREN indicates that: (1) it organized seminars and shared good practices to encourage men to take childcare leave and better balance work–life obligations; (2) it has been supporting companies by providing seminars and human resource development programs with the aim of increasing the share of female executive to more than 30 per cent by 2030; and (3) it is publishing an annual position paper calling on companies to review and improve the treatment of employees with reference to Government guidelines and court precedents to ensure fair treatment regardless of employment status. **Given the persistence of a significant gender pay gap in the country, the Committee asks the Government to continue to take proactive measures, in cooperation with workers' and employers' organizations, with a view to reducing the gender pay gap by addressing its underlying causes, including horizontal and vertical occupational gender segregation, issues relating to the length of service and to the reconciliation of work and family. It asks the Government to continue to provide: (i) information on any follow-up given to the suggestion of the JTUC-RENGO to extend the obligation of disclosing wage differences to workplaces with less than 300 employees; and statistical information, disaggregated by sector of the economy, on the earnings of men and women and the gender wage gap to monitor the progress achieved.**

*Articles 1(b) and 2(2)(a). Work of equal value. Legislation.* With regard to the legal framework, the Committee notes once again the Government's reference in its report to the following provisions: (1) section 4 of the Labour Standards Act, which provides that "an employer shall not engage in discriminatory treatment of a woman as compared to a man with respect to wages by reason of the worker being a woman"; and (2) sections 6, 7 and 8 of the Equal Employment Opportunity Act (Act No. 113 of 1972) (EEOL), as amended, which prohibit *inter alia* discrimination on the basis of sex in terms of loans for housing. The Committee notes the Government's statement that: (1) as long as the payroll system does not allow discrimination in wages between men and women based only on the sex of the worker, it meets the requirements of the Convention; and (2) this interpretation has been retained since the ratification of the Convention. The Committee takes due note of the Government's views. However, it is bound to reiterate that the protection against sex-based wage discrimination in the national legal framework is too limited because it does not capture the concept of work of equal *value*, which is fundamental to address the gender pay gap and tackle horizontal and vertical occupational gender segregation in the labour market. In that regard, the Committee recalls that, 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). Women are also often concentrated at the lower levels of certain enterprises, sectors or occupations. 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* permits a broad scope of comparison between jobs. It includes but goes 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 overall. 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* of the Convention presupposes the use of appropriate techniques for objective job evaluation, comparing factors such as skill, effort, responsibilities and working conditions (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 673–676 and 695, see also "[Promoting Equity: Gender-neutral job evaluation for equal pay – A step-by-step guide](#)", pages 25–41). **The Committee once again urges the Government to take the necessary measures to amend the current legislation with a view to establishing the right to equal remuneration for men and women for work of equal 'value' as enshrined in the Convention as well as appropriate monitoring and enforcement procedures and adequate remedies. It asks the Government to provide information on: (i) any**

**measures taken or envisaged in this regard; and (ii) any judicial or administrative decisions relating to pay inequalities between women and men.**

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

## Kuwait

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1966)

#### Previous comment

*Article 1 of the Convention. Definition and prohibition of discrimination in employment and occupation. Legislation and practice.* With reference to its previous request to the Government to explicitly prohibit direct and indirect discrimination based on race, sex, colour, religion, political opinion, national extraction and social origin, with respect to all aspects of employment and occupation, and covering all workers, the Committee notes once again the Government's reiterated reference in its report to sections 2, 6 and 46 of Labour Law No. 6 of 2010. The Committee takes note of Ministerial Decision No. 177/2021 (complementing the Labour Law No. 6 of 2010) which prohibits discrimination on the ground of sex, age, pregnancy or social status in all aspects of employment (section 1). While observing that additional grounds of discrimination have been added in legislation, the Committee notes that the Labour Law, as amended, does not: (1) mention all seven grounds of discrimination formally listed in the Convention; and (2) provide a comprehensive definition of discrimination, as well as a prohibition of direct and indirect discrimination, with respect to all aspects of employment and occupation. **The Committee once again urges the Government to take the necessary measures without delay to: (i) explicitly prohibit in the Labour Law direct and indirect discrimination based on race, sex, colour, religion, political opinion, national extraction and social origin with respect to all aspects of employment and occupation, including recruitment, and covering all workers; and (ii) ensure that all workers are protected in practice against all forms of discrimination in employment and occupation and provide full information in this respect. In light of the absence of a definition of "social status" in the legislation, the Committee asks the Government to provide information on the interpretation of this ground of discrimination, and if possible, copy of any administrative or judicial decision interpreting the meaning of the ground of "social status".**

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Committee welcomes the adoption of Ministerial Decision No. 177/2021, Prohibiting Discrimination in Employment in the Private Sector and Prohibiting Sexual Harassment in Workplaces (which provides that "sexual harassment in the workplace is prohibited in all its forms and means, including by means of new technological methods"). Regarding the procedure to be followed and penalties applied in cases of sexual harassment, the Committee notes that such Decision refers to sections 198 and 199 of the Penal Code, which state that the penalty for a sexual harassment offence ranges from a fine to imprisonment of up to five years. The Committee notes the Government's indication that no case of sexual harassment has been signalled during the reported period. In this regard, the Committee wishes to point out that the absence or a low number 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 the [General Survey of 2012 on the fundamental Conventions](#), paragraph 790). Furthermore, it recalls that criminal provisions are not completely adequate in sexual harassment cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment. **The Committee asks the Government to ensure that, in addition to the prohibition of sexual harassment, the Labour Law provides for a comprehensive definition that**

**includes both forms of sexual harassment (quid pro quo and hostile work environment) in employment and occupation. It also asks the Government to provide information on: (i) any awareness-raising activities undertaken on sexual harassment in employment and occupation and on the social stigma attached to this issue, directed to workers, employers and their respective organizations, as well as to law enforcement officials; and (ii) the number of complaints of sexual harassment referred to the competent authorities, and their outcome (sanctions imposed and remedies granted). Finally, the Committee encourages the Government to identify and address the causes for underreporting.**

*Migrant workers. Sponsorship system.* The Committee recalls that, pursuant to section 1 of Administrative Decision No. 712/2017 on the transfer of employment for workers in small and medium-sized enterprises (SMEs), a transfer is permitted only within the SMEs sector, after three years of continuous employment and with the approval of the employer. Also, pursuant to section 2 of Administrative Decision No. 842/2015, private sector workers who work on government-contracted projects are permitted to transfer only to another government-contracted project implemented by the same sponsor and only after the end of the contract. Transfer without permission of the employer is permitted only after three years from the issuance of the work permit. If the worker wishes to transfer prior to the end of this period without the consent of the original employer, he or she shall file a complaint with the Public Authority for Manpower (PAM) (Section 6 of Administrative Decision No. 842/2015). The Committee notes that no complaints on discrimination and abuse of migrant workers were recorded during the reporting period. The Committee stresses again that, where a system of employment of migrant workers provides employers with the opportunity to exert disproportionate power over them, this could result in discrimination based on the grounds enumerated in the Convention, including race, colour, national extraction and sex (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 779). The Committee notes that the Government's report is silent on any measures taken or envisaged to review the sponsorship system. **The Committee urges the Government to take proactive steps and address this issue, for example, by reducing the period before a migrant worker has the right to transfer to another employer without the approval of the current employer. Once again, it asks the Government to take proactive steps to ensure that all migrant workers, including women migrant workers, enjoy effective protection against discrimination on the grounds set out in the Convention, namely race, colour, sex, religion, political opinion, social origin, and national extraction. The Committee also asks the Government to provide statistical information on the number of men and women workers who have submitted complaints against their employers or sponsors regarding discrimination and abuse, and the outcome of such cases, indicating whether they have requested and been granted a change of workplace.**

*Discrimination on the basis of national extraction. Stateless persons or residents without nationality (Bidoons).* The Committee notes the statistical information submitted by the Government according to which 7934 stateless persons were appointed to government Ministries between 2011 and 2023 (2087 to the Ministry of Health, 1022 to the Ministry of Education, and 4825 to the Ministry of Defence). The Committee observes that the Government does not indicate how "illegal residents" (referred as such by the Government) are protected against discrimination in employment and occupation, but only informs on how jobs are being provided for stateless people in response to the needs of the labour market. The Committee further notes the concern expressed by the United Nations Committee on Economic, Social and Cultural Rights, in its 2021 concluding observations, about the slow progress made in the implementation of its previous recommendations regarding the recognition of the status of Bidoon so that they can fully enjoy their economic, social and cultural rights, without discrimination (E/C.12/KWT/CO/3, 3 November 2021, paragraph 16). **The Committee asks the Government to indicate whether the stateless persons or residents without nationality (Bidoons), who were appointed in Government Ministries, have since been granted a residence permit or regularized, to ensure that their migration status or lack of documentation do not exacerbate their vulnerability to discrimination in employment and occupation. The Committee also asks the Government to indicate the number of**

**stateless persons or residents without nationality (Bidoons) whose situation has not yet been addressed.**

**Article 2. National equality policy. The Committee once again asks the Government to take the necessary measures to formulate, in collaboration with employers' and workers' organizations, and adopt a comprehensive national equality policy, that is, namely covering: (i) all grounds of discrimination in employment and occupation prohibited by the Convention, (ii) all workers, (iii) all sectors of activity, and (iv) all aspects of employment and occupation. The Committee requests the Government to provide information on any development made in this regard.**

**Article 5. Special protection measures. Work prohibited for women.** Regarding the prohibition of night work for women and work that is hazardous, arduous or harmful to health or violates public morals (sections 22 and 23 of the Labour Law), the Committee notes the Government's repeated indication that measures applicable to women are limited to maternity protection in the strict sense or based on occupational safety and health risk assessments, and do not constitute obstacles to the employment of women. **Noting that the Government's report does not contain any information in this respect, the Committee urges once again the Government to take the necessary measures to ensure that any restrictions on women's access to work based on health and safety considerations be justified and based on scientific evidence and, when in place, be periodically reviewed in light of technological developments and scientific progress, to determine whether they are still necessary for protection purposes and do not constitute obstacles to the employment of women.**

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

## Lao People's Democratic Republic

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2008)

#### Previous comment

**Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation.** The Committee notes the Government's indication, in its report, that it considers the Law on the Development and Protection of Women of 2004 (LDPW) to be compliant with the principle of the Convention. However, the Committee recalls that section 15 of the LDPW provides for equal remuneration "for men and women who perform the same work's value at the same labour unit". The Committee also notes that new section 104 of the Labour Law 2014 only provides for equal salaries or wages between men and women. The Committee therefore once again draws the attention of the Government to the fact that only providing for equal salaries or wages between men and women generally may not be sufficient to give effect to the Convention as it does not capture the concept of "work of equal value". The Committee recalls that the concept of "work of equal value" set out in the Convention permits a broad scope of comparison, including that it goes beyond equal remuneration for "equal", "the same" or "similar" work, but also encompasses work that is of an entirely different nature, which is nevertheless of equal "value". Moreover, application of the Convention is not limited to comparisons between men and women in the "same labour unit", and 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 on the fundamental Conventions](#), paragraphs 673 and 697). **The Committee therefore asks the Government to take the necessary measures to amend the wording of section 104 of the Labour Law 2014 and section 15 of the LDPW so as to give full legislative expression to the principle of equal remuneration for work of equal value. It requests the Government to provide information on: (i) the progress achieved in this regard; and (ii) the application in practice of these provisions, by providing examples of cases relating to unequal pay which have been brought to the courts.**

**Article 3. Objective job evaluation.** The Committee notes that, once again, the Government does not provide any new information. In this regard, it wishes to recall 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. *Article 3* of the Convention presupposes the use of appropriate techniques for objective job evaluation, comparing factors such as skill, effort, responsibilities and working conditions (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 695). **The Committee asks the Government to take the necessary measures, in cooperation with employers' and workers' organizations: (i) to promote objective job evaluation methods free from gender bias, in the public and private sectors, such as, for example, identifying and eliminating stereotypes and prejudices with regard to the value of women's work, in particular in occupations dominated by a female workforce (healthcare, cleaning, teaching, clerical support, food preparation, etc.); and (ii) to systematically ensure that gender-neutral terminology is used in defining the various jobs and classifications in collective agreements. The Committee also asks the Government to provide information on progress made in this regard. It recalls that the Government may avail itself, if it so wishes, of ILO technical assistance for this purpose.**

*Article 4. Cooperation with the social partners.* The Committee notes the Government's indication that collective bargaining does not address the classification of jobs of men and women. In that regard, the Committee wishes to recall that, where a Member State is in a position to intervene in the wage-fixing process, or where there is specific legislation on the issue, or relating to equality and non-discrimination with respect to remuneration, it has a special obligation to ensure the wage-fixing machinery is free from gender bias. Where a Member State is not in a position to ensure its application, it must nevertheless promote the application of the principle of the Convention ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 670 and 680). **The Committee therefore once again asks the Government to take steps, in cooperation with employers' and workers' organizations, to ensure that collective agreements vigorously and proactively promote the application of the principle of equal remuneration for men and women for work of equal value, and to provide information on the progress achieved 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: 2008)

### [Previous comment](#)

*Articles 1, 2 and 3 of the Convention. Protection of workers against discrimination. Legislation. Scope of application.* The Committee notes the Government's indication, in its report, that it adopted Ministerial Decision on Domestic Workers No. 4369/MOLSW on 2 November 2022. It notes however that the Government does not provide information on its contents. **Recalling that section 6 of the Labour Law 2014 excludes domestic workers from its application, the Committee asks the Government to identify the specific provisions, in the Ministerial Decision on Domestic Workers No. 4369/MOLSW and in any other applicable regulations, that protect domestic workers from discrimination in employment and occupation on the grounds set out in the Convention. In addition, noting that the Government does not provide information on the protection of civil servants from discrimination, and recalling that the Labour Law 2014 excludes civil servants from its application, the Committee once again requests the Government to provide a copy of the Law on Government Officials No. 74/NA of 2015 and to identify the specific provisions that protect civil servants from discrimination in employment and occupation on the grounds set out in the Convention.**

*Article 1(1)(a). Prohibition of discrimination.* The Committee notes the Government's statement that a new section 96 on gender equality in the workplace was introduced in the Labour Law 2014, but that the Government does not provide information on its content. The Committee takes due note of the Government's indication that, through the Labour Development Plan 2026-2030, the Ministry of Labour and Social Welfare plans to amend the Labour Law 2014. The Committee notes with **concern** that, once

again, the Government has not taken any steps to put its legislation in conformity with the requirements of the Convention. **The Committee urges the Government to: (i) clearly define direct and indirect discrimination prohibited by sections 3(28) and 141(9) of the Labour Law; (ii) expressly prohibit discrimination on at least all the grounds set out in Article 1(1)(a) of the Convention; and (iii) provide information on the progress achieved to this end. Also, the Committee asks again the Government to: (i) clarify whether the prohibition of discrimination contained in the Labour Law concerns both employment and occupation and applies equally to employers and employees; and (ii) provide information on the content of the new section 96 of the Labour Law.**

*Discrimination based on sex. Sexual harassment.* The Committee notes with **concern** that the Government does not reply to its previous requests and merely indicates that it intends to amend the Labour Law 2014. **The Committee therefore urges the Government to: (i) take the necessary measures to define, prevent and prohibit sexual harassment in employment and occupation including, both, quid pro quo (blackmail) and hostile environment sexual harassment; (ii) provide for adequate sanctions and remedies; and (iii) provide information on the progress achieved in this regard. In addition, recalling that a legislation under which the sole redress available to victims of sexual harassment is the possibility to resign does not afford sufficient protection for victims of sexual harassment, the Committee once again asks the Government to provide information on the application in practice of: (i) section 83(4) of the Labour Law, which allows a worker to bring an end to the employment contract in the event of sexual harassment; and (ii) section 141(4) which prohibits employers from violating the personal rights of employees, including with respect to cases of sexual harassment.**

*Article 1(1)(b). Additional grounds of discrimination.* The Committee takes note of the Government's indication that it introduced a new section 69 to the Labour Law 2014, which provides for equality between foreign workers and Lao workers "when undertaking the same work at the same standard of labour and under the same working conditions, including salary or wages". However, the Committee notes with **regret** that once again the Government does not reply to its previous requests and refers to paragraph 808 of its [General Survey of 2012 on the fundamental Conventions](#). **The Committee requests the Government to take the necessary measures, in consultation with employers' and workers' organizations, with a view to maintaining the same level of protection against discrimination on the basis of nationality, age or socio-economic status as previously contained in the Labour Law 2007 with respect to all aspects of employment and occupation.**

*Article 4. Activities prejudicial to the security of the State.* The Committee notes with **concern** the Government's reiterated statement that there is no information available on this point. **Recalling that it has been raising this issue since 2011, the Committee urges the Government to take the necessary measures to collect information on the application in practice of section 117 of the Penal Law 2017, which establishes a broad prohibition of activities considered to be prejudicial to the security of the State, including "propaganda activities". It requests the Government to indicate the steps taken to ensure that these provisions do not, in practice, result in discrimination in employment and occupation on the basis of political opinion, including information on any complaints made by employees or extracts of any court decisions in this regard.**

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

## Latvia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1992)

#### [Previous comment](#)

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap.* The Committee notes that the study to be undertaken by the Ministry of Welfare on the extent and causes of wage differentials between men and women was not conducted in 2020 due to the lack of funding, and that a study on

the pay gap between women and men is planned for 2024. It notes from the Government's report (Annex 2) that in 2022 the gender pay differential in gross monthly earnings was 16.4 per cent in favour of men, up from 13.3 in 2021, and that in some sectors the disparity was extremely high including 53 per cent (sports activities and amusement and recreation activities), 37.8 per cent (telecommunications), 37.6 per cent (insurance, reinsurance and pension funding), 33 per cent (financial and insurance activities), and 26.8 per cent (scientific research and development). It further notes that Eurostat 2021 data show that, while across most European countries the unadjusted gender pay gap is lowest for the younger population and increases with age, in Latvia, the trend is reversed, higher in those aged 25–44, and decreasing for older Latvians; and that Latvia has the highest unadjusted gender pay gap in Europe for those aged 25–34 (19.1 per cent) and 34–44 (22.3 per cent) (Gender Pay Gap Statistics). In addition, the Committee notes the concern of the United Nations Committee on Economic, Social and Cultural Rights about the persistent gender pay gap and that the majority of women continue to work in sectors with a low average wage, including the hospitality sector and domestic work; and that despite efforts undertaken by the State party, women are still underrepresented in senior and decision-making positions in both the private and public sectors, including in the civil service (E/C.12/LVA/CO/2, 30 March 2021, paragraph 20). It also takes note of the adoption in May 2023 of the European Union Directive 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal "value" between men and women through pay transparency and enforcement mechanisms. This directive, which is applicable to public and private sectors, aims to combat pay discrimination and help close the gender pay gap in the EU. Under the new rules, EU companies will be required to share information on salaries and act if their gender pay gap exceeds 5 per cent. The directive also includes provisions on compensation for victims of pay discrimination and penalties, including fines, for employers who break the rules. The Government indicates that an evaluation to transpose the EU Directive is underway and that there is a pilot project in development: (1) to identify pay transparency issues, (2) what type of pay models exist in companies and organizations, and (3) to identify possible solutions to implement the principle of wage transparency. The Committee further notes the adoption of the Plan for Promotion of Equal Rights and Opportunities for Women and Men 2021–2023, and that the Ministry of Welfare, together with the Institute of Corporate Sustainability and Responsibility, organized seminars in 2021 and 2022 on the most effective ways of bridging the pay gap. It also notes that the focus of career week in 2021 was "Information and Communication Technology (ICT) for Your Career" with a special focus on gender equality, promotion of women's career opportunities in the field of ICT and addressing stereotypes about ICT as a males' profession. The Committee notes the efforts of the Government to bridge the digital gender divide, through the development of digital skills and that women were more active than men in applying for the programmes. ***The Committee asks the Government to provide information on the findings of the planned 2024 study on the pay gap between women and men, the pilot project to identify pay transparency issues and the evaluation of the legal aspects of the Directive 2023/970 for transposition, as well as on any recommendations made based on these findings. It also asks the Government to continue to provide information on the measures and activities undertaken: (i) to address the gender pay gap, including horizontal and vertical occupational segregation; and (ii) to promote better access to the labour market and jobs with career prospects and higher pay for disadvantaged groups of women, such as Roma women or women belonging to other ethnic minority groups, rural women, women with disabilities. Finally, the Committee asks the Government to continue to provide statistical data on the earnings of men and women, disaggregated by economic activity and occupation, 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: 1992)

### Previous comment

*Article 1(2) of the Convention. Discrimination on the basis of national extraction. Inherent requirements of the job.* The Committee recalls that, for many years, it has been expressing concern at the discriminatory impact that the language requirements set out in the Law on State Language of 1999 may have on the employment or occupational opportunities of minority groups, in particular the large Russian-speaking minority. Section 6(2) of the Law provides that employees of private institutions, organizations and enterprises, and self-employed persons, shall use the official language if their activities affect the “lawful interests of the public”. The Committee observed that this requirement affects a large number of posts and occupations (public security, health, morality, health care, protection of consumer rights and employment rights, safety in the workplace and supervision of public administration). Consequently, the Committee requested the Government to consider drawing up a list of occupations for which the use of the official language is required under section 6(2) of the Law on State Language, so as to limit it to cases where language is an inherent requirement of the job. It notes with **regret** the absence of information in the report of the Government on measures taken to limit the list of occupations for which the use of the official language is required under the Law. The Committee notes that, in the 2020 survey published by the Ombudsman entitled, ‘On the prevalence of discrimination in employment: comparative report 2011 and 2020’, it was found that Russian speakers participating in the study stressed ethnic origin and language proficiency more frequently than other respondents as the most widespread ground of discrimination in employment. It also takes note of: (1) the Constitutional court cases from 2019 and 2020 which found the Law on State Language to be constitutional; (2) the detailed information provided by the Government on the various Latvian language learning programmes and courses provided to children and adults by some municipalities, the State Employment Agency and the Latvian Language Agency (LLA); and (3) the Government plans to provide schools, affected by the reform, with a wide range of support measures aimed at improving Latvian language skills, including through extra training for 4,040 pedagogical staff from 2022 to 2026; professional development courses and master classes for teachers on successful inclusion; tailor-made supporting materials for minority students; and digitization of materials for teaching Latvian as second language. The Committee further notes that the LLA will continue to provide freely available materials of methodology for teaching Latvian as a second or foreign language and implements various support measures for educational institutions, and that a learning and teaching Latvian resource page is now available online. Finally, it notes that Language acquisition courses for different audiences and methodology courses for teachers are organized every year. The Committee again wishes to underline that discrimination based on national extraction can occur when legislation, imposing a state language for employment in public and private sector activities, is interpreted and implemented too broadly and disproportionately and adversely affects the employment and occupational opportunities of minority language groups. It wishes to recall once again that, to come within the scope of the exception provided for in *Article 1(2)* of the Convention, any limitation regarding access to employment must be required by the characteristics of the particular job, and in proportion to its inherent requirements ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 764 and 827–831). **The Committee urges once again the Government to take the necessary steps to avoid any undue limitation on employment and occupational opportunities for any group by limiting the number of occupations in which proficiency in Latvian is considered to be an inherent requirement of the job. It further asks the Government to continue providing information on activities carried out to ensure that its national legislation regarding the language of instruction does not create in practice direct or indirect discrimination in access to education and employment for minority groups, in particular the large Russian-speaking minority.**

*Articles 1(2) and 4. Discrimination on the basis of political opinion. Inherent requirements of the job. Activities prejudicial to the security of the State.* For many years, the Committee has been referring to the mandatory requirements set out in the Law on the State Civil Service of 2000, which provides that, in order to qualify as a candidate for any civil service position, the person concerned may not be or have been “in a permanent staff position, in the state security service, intelligence or counterintelligence service of the Union of Socialist Soviet Republics (USSR), the Latvian Soviet Socialist Republic (SSR) or some foreign State” (section 7(8)), or “a member of organizations banned by laws or court rulings” (section 7(9)). The Committee has been drawing the Government’s attention to the fact that the Law applies to any state civil service position and to employment by specified services irrespective of the level of responsibility, and has requested the Government to amend section 7(8) and (9) of the Law or to take steps to clearly stipulate and define the functions to which these provisions apply. The Committee recalls the Government’s repeated statement that the purpose of such restrictions is to prevent persons from entering the public service who are not loyal to the State and who could constitute a threat to national security. It recalls the 2019 Ministry of Justice report on the necessity and appropriateness of the restrictions imposed by the Law on the State Civil Service on former employees of the Latvian SSR National Security Committee, which acknowledged that, while such restrictions should be maintained in order to “ensure a loyal, professional and politically neutral State civil service”, it would be more appropriate for a democratic country to assess the individual circumstances in each case and adopt a decision based on such assessment of the degree of past cooperation, the nature of the work, etc. The Committee notes the Government’s indication that the Ministry of Justice will be making another assessment report next year and that there are no plans now to amend this section given the current national security matters. The Committee notes the Government’s continued indication that data regarding the application of section 7(8) and (9) of the State Civil Service Law is not available and that no information is available about relevant cases when an application has been rejected pursuant to this section. The Committee takes note of the Government’s understandable concerns over state security and would like to again draw its attention to the fact that the Law applies to any state civil service position irrespective of the level of responsibility. It again recalls that, to come under the scope of the exception provided for in *Article 1(2)* of the Convention, any limitation regarding access to employment should be interpreted strictly in order to avoid any undue limitations on the protection which the Convention seeks to guarantee. It adds that criteria such as political opinion may be considered as an inherent requirement, under *Article 1(2)* of the Convention, only for certain posts involving special responsibilities directly concerned with developing government policy. Moreover, for measures not to be discriminatory under *Article 4* of the Convention, they must: (1) affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken, and that such measures become discriminatory when taken simply by reason of membership of a particular group or community; (2) refer to activities qualifiable as prejudicial to the security of the State; and (3) be sufficiently well defined and precise to ensure that they do not become instruments of discrimination on the basis of political opinion. In addition to these substantive conditions, 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 ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 832–835). ***The Committee once again reiterates its request to the Government to take the necessary steps to amend section 7(8) and (9) of the Law on the State Civil Service to limit their scope of application to specific functions and positions in the State civil service, in conformity with the provisions of the Convention. It further requests the Government; (i) to provide information on any progress made in that regard and the findings of the next Ministry of Justice report on the necessity and appropriateness of the restrictions imposed by the Law on the State Civil Service on former employees of the Latvian SSR National Security Committee; and, in the meantime, (ii) to consider taking steps to collect data on the application of section 7(8) and (9) in practice, including on***

***the number of persons whose applications have been rejected pursuant to this section, the reasons for these decisions and the functions concerned, as well as any appeals lodged against such decisions.***

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

## Lesotho

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1998)

#### Previous comment

*Articles 1(1)(a) and 3(c) of the Convention. Discrimination based on sex. Legislative developments.* The Committee recalls that Lesotho operates a dual legal system where two systems of law are operating side by side, namely customary law and common law, with some elements in the customary law being discriminatory against women and girls, which continues to present a challenge for women's access to land, credit and employment. In relation to the progress made in harmonizing both systems, the Committee notes with **satisfaction** the Government's indication, in its report, that the Harmonisation of the Rights of Customary Widows with the Legal Capacity of Married Persons Act was enacted in 2022, to enhance the economic status of customary widows by enabling them to have ownership and control of the property of the joint estate upon the husband's death. The Committee further notes, from the Government's report, that: (1) the Labour Bill, that includes provisions on maternity and paternity leave, and grants the labour inspectorate powers to supervise and impose penalties in case of non-compliance with these provisions, is at an advanced stage and awaits presentation by the National Advisory Committee on Labour Administration (NACOLA) to the Minister of Public Service, Labour and Employment; and (2) the Social Security Bill, that will cover all workers with social protection for all life events in relation to employment such as maternity and paternity related benefits, sickness benefits, injury benefits and worker's death and will provide for penalties in case of non-compliance, also awaits presentation to the latter Minister. The Committee observes that, in its 2023 concluding observations, the Human Rights Committee indicate that it remains concerned by Article 18(4)(c) of the Constitution, which allows for the application of discriminatory provisions of customary law against women and girls, in particular regarding the inheritance of property, marriage, nationality and access to land and chieftaincy (CCPR/C/LSO/CO/2, 6 September 2023, paragraph 17). In this regard, it notes that the so-called "Constitutional Omnibus Bill" is still pending for adoption before Parliament and welcomes the information, from the 2022 annual report on Lesotho of the United Nations Development Programme (UNDP), according to which, of the 98 amendments contained in the Bill, 46 per cent directly address women and gender issues such as the age of majority, public appointments, electoral processes, inheritance, justice reforms, and security sector practices that are discriminatory to women. ***The Committee encourages the Government to pursue its efforts in harmonizing customary law and common law with a view to removing any elements which are discriminatory, in particularly towards women and girls. It asks the Government to provide information on: (i) any progress made to that end, in particular in the adoption of the Labour Bill, the Social Security Bill and the "Constitutional Omnibus Bill", with a view to ensure women's equal access to employment, land and credit; (ii) the impact of these legislative changes on women's economic empowerment and access to the labour market; and (iii) any concrete measures taken to raise public awareness of any new legislative provisions and enable women to exercise their rights effectively.***

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

## Liberia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

#### Previous comment

*Article 1 of the Convention. Scope of application. Legislation.* The Committee notes that, in 2022 the Maritime Law was amended, but it notes with **regret** that the Government did not make use of this opportunity to amend section 356 of the Maritime Law, which provides a narrower protection of seafarers against discrimination than required by the Convention. The Committee notes the Government's general indication, in its report, that maritime notices are promulgated by the Liberia Maritime Authority to actualize the rights of seafarers and ensure consistency with national laws and international obligations, and that seafarers who feel that their rights have been violated have recourse to an accessible online complaints process. **Recalling that the Convention applies to all workers, the Committee once again requests the Government to take the necessary measures to align the legislation on the protection of seafarers against discrimination in employment and occupation with the requirements of the Convention.**

The Committee is raising 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.

The Committee notes the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received on 1 September 2022.

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation.* For several years, the Committee has been emphasizing that the provisions of section 53 of the Labour Code are more restrictive than those of the Convention, as they limit the application of the principle of equal remuneration for work of equal value to persons engaged in the same job and with the same vocational qualifications. The Committee notes that a draft text to revise the Labour Code has been prepared by the Government and was forwarded to the Office in February 2022 for technical comments. The Office suggested that section 53(1) of the Labour Code should be reworded as follows: "[For equal work or work performed under equal conditions, and for work of a different nature but nevertheless of equal value], wages shall be equal for all workers irrespective of their origin, colour, national extraction, sex, age, trade union membership, opinion or status under the conditions set out in the present Chapter". The Committee also notes the Government's indication in its report that the amendment of section 53 of the Labour Code was discussed with the social partners during a tripartite consultation held in March 2021. The Government adds that a preliminary draft of the Bill to issue the new Labour Code was submitted in September and October 2021 to the National Labour Council (CNT) with a view to hearing the views of the social partners, and then in December 2021 and January 2022 to the Commission on the Reform of Business Law (CRDA). Moreover, with reference to the observations by the Autonomous Trade Union of Labour Inspectors (SAIT) received in 2021, the Committee recalls that, while the Convention applies to all workers, it exclusively covers wage inequalities or remuneration gaps between men and women for work of equal value. **The Committee expresses the firm hope that the Labour Code will be amended in the near future and that the new wording of section 53 will give full expression to the principle of equal remuneration, not only for equal work or work performed under equal conditions, but also for work of an entirely different nature that is of equal value overall. It requests the Government to provide information on this subject and on any other measures adopted or envisaged to promote and ensure in practice equal remuneration for men and women for work of equal value.**

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

***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 the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received on 1 September 2022.

*Article 1 of the Convention. Protection against discrimination. Grounds of discrimination. Legislation.* For several years, the Committee has been emphasizing that neither the Labour Code nor the Civil Service Regulations prohibit discrimination on all of the grounds enumerated in the Convention. Discrimination on the basis of colour and social origin is not prohibited by the Labour Code (see section 261) and discrimination on the basis of race, colour and social origin is not prohibited by the Civil Service Regulations (see section 5). The Committee notes the Government's indication in its report that a preliminary draft Bill to issue a new Labour Code has been submitted to the National Labour Council (CNT) and contains provisions that are in conformity with the Convention, as well as definitions of the concepts of direct and indirect discrimination and sexual harassment at the workplace. It notes, however, that the Government did not provide a copy of this draft text with its report nor has it provided the envisaged new wording of section 261 of the Labour Code. In this regard, the Committee observes that, in the Memorandum of technical comments on the draft revision of the Labour Code that it provided to the Government in March 2021, the International Labour Office (ILO) indicated that, in the version that had been submitted to it for comment in February 2021, the proposed revision of the Labour Code did not affect section 261 of the current Labour Code. It also notes the Government's indication that new General Regulations for Public Employees (SGAP) are being prepared, with a view to harmonizing the provisions of the Civil Service Regulations and the General Regulations for Contractual Public Employees. The Government specifies that, in accordance with section 14 of the draft SGAP, "there is no discrimination on the basis of gender, religion, opinion, origin, ancestry, political conviction, disability, membership or not of a trade union". However, the Committee notes with **concern** that this provision still does not prohibit discrimination on the basis of race, colour and social origin and does not define indirect discrimination. The Committee also notes the general information provided by the Government on the penalties envisaged for violations of section 261 of the Labour Code and the indication that information is still being collected on administrative decisions relating to the prohibition of discrimination. In this regard, the Committee recalls that the monitoring and enforcement of anti-discrimination laws by the courts is an important aspect of the effective implementation of the Convention. It is therefore necessary to collect and publish detailed information on the number, nature and outcome of complaints to the courts and administrative bodies in order to assess the effectiveness of procedures and mechanisms ([General Survey of 2012 on the fundamental Conventions](#), paragraphs 868 and 871). ***The Committee therefore requests the Government to: (i) provide precise updated information on the current revision of the Labour Code, and particularly section 261, to ensure that it explicitly prohibits discrimination on all of the grounds enumerated in the Convention, including colour and social origin, and that it explicitly covers indirect discrimination; (ii) take the necessary measures to amend section 14 of the draft General Regulations for Public Employees to ensure that it explicitly prohibits discrimination on all of the grounds enumerated in the Convention, including race, colour and social origin, and that it includes a definition of discrimination that explicitly encompasses indirect discrimination; and (iii) provide detailed information on the interpretation and effect given by the courts in practice to section 261 of the Labour Code and section 5 of the Civil Service Regulations (or section 14 of the General Regulations for Public Employees, if they have been adopted), with a copy of any court or administrative decisions handed down under these provisions.***

*Discriminatory job vacancy announcements.* In its previous comments, the Committee noted the Government's indication that it was envisaging the adoption of provisions to regulate, in conformity with the requirements of the Convention, vacancies advertised on the radio or through notices in public places, which impose affiliation to a certain religion as a condition for recruitment or specify that the job is solely for men or women. It notes that, although the Government recognizes that this is a common discriminatory practice in all sectors, it still does not refer to any specific measures that have been adopted or are envisaged to regulate this practice and does not indicate the role played by the labour inspection services in this regard.



***The Committee therefore expresses the firm hope that the Government, in collaboration with employers' and workers' organizations, will take all the necessary measures to ensure the application in practice of the national legislation and prohibit any form of direct or indirect discrimination on all of the grounds enumerated in the Convention, including religion and sex, in job vacancy announcements, including in advertisements on the radio or notices in public places. It once again requests the Government to provide information on any progress achieved in this regard.***

*Domestic workers.* The Committee previously invited the Government to take the necessary measures to ensure that the provisions of the Labour Code apply in practice to men and women domestic workers (some of whom work without a written employment contract) and to provide detailed information on the number and outcome of the controls carried out by the labour inspection services on this subject. In this connection, it notes that, in its Memorandum of technical comments of March 2021 referred to above, the Office recommended specifying in section 1 of the Labour Code that it applies to men and women domestic workers, particularly in relation to its provisions respecting non-discrimination and working conditions. The Committee welcomes the indication by the Government that, on 11 June 2019, Madagascar ratified the Domestic Workers Convention, 2011 (No. 189). It also notes the Government's reiterated indication that domestic workers enjoy the same rights as other workers, as the labour legislation is applicable to them. The Committee notes with **regret** that, according to the Government, no statistical data is available on the number and outcome of the controls carried out by labour inspectors concerning the working conditions of domestic workers. The Government specifies that the legislation in force does not yet permit effective intervention by labour inspectors in this regard, due in particular to the principle of the inviolability of the home, which makes it impossible for labour inspectors to enter the homes of private individuals who employ domestic workers. ***The Committee expresses the firm hope that the Government will take all the necessary measures to ensure that men and women domestic workers benefit, not only in law, but also in practice, from the protection afforded by the provisions of the Labour Code, particularly in relation to non-discrimination and working conditions. It therefore requests the Government to: (i) provide specific information on any measures adopted or envisaged for this purpose; and (ii) provide information on any measures adopted or envisaged to facilitate the access of labour inspectors to the homes of private individuals employing men and women domestic workers.***

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

***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)

#### [Previous comment](#)

The Committee notes the observations of the Malawi Congress of Trade Unions (MCTU), received on 1 September 2023.

*Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment.* The Committee recalls that, in June 2022, the Committee on the Application of Standards (CAS) of the International Labour Conference noted with deep concern the trade unions' allegations of systematic sexual violence and harassment of women, including the rape, assault and discrimination suffered by women workers on tea and macadamia nut plantations. In its conclusions, the CAS urged the Government to take all necessary measures, in consultation with the social partners, to: (1) ensure existing legislation on sexual harassment is in line with the Convention; (2) organize dedicated tripartite discussions on the issue of sexual harassment and violence in the workplace with a view to taking further practical and concrete measures to ensure the effective protection of workers in this regard in law and practice; (3) ensure effective access to and effective functioning of national judicial and non-judicial mechanisms that consider allegations of breach of workers' rights on grounds of discrimination, including sexual harassment and violence, and provide adequate legal remedies to victims; and (4) continue supporting

existing initiatives undertaken by the Malawi Human Rights Commission (MHRC) and the Department of Human Resources Management and Development, including awareness-raising campaigns and the dissemination of the Sexual Harassment Workplace Policy and related guidelines to ensure that employers develop and implement effective workplace harassment policies. The Committee also notes the Government's indication in its report that, as recommended by the Committee in its previous observation, it would endeavour to undertake a study with special focus on tea plantations and macadamia nut orchards to inform the design of sector specific interventions, and that it would appreciate ILO's technical and financial support in this regard. The Government adds that the MHRC carried out comprehensive research aimed at providing data on the extent and scope of sexual harassment at the workplace. The Committee also notes that the National Level Gender Audit Report carried out for the Employers' Consultative Association of Malawi (ECAM) in May 2023 emphasized that, "in order to be able to measure the impact of gender inequalities, discrimination, harassment and abuse in the workplace, it is critical that companies are able to capture and update sex-disaggregated data" (page 42). The Committee also recalls that the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW), in its recent concluding observations, indicated its concerns about the insufficient generation and availability of sex-disaggregated data across various sectors, including education, health, employment, and violence against women, emphasizing that such data is fundamental to inform evidence-based policymaking, program planning, and monitoring of progress towards gender equality goals. The CEDAW also expressed concern regarding the prevalence of: (1) various forms of gender-based violence, including, domestic and sexual violence; (2) sexual harassment in the workplace and in business places and its underreporting due to insufficient information on reporting mechanisms; and (3) trafficking in women and girls, with victims being lured with fraudulent job offers and forced into domestic service or prostitution in private premises out of reach for labour inspectors (CEDAW/C/MWI/CO/8, 30 October 2023, paragraphs 21, 23(a), 33(d) and 51). The Committee further notes that the Office undertook a mission to Malawi from 8 to 12 May 2023 to conduct consultations with constituents to develop an action plan for intervention in the tea sector in Malawi within the framework of the multi-countries project funded by Norway on "Promoting workers' rights and gender equality". The mission met with the Ministry of Labour (including some of its regional offices staff), the Employers Consultative Association of Malawi (ECAM), the Malawi Congress of Trade Unions (MCTU), the Tea Association of Malawi Limited (TAML), the Plantation and Agriculture Workers Union (PAWU) and several high-level political figures. **The Committee asks the Government to take measures to: (i) fight the various forms of gender-based violence (including rape) and gender-based harassment (including sexual harassment) at the workplace, especially in tea and macadamia nuts plantations; and (ii) strengthen its data collection system with a view to make evidence-based decisions. Please provide information on the results achieved, including the outcome of the research carried out by the MHRC.**

*Evaluation of the existing legal framework on sexual harassment and its alignment with the Convention.*

The Committee notes the Government's indication that: (1) the Gender Equality Act of 2013 is under review and the suggestions to explicitly include "hostile work environment harassment" in the definition of sexual harassment (section 6(1)) and to review the test of "reasonableness" are being considered; and (2) under the ILO/Norwegian development cooperation project, a National Road Map has been developed to promote workers' rights and gender equality. The Committee also notes, from the Government's report, that the National Gender Policy of 2015, the National Action Plan to Combat Gender-based Violence, the Gender Equality Act Implementation and Monitoring Plan, and the National Action Plan on Women Economic Empowerment are all under review. It further notes: (1) the adoption of the National Male Engagement Strategy on Gender Equality, Gender-based Violence, HIV and Sexual and Reproductive Health Rights (2023-2030); (2) the establishment of victims support units within the police; and (3) the pending approval of the Public Service Workplace Anti-Sexual Harassment Policy and Guidelines. The Government adds that a Rapid Assessment of Legal and Policy Framework for Gender

Equality as well as a Gap Analysis of the Legal and Policy Framework on Gender Equality and Sexual Harassment in the Tea Sector in Malawi were validated and the results shared with the social partners. These will inform the design of appropriate strategies and the upcoming labour law review. **The Committee asks the Government to ensure the prompt alignment of the national legal and policy framework with the Convention, in cooperation with the social partners, including by amending section 6(1) of the Gender Equality Act of 2013 to explicitly include hostile work environment harassment in the definition of sexual harassment and by reviewing the test of “reasonableness”. Please provide information on all developments in this respect as well as on progress made in: (i) the implementation of the National Road Map to promote workers’ rights and gender equality; (ii) the current revision of the above-mentioned policies and action plans; and (iii) the follow-up of the rapid assessment and gap analysis of the legal and policy framework on gender equality and sexual harassment.**

*Tripartite discussion on the issue of sexual harassment and violence in the workplace.* The Committee notes the Government’s indication that the Tripartite Labour Advisory Council (TLAC) met in May 2023 and discussed issues of sexual harassment. The TLAC recommended that Malawi ratifies the Violence and Harassment Convention, 2019 (No. 190), and strengthens the capacity of the Ministry of Labour and the social partners in this regard. The Government adds that the social partners started harmonizing their policies as well as developing awareness-raising messages on workplace violence and harassment. **The Committee asks the Government to continue to encourage the social partners to take up the issue of sexual harassment and violence in the workplace and to keep it informed of any development in this regard.**

*Capacity-building and awareness-raising on sexual harassment.* The Committee notes the Government’s indication that labour inspectors continue to be trained to prevent, identify, and address cases of discrimination in employment and occupation, including sexual harassment. The Government also says that it has intensified its efforts to conduct labour inspection to identify issues of discrimination through the Zantchito Programme funded by the European Union (with an emphasis on small and medium enterprises). The labour inspection form will also be reviewed to cover violence and harassment issues. In this regard, the Committee emphasizes the importance of having a gender-diversified labour inspection force in order to facilitate the identification of sexual harassment cases, as women workers might find it more difficult to report a case of sexual harassment at the workplace to a male labour inspector. The Committee also refers to the comments it addresses to the Government on the application of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129). The Government adds that there is a good uptake of the model Sexual Harassment Workplace Policy developed by the MHRC in 2021: many institutions have approached the MHRC to be trained, including sections of the Malawi Police Service (victim support units and human resources), private companies and public institutions, several district council’s gender and youth tripartite working groups, and secondary schools heads and teachers. Similarly, the MHRC carried out a review of sexual harassment workplace policies for several institutions and continues to distribute its model policy. **The Committee encourages the Government to intensify its capacity-building and awareness-raising activities on sexual harassment and to provide information on: (i) the activities carried out, (including information on the public targeted and the number of participants); (ii) the dissemination and use of the MHRC’s model Sexual Harassment Workplace Policy; and (iii) the ratio of men and women in the labour inspection services, and measures taken or envisaged to ensure gender balance in this regard.**

*Access to judicial and quasi-judicial mechanisms and legal remedies for victims of discrimination, including sexual harassment.* The Committee notes the Government’s indication that sexual harassment cases being criminal cases, they cannot be handled by the Ministry of Labour and the Industrial Relations Court but are prosecuted by the Magistrate Court and the High Court. It recognizes that, as court fees are payable by victims, this represents an impediment in terms of access to legal remedies. In this regard, the Committee recalls that addressing sexual harassment only through criminal

proceedings is normally not sufficient, due to the sensitivity of the issue, the higher burden of proof, which is harder to meet, especially if there are no witnesses (which is often the case), and the fact that criminal law generally focuses on sexual assault or “immoral acts”, and not the full range of behaviour that constitutes sexual harassment in employment and occupation. The Committee also considers that legislation under which the sole redress available to victims of sexual harassment is termination of the employment relationship, while retaining the right to compensation, does not afford sufficient protection for victims of sexual harassment, since it in fact punishes them and could dissuade victims from seeking redress (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 792). The Government adds that the MHRC received 16 cases related to sexual harassment in 2021, 15 cases in 2022, and 5 cases from January to June 2023. Noting the Government’s statement that, out of these five cases, two were dropped for “failure to identify witnesses” (the other three still being investigated), the Committee recalls the concerns expressed by the CEDAW about the absence of legal procedural guidelines for the repeal of the “corroboration rule”, whereby the testimony of a witness is required in addition to a victim’s testimony in rape cases. The Committee also recalls that the CEDAW noted the prevalence of sexual harassment in the workplace and in business places and its underreporting due to insufficient information on reporting mechanisms. Furthermore, it called for providing the Independent Police Complaints Commission with adequate human, technical and financial resources to ensure that all cases of gender-based violence are effectively investigated without delay, that perpetrators are prosecuted ex officio and adequately punished, and that victims have access to remedies and adequate support services (CEDAW/C/MWI/CO/8, paragraphs 21, 22 and 33(d)). The above-mentioned 2023 Gender Audit for ECAM also identified barriers to reporting as a cause of the under-reporting of incidents which, in turn, brought companies to underestimate the problem of gender-based discrimination and harassment at work. It also pointed to the fact that sexual harassment cases were tried under the criminal courts as a contributing factor to the very long time it may take for cases to be dealt with and decisions to be issued (pages 7 and 19). The Committee also notes that, during the May 2023 mission to Malawi, regional district labour officers indicated that sexual violence cases were often reported at a very late stage. They highlighted the need to intensify labour inspections and to revitalize existing structure at district level and suggested to establish toll-free lines for reporting incidences of violence and harassment and to provide support services to victims, particularly psychosocial support. They also mentioned the role of traditional chiefs as allies to tackle the issue of violence and harassment. Finally, the Committee notes the MCTU’s observation that efforts, such as awareness programmes, are being made to encourage victims of discrimination in employment to access justice. ***The Committee requests the Government to : (i) address challenges related to access to legal remedies for victims of discrimination in employment and occupation, including sexual harassment; and (ii) increase the capacity of the competent authorities, including labour inspectors and the Independent Police Complaints Commission, to prevent, identify and address cases of discrimination in employment and occupation, including sexual harassment, as well as workers’ awareness of available remedies. Please provide information on the number of cases of sexual harassment in the public and private sectors dealt with by the courts and the MHRC or detected by labour inspectors, the remedies granted to victims and the sanctions imposed on perpetrators.***

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

***[The Government is asked to reply in full to the present comments in 2025.]***

## Malta

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1988)

#### Previous comment

Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes. Pay transparency. Equal Pay Tool. The Committee notes that, according to Eurostat, the

unadjusted gender pay gap (the difference between average gross hourly earnings of male and female employees as a percentage of male gross earnings) in 2021 was 10.5 per cent and that it is below the average unadjusted gender pay gap in the European Union (13.7 per cent). The Committee notes that, according to the National Commission for the Promotion of Equality (NCPE), the pay gap can be as high as 29.7 per cent in real estate activities and 24.3 per cent in financial and insurance activities. These differences in pay result from various inequalities in the labour market besides discrimination, which include gender segregation in employment and education, the lack of women in managerial positions and the lack of adequate work–life balance. In this regard, the Committee notes from the [statement](#) of the United Nations Working Group on discrimination against women and girls made on 7 July 2023 at the end of a 12-day visit in the country that: (1) Malta has faced challenges related to the gender pay gap, with women historically earning less than men for equal or comparable work; and (2) improvements have been made, and the gender pay gap has decreased significantly since 2018 when the country had the highest gender pay gap in Europe. According to the Working Group, women continue to face challenges in reconciling work and family life and sharing care responsibilities equally and gender discrimination often starts in the family and has a negative impact on all areas of girls' and women's lives. The Working Group also noted that patriarchal views suggesting that women are less fit to lead have a significant impact on women's ability to participate in the public and economic life of the country. In addition, the Committee notes that, in 2019, an awareness-raising campaign forming part of the EU co-funded Project "Prepare the Ground for Economic Independence" (PGEI) implemented by the NCPE listed a number of reasons for the discrepancy in pay between women and men: gender segregation in education which ultimately results in gender segregation in the place of work; wage discrimination; part-time work; housework; the "care pay penalty" (i.e. a gap in hourly wages that cannot be attributed to differences in skills, experience or credentials but often to the difficulties encountered by women trying to balance work and care responsibilities); and lack of women in decision-making. In this regard, the Committee also refers the Government to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

The Committee further notes the Government's indication in its report that, in 2020, the NCPE started developing an Equal Pay Tool within the framework of this project, which will be used to check whether companies opting for the Equal Pay Certification have equal pay for work of equal value between women and men, and to assist them in correcting situations of unequal pay. The Government adds that: (1) the ultimate objective of the Equal Pay Tool is for employers to be able to collect input data about their employees, which would be processed, and then help them identify any discrepancies in employees' salaries or allowances which are not justifiable; (2) since the creation of the tool in 2020, the NCPE has worked on its finalization by pilot-testing; and (3) the tool is expected to be launched in November 2023 to mark Equal Pay Day and, subsequently, integrated into the NCPE Equality Mark Certification. ***Noting these positive developments with interest, the Committee asks the Government to continue to take proactive measures, in collaboration with employers' and workers' organizations and the NCPE or any other relevant institutions, to address and eliminate the remaining gender pay gap and its underlying causes, including those identified by the NCPE, such as occupational gender segregation, gender stereotypes, and the difficulties for women to access a wider range of studies and jobs at all levels and to reconcile work and family responsibilities. It also asks the Government to provide information on the implementation of the Equal Pay Tool and its impact on the reduction of the gender pay gap and the results achieved at the workplace level. The Government is also asked to continue to provide updated statistical information, disaggregated by economic sector of activity, on the earnings of men and women; and the gender pay gap in the public and private sectors.***

*Articles 1(b) and 2(2)(a). Equal remuneration for work of equal value. Legislation and application in practice.* The Committee recalls that: (1) the general principle of equal pay for work of equal value is enshrined in article 27 of Employment and Industrial Relations Act (EIRA) which provides that "employees in the same class of employment are entitled to the same rate of remuneration for work of

equal value"; and (2) "work of equal value" and "remuneration", as mentioned in section 3(A)(1) of the Equal Treatment in Employment Regulations are not defined by the current legislation but, according to the Government, are determined on a case-by-case basis by the Industrial Tribunal. ***In the absence of information communicated in this regard, the Committee asks once again the Government to provide specific information on the practical application of section 3(A)(1) 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 by the Industrial Tribunal. To ensure that the EIRA permits the broadest comparison possible between jobs, also going beyond the same employer, it asks the Government to indicate how section 27 and, in particular the notion of "same class of employment", is interpreted when applying the principle of equal remuneration for work of equal value. In addition, it asks once again the Government to: (i) seize every opportunity to ensure that any new or revised legislation will explicitly define and give full expression to the principle of equal remuneration for 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 in "remuneration"; and (ii) 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.***

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1968)

### Previous comments

*Article 1(1) of the Convention. Prohibited grounds of discrimination. Social origin. Legislation.* The Committee observes that the adoption of the Equality Bill previously mentioned by the Government is still pending and that the Government's report does not contain any information in that regard. With respect to the current legal framework, the Committee notes that, pursuant to the Constitution, the Employment and Industrial Relations Act (EIRA), 2002 (section 2(1)), the Equal Treatment in Employment Regulations, 2004 (section 1(3)), the Equality for Men and Women Act, 2003 (section 2(1)), the following prohibited grounds of discrimination are covered: sex, colour, political opinion, race, racial or ethnic origin, religion or belief, disability, age, family responsibilities, marital status, pregnancy or potential pregnancy, sexual orientation, gender identity, gender expression, sex characteristics, creed, place of origin and membership in a trade union or in an employers' association. It also notes that, regarding the lack of protection against discrimination on the ground of "social origin", the Government had previously pointed out that the list of prohibited grounds in the definition of "discriminatory treatment" under the EIRA was non-exhaustive. The Committee has constantly considered 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 – of which "social origin" (see the [General Survey of 2012 on the fundamental Conventions](#), paragraph 853). Moreover, it wishes to point out that the lack of explicit reference to a specific ground, such as "social origin", in a non-exhaustive list of grounds could also lead to: (1) a lack of awareness of the right to non-discrimination on the ground concerned in employment and occupation; and (2) a need for interpretation by the courts to determine whether this specific ground is effectively covered. ***Therefore, to ensure legal certainty concerning the protection against discrimination in employment and occupation, the Committee firmly hopes that the Government will seize the opportunity of the discussion and adoption of the Equality Bill to ensure that it explicitly prohibits direct and indirect discrimination in all aspects of employment and occupation, on at least all the grounds set out in Article 1(1)(a) of the Convention, in particular "social origin", while also ensuring that the additional grounds already enumerated in the current national legislation are maintained in the new legislation. It requests the Government to provide information on any developments in this regard and a copy of the text once adopted.***

*Articles 2 and 3. Equality of opportunity and treatment irrespective of race, colour or national extraction.* According to the information available on the website of the National Commission for the Promotion of Equality (NCPE), the Committee welcomes: (1) the adoption, on 28 July 2021, of the Anti-Racism Strategy 2021-2023, which aims to eliminate racism in all its forms and support intercultural inclusion; (2) the public consultation on the Second Policy and National Action Plan on Integration launched at the beginning of 2023; and (3) the European Union co-funded Project “Strengthening Knowledge on Integration and Non-Discrimination” (SKIN) launched in July 2023 by the NCPE to identify the needs of, and discrimination faced by vulnerable groups, namely migrants and Muslims. It further notes that, in 2022, the NCPE provided inputs to the Anti-Racism Action Plans being drafted by ministries as part of the above Strategy and was drafting an Anti-Racism Policymaking Tool for use by the ministries. **Referring to its previous comments, the Committee asks the Government to continue to take proactive measures to combat racial stereotypes and discrimination based on race, colour or national extraction. It also requests the Government to provide information on the implementation of any measures taken within the framework of the Strategy and the SKIN Project as well as information on the content and implementation of the Second Policy and National Action Plan on Integration when finalized and Anti-Racism Policymaking Tool, with respect to all aspects of employment and occupation, in particular recruitment.**

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

## Mauritania

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

#### Previous comment

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM), received on 29 August 2023. **The Committee requests the Government to provide its comments in this respect.**

*Articles 1 to 4 of the Convention. Evaluating and eliminating remuneration gaps and their underlying causes.* The Committee recalls that the CGTM referred in its previous observations to the existence of significant differences in the remuneration of women and men for jobs of the same “value”, including disparities of treatment of around 30 per cent between the wages of men and women, with the latter being deprived of various other benefits related to their functions. The Committee notes the Government’s indication in its report that it will take the necessary measures to collect and analyse data on the wages of men and women to demonstrate the non-existence of remuneration gaps between men and women and accordingly bring an end to this unjustified debate. **As it does not have at its disposal recent statistics which would enable it to assess the remuneration gaps between men and women, the Committee therefore requests the Government to take the necessary measures to gather and analyse data on the wages of men and women by economic sector, if possible and, depending on the results that emerge, invites it to engage in an examination of the causes of any remuneration gap between men and women with a view to developing appropriate measures to remedy it.**

*Articles 1(b) and 2(a) and (c). Principle of equal remuneration for work of equal value. Legislation and collective agreements.* The Committee once again recalls that neither the Labour Code nor Act No. 93-09 of 18 January 1993 issuing the general regulations of public servants and contractual agents of the State, nor the general collective labour agreement (CCGT) of 1974, reflect the principle of equal remuneration for men and women for work of equal value laid down in the Convention. It notes with **regret** that the Government has confined itself to reiterating the information provided previously to the effect that it is planned to reform the Labour Code and the CCGT and to take the necessary measures to amend section 191 of the Labour Code and clause 37 of the CCGT, as well as Act No. 93-09 of 18 January 1993, as amended, so that they set out more fully the principle of equal remuneration for men and women for work of equal “value”. **Emphasizing once again that the Convention requires the implementation of the**

***principle of equal remuneration for men and women for work of equal value, the Committee once again requests the Government to take the necessary measures to incorporate this principle into the labour legislation within the context of the announced reform of the Labour Code and the CCGT and the envisaged amendments to Act No. 93-09 of 18 January 1993. The Committee requests the Government to provide information on the measures taken for this purpose.***

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1963)

### [Previous comment](#)

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM), received on 29 August 2023.

*Article 1(1) of the Convention. Definition and prohibition of discrimination. Legislation.* The Committee notes that the CGTM in its observations takes up the requests made by the Committee in respect of Act No. 2018-023 criminalizing discrimination. However, it notes with **regret** that the Government's report does not contain any information in reply to its previous comments. ***The Committee therefore urges the Government to review the definition of discrimination contained in section 1 of Act No. 2018-023 criminalizing discrimination to ensure that it covers, without restriction, all of the grounds of discrimination set out in Article 1 of the Convention. Furthermore, in order to avoid any legal confusion and clarify the legal framework applicable to discrimination in employment and occupation, it also requests the Government to take measures to amend sections 4 and 20 of the Act respecting prohibited grounds of discrimination with a view to aligning them, as a minimum, with those set out in the Labour Code and Article 1(1)(a) of the Convention, specifying the aspects of employment and occupation covered, in accordance with Article 1(3) of the Convention.***

*Article 1(1)(a). Discrimination on the basis of race, colour, national extraction and social origin. Former slaves and descendants of slaves.* The Committee notes with **regret** that once again the Government's report does not contain information on this subject. However, it notes that the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, who visited Mauritania from 4 to 13 May 2022, found that Mauritania had made important progress, but observed that descent-based slavery continues to persist in certain regions of the country and drew attention to several areas in which slaves and persons who have emerged from slavery and their descendants face social, economic and political exclusion. In this regard, he recommended the Government to take measures with a view to eliminating discrimination in relation to the victims of slavery. He noted in particular that: (1) "[m]any victims of slavery remain economically, socially and culturally dependent on their former enslavers due to a lack of viable alternatives"; and (2) those "who find other work are often limited to jobs characterized by casualization, precariousness, exploitation and abuse due to discrimination, lack of education and documentation, and limited access to productive assets, including land." The Special Rapporteur emphasized that the Taazour agency primarily works to address poverty through infrastructure projects and cash transfers, which admittedly benefit victims of slavery, but which do not necessarily address the structural barriers that keep victims of slavery in poverty, including deep-rooted discrimination and inequality that prevent them from accessing education, public services and decent work. He considered that "positive measures specifically targeting Haratine and Black Mauritanian communities are necessary to break the cycle of discrimination, poverty and dependence and overcome the centuries-long legacy of slavery" and recommended positive discrimination measures in areas "where victims of slavery are underserved or underrepresented, including access to land, housing, education and vocational training, civil registration, social protection, entrepreneurship support and public employment opportunities" (A/HRC/54/30/Add.2, 21 July 2023, paragraphs 45, 59, 60 and 72). The Committee notes that a new ILO cooperation project, entitled "Empowerment for Resilience: Survivors Combat Slavery and Slavery-based Discrimination in Mauritania and Niger through



Sector-based Social Partnerships and Sub-regional Collaboration (2022-26)" is currently being implemented and includes among its objectives enabling victims of descent-based slavery and discrimination on grounds of slavery to develop independent and diversified sources of income in targeted sectors (outcome 3). **Noting this information and also referring to its 2022 comments on the application of the Forced Labour Convention, 1930 (No. 29), the Committee urges the Government to take specific measures to: (i) eliminate stigmatization and discrimination, and particularly social prejudices, in relation to former slaves and descendants of slaves; (ii) promote equality in employment and occupation without distinction as to race, colour, national extraction or social origin; and (iii) encourage the education, training and employment of persons affected by stigmatization and discrimination based on race, colour, national extraction or social origin. It urges the Government to provide information on: (i) the measures adopted in this regard and the results achieved; and (ii) the implementation of the ILO project referred to above in the country in terms of combating discrimination in employment and occupation.**

*Discrimination based on sex. Sexual harassment.* The Committee recalls that: (1) there are still no measures in law or practice to combat sexual harassment; and (2) measures had been envisaged by the Government in the form of a Bill to combat violence, including sexual harassment. It notes the Government's very general indication that, with a view to reinforcing the protection of women and girls and eliminating any form of discrimination against them, it intends to strengthen the relevant legislative framework as soon as possible. The Committee also notes the preliminary conclusions published on 6 October 2023 by the United Nations Working Group on discrimination against women and girls, which carried out a 12-day mission to the country, according to which: (1) women are reported to be severely harassed at work at times and compelled to leave their jobs; and (2) sexual harassment and gender-based violence from teachers have also been reported as a concern likely to contribute to the drop-out rates of girls from school. The Committee recalls that, to be effective, protection against sexual harassment must cover: (1) all workers, women and men; (2) not only employment and occupation, but also education and vocational training, access to employment and conditions of employment; (3) all the forms of sexual harassment; and (4) all those committing sexual harassment, including colleagues, clients and third parties. **In light of the above, the Committee urges the Government to take effective measures in law and practice to: (i) define, prevent and prohibit sexual harassment in employment and occupation covering not only quid pro quo harassment, but also hostile working environment harassment; and (ii) inform and raise the awareness of workers, employers and their respective organizations, as well as labour inspectors and magistrates, concerning issues related to sexual harassment (prevention, treatment of cases, complaints procedures, assistance to and rights of victims, etc.). The Committee once again requests the Government to provide information on the progress made in the legislative work on the Bill on violence against women and girls, to which the Government referred in its previous report, and specific information on its content in relation to sexual harassment in employment and occupation.**

*Articles 2, 3(a) and 5. Equality of opportunity and treatment for men and women. Positive measures for women.* The Committee notes with **regret** that the Government confines itself in its report to indicating without other information that it is taking effective and positive measures to strengthen equality between women and men in employment and occupation. With reference to action to combat discrimination against women and girls and the promotion of gender equality, the Committee also notes the preliminary conclusions published on 6 October 2023 by the United Nations Working Group on discrimination against women and girls, which carried out a 12-day mission to the country, according to which: (1) the poverty experienced by women and girls often emanates from blatant systemic failures rooted in gender-based discrimination and exclusion, manifested by the lack of decent work, lack of quality and accessible education, unequal rights to land and housing, and chronic food insecurity; (2) the vicious cycle of poverty and exploitation particularly afflicts women who experience multiple and intersecting forms of discrimination, including rural women, migrant and refugee women and girls,

women with disabilities and women from certain ethnic groups; (3) access to credit remains a significant challenge for many women which severely curtails their entrepreneurship and their ability to improve their livelihoods; (4) only 6 per cent of women own land (4.2 per cent of women in rural areas); (5) the gender gap in the labour market is stark, with only 26.4 per cent of women participating, compared with 56.6 per cent of men; (6) in 2018, only 11 per cent of enterprises were owned by women, and in 2014 only 5 per cent of Mauritanian enterprises included women in top management; (7) women predominate in the informal and precarious economy (76.5 per cent of them work there, compared with 42.9 per cent of men), which is a reflection of structural discrimination, including the persistence of gender stereotypes and gendered expectations, norms and attitudes; (8) women and girls often bear the majority, if not all, of the burden of unpaid care and household work, often described as a “woman’s job”; and (9) the absence of childcare options offered by the State also significantly hinders women from working outside the home and achieving economic empowerment. The Committee notes the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in which it notes the creation of the National Observatory on the Rights of Women and Girls by Decree No. 2020/140 and refers to the following recommendations, among others: (1) raising awareness of the importance of girls’ and women’s education at all levels as a basis for their empowerment and the development of the country, as well as the promotion of the completion of secondary education by girls and women and their access to tertiary education; (2) increasing the access of women to full-time employment in the formal economy, including by strengthening literacy programmes and vocational training opportunities for women, with special emphasis on disadvantaged groups of women; (3) effectively enforcing labour legislation protecting women’s rights in the workplace by strengthening labour inspections and establishing confidential and independent complaint mechanisms, as well as by raising awareness in the population of women’s equal rights in employment; (4) repealing section 57 of the Personal Status Code (which provides that “married women may, subject to the requirements of the Sharia, exercise any occupation outside the conjugal home”) and eliminating any other restrictions on women’s participation in certain professions or types of work; and (5) ensuring that the unpaid work of women is recognized, reduced and redistributed, including by increasing the availability of affordable childcare facilities and promoting the participation of men in domestic and family responsibilities (CEDAW/C/MRT/CO/4, 2 March 2023, paragraphs 5, 33, 35 and 39). The Committee also notes that, in its observations, the CGTM emphasizes that certain sociological and retrograde perceptions, particularly on gender equality, should be covered by broad training and information campaigns at the national level and in all socio-professional sectors. ***The Committee urges the Government to establish a real gender equality policy in employment and occupation, in collaboration with workers’ and employers’ organizations, and in particular to take specific measures to: (i) promote the access of women to a broader range of formal jobs, and particularly the jobs traditionally reserved for men and positions of responsibility, as a means of combating the horizontal and vertical occupational segregation of women and men; (ii) improve the access of women to productive resources, and particularly credit and land, and new technologies; (iii) take action to combat actively socio-cultural and gender stereotypes, particularly through awareness-raising campaigns; and (iv) improve the reconciliation of family and work-related responsibilities and the sharing of domestic responsibilities. It requests the Government to provide information on: (i) any measures taken in this regard and the results achieved; (ii) the implementation and results of the National Strategy for Gender Mainstreaming (2015-25); (iii) the activities of the National Observatory on the Rights of Women and Girls in relation to employment and access to productive resources; and (iv) recent statistical data, disaggregated by sex, on the participation of women and men in the private and public sectors (public service and other public employment).***

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

***[The Government is asked to reply in full to the present comments in 2024.]***

## Mauritius

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

#### Previous comment

*Article 2 of the Convention. Determination of minimum wages. Remuneration Regulations.* Further to its previous comments requiring the removal of gender-specific job appellations, gender-specific wage categories and rates in the same job occupations in the Salt Manufacturing Industry (Remuneration) Regulations 2019, the Sugar Industry (Agricultural Workers) (Remuneration) Regulations 2019, and the Tea Industry Workers (Remuneration) Regulations 2019, the Government indicates that the labour legislation is in the process of being reviewed to address the issue of wage determination in the various Remuneration Regulations in a more holistic manner and that the National Remuneration Board (NRB) will determine wages for the different categories of workers employed in the private sector on an occupation basis instead on a sectoral basis. Taking into consideration the complexity of the reform, the Government indicates that ILO technical assistance was requested, and the first step of the reform has been implemented with the assistance of ILO experts. The Committee notes that the timeline for the introduction of the wage reform was set as mid-2024. Regarding remuneration, the Committee notes reference made by the Government, in its report on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), to the Employment Relations Act (EReA) which was amended by the Finance (Miscellaneous Provisions) Act 2023 – Act No. 12 of 2023 to include a new Section 91A on: “Determination of wages on occupational basis”, which provides for the designation of a specialised consultant responsible for developing recommendations for the elimination of all gender-specific categorization of workers in the different remuneration regulations and harmonization of wages for similar category of workers across different sectors. The Government indicates that the Report of the consultant is expected before the end of 2023 and will be implemented by mid-2024. ***The Committee welcomes positive steps taken to reform various Remuneration Regulations and urges the Government to take all necessary measures to ensure that within the framework of the reform of the Remuneration Regulations, all remaining gender-specific job appellations, and different wage levels for men and women in the same job are removed from the above-mentioned Regulations. The Committee also requests the Government to provide information on the measures taken to ensure that, when determining minimum wage rates by occupations in the sectors covered by remuneration regulations, skills considered to be “female” are not undervalued in comparison with traditionally “male” skills and that female-dominated occupations are not undervalued in comparison with male-dominated occupations. In this regard, the Committee also refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).***

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

#### Previous comment

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) communicated with the Government's report, as well as the corresponding reply of the Government.

*Articles 1(a) and 2 of the Convention. Discrimination on the basis of race, colour, national extraction and social origin.* Further to its previous comments on proactive measures to address discrimination in employment and occupation, including against workers in Creole communities, the Committee notes the reference made by the Government to the activities of the Equal Opportunity Commission (EOC) and to provisions of national legislation on the prohibition of discrimination in employment and occupation ensuring the application of the principle of equality between men and women, as well as enforcement measures adopted, and penalties imposed for their violation. In this regard, the Committee notes the

annexes provided by the Government, including the list of activities undertaken by the EOC and the statistical information on the number of inspections carried out in the first quarter of 2023 (1,163 inspections). The Committee further notes a substantial decrease in the number of complaints, in particular with regard to local workers, from 2022 (19,930 complaints) to 2023 (4,922 complaints).

Regarding Creole communities, the Government indicates that: (1) in September 2021, the Ministry launched an animated cartoon on gender concepts in the local dialect (creole), which was meant to raise awareness among the population; and (2) this initiative was followed by capacity building of various stakeholders and training of 32 officers from different ministries. In this regard, the Committee notes the reference made by CTSP to the discontinuation of “*lekol de formation*” and “on-the-job training” which benefited the Creole community. Regarding studies or research, the Government indicates that no studies in the labour market, disaggregated on the basis of ethnicity of workers, have so far been carried out. The Committee notes however research projects conducted in the field of education and the roundtable discussion to be held in November 2023 on gender-based issues in curriculum textbooks in the country. **The Committee requests the Government to provide detailed information on: (i) practical measures taken or envisaged to address discrimination in employment and occupation based on race, colour and ethnic and social origin, in particular against workers in Creole communities; and (ii) any measures taken, including studies or research, to analyse the situation of the different groups in the labour market with a view to eliminating discrimination in employment and occupation.**

*Article 1(2). Inherent requirements of the job.* Further to its previous comments, the Committee notes the reference made by the Government to section 13 of the Equal Opportunities Act, 2008 (EOA), section 5(3) of the Workers’ Rights Act, No. 20 of 2019 (WRA), which remain unchanged. The Government indicates that the exceptions permitted under the above sections have been so far only applied to circumstances related to the inherent requirements of the job (such as prison officers for female detainees) and none of them has been permitted to restrict the right of any worker of both sexes to pursue freely any job or profession other than those permitted under the laws. The Government further indicates that no complaints regarding discrimination related to the exceptions have been reported to the authorities or referred to the courts for interpretation of specific provisions of the WRA and EOA. The Committee notes the information provided by the Government, which responds to its previous request.

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

## Mexico

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1952)

#### Previous comment

*Article 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee notes with **interest** the Government’s indication in its report that in March 2021, the Senate of the Republic approved and sent to the Chamber of Deputies a draft decree reforming 13 laws on a number of matters, including wage equality: (1) section 86 of the Federal Labour Act, in order to provide for “equal remuneration for work of equal value”; and (2) section 6 of the General Act on the right of women to a life free of violence, in order to include under economic violence “the receipt of lower wages for equal work or work of equal value”. **The Committee trusts that the announced reforms will be implemented in the near future and requests the Government to provide information in that regard.**

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

## Mongolia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

#### Previous comments: Observation and direct request

*Articles 1–4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes.* The Committee notes the Government's indication in its report that according to the National Statistics Office, on average women's monthly remuneration represented 81.8 per cent of men's remuneration in 2022, thus corresponding to a 1.7 percentage point increase in the gender pay gap since 2019 (18.2 per cent in 2022 compared to 16.5 per cent in 2019). It observes that the gender pay gap was as high as 28.6 per cent in financial and insurance activities, where women represented 64.2 per cent of the workers. The Committee further notes that women remain concentrated in lower-paid sectors such as accommodation and food services, education, health, wholesale and retail trade, while men are concentrated in mining, manufacturing, construction, transport and energy which are high-paid sectors. In that regard, it refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), regarding the persistent vertical and horizontal segregation in the labour market. The Committee notes with **regret** that the Government does not provide information on any measures taken to address the underlying causes of the gender pay gap, including as a result of the National Wage Policy for 2019-2024 and its action plan. It further notes that, in its 2022 concluding observations, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the persistent gender pay gap in all sectors and the concentration of women in low-paid jobs in the formal and informal sectors (CEDAW/C/MNG/CO/10, 12 July 2022, paragraph 30). **The Committee asks the Government to strengthen its efforts to address the gender pay gap, including by promoting the application of the principle of equal remuneration for men and women for work of equal value as enshrined in the Labour Law and the Convention, and its underlying causes, such as persistent vertical and horizontal occupational gender segregation, and gender stereotypes regarding women's professional aspirations, preferences and capabilities, and their role in the family. It also asks the Government to provide information on: (i) any proactive measures taken and implemented to that end, including by enhancing women's access to jobs with career prospects and higher pay; and (ii) the earnings of men and women in the various economic sectors, disaggregated by sex and occupational category, as well as any information available on the gender pay gap.**

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1969)

#### Previous comments

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee recalls that section 6.1 of the Labour Law which prohibits direct and indirect discrimination in employment and occupation on a certain number of grounds does not explicitly refer to "colour" (but to "appearance" instead) and "national extraction" (as meaning a person's place of birth, ancestry or foreign origin). It notes that the Government does not reply to its previous comments in this respect. **The Committee once again asks the Government to confirm that "appearance" also covers "skin colour" and, if not, to take steps to explicitly prohibit discrimination based on "colour" and "national extraction" in the national legislation. It asks the Government to provide information on any progress made in that regard, including in collaboration with the employers' and workers' organizations. Pending the adoption of such provisions, the Committee asks the Government to indicate how employees and applicants are protected against discrimination based on colour and national extraction in practice, as well as any awareness-raising activities undertaken in that regard among workers, employers and their respective organizations, and law enforcement authorities.**

*Article 1(a). Inherent requirements of a particular job.* The Committee recalls that: (1) section 6.5.6 of the Law on the Promotion of Gender Equality (LPGE) of 2011, allows for sex-specific job recruitment “based on a specific nature of some workplaces such as in pre-school education institutions”; and (2) the scope of other provisions of the LPGE may be overly broad in permitting sex-based distinctions, such as in the “provision of health, educational and other services designed to cater for the specific needs of one particular sex” (section 6.5.1) and in respect of employment in specific “workplace facilities” (section 6.5.2). The Committee notes with **regret** that, once again, the Government does not provide information in that regard. **Recalling that the concept of inherent requirements must be interpreted restrictively so as to avoid an undue limitation of the protection against discrimination provided by the Convention, the Committee once again asks the Government to take steps to amend sections 6.5.1, 6.5.2 and 6.5.6 of the LPGE to ensure that these exceptions to the prohibition of discrimination in employment and occupation are strictly limited to the inherent requirements of particular jobs – on a case by case basis – and do not lead in practice to direct or indirect discrimination based on sex. It asks the Government to provide information on the nature, circumstances and outcome of any cases addressed by the competent authorities involving sections 6.5.1, 6.5.2 and 6.5.6 of the LPGE.**

*Articles 2 and 3. Equality of opportunity and treatment of men and women.* The Committee notes the Government’s indication, in its report, that in spite of the measures taken to provide women with equal opportunities for employment, self-employment and entrepreneurship, economic participation and opportunities have declined. In that regard, the Committee observes that, according to ILOSTAT, in 2022 the labour force participation of women was still 14.9 percentage point lower than that of men (53.5 per cent and 68.4 per cent, respectively), with 39.9 per cent of women being in informal employment (compared to 48.2 per cent for men). According to the National Statistics Office, the employment rate of women remains mostly unchanged since 2020, being estimated at 48.5 per cent in 2022 compared to 61.5 per cent for men, while a greater proportion of women have at least a secondary education (91.5 per cent of women compared to 86.1 per cent of men). While women represented 42.9 per cent of workers in management positions, the Committee observes that the number of women in management positions dropped sharply from 40,962 in 2020 to 29,688, in 2022. Furthermore, it is men who are still mostly represented in mining, transport and construction (representing 85 per cent; 84.8 per cent and 82.9 per cent of the workers employed in these sectors, respectively), while women the ones are mostly represented in the accommodation and food services, health and education sectors (representing 82.3 per cent, 81.4 per cent and 76.6 per cent of the workers employed in these sectors, respectively). With regard to occupational gender segregation, the Committee also refers to its observation on the application of the Equal Remuneration Convention, 1951 (No. 100), regarding the wide and increasing gender pay gap. The Committee further notes that, in their 2022 concluding observations, both the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on Economic Social and Cultural Rights (CESCR) expressed concerned about: (1) the persistence of deep-rooted patriarchal attitudes and discriminatory stereotypes; (2) the continued underrepresentation of women and girls in non-traditional fields of study and career paths; (3) the lack of targeted measures to promote women’s economic empowerment; (4) the limited access of rural women to land ownership and use, formal employment, training opportunities, income-generating opportunities and microcredit; (5) the insufficient measures to reconcile parents’ childcare and family responsibilities with their professional lives, to the disadvantage of women’s employment; (6) the lack of affordable childcare facilities; and (7) the fact that women hold only a minority of leadership and decision-making positions (CEDAW/C/MNG/CO/10, 12 July 2022, paragraphs 20, 28, 34 and 36; and E/C.12/MNG/CO/5, 10 November 2022, paragraph 20). The Committee welcomes the Government’s indication that in order to address this situation: (1) the “gender-sensitive workplace policy” was approved by Resolution No. 38 of 12 December 2022, by the Tripartite National Committee for Labour and Social Partnership, in order to require companies to develop and implement their own gender plans and, since the beginning of 2023, about 120 enterprises and their human resources employees in

Ulaanbaatar and 4 provinces of the region have been trained in that regard; (2) a revised draft version of the Law on State and Locally Owned Companies was submitted in May 2022 to the Parliament in order to require an increase in the participation of women in the board of directors of state-owned companies; and (3) actions are being developed to increase the number of girls and women studying information technology and STEM (science, technology, engineering and math) and to increase the number of men studying in the health and education areas. In that regard, the Committee notes with **interest** the adoption of the Cross-Sectoral Strategic Plan for Promoting Gender Equality in Mongolia (2022-2031) which sets the following specific objectives: (1) reducing gender discrimination in the labour market, including by establishing and operating a platform for effective collaboration amongst the Government, employers' and workers' organizations, media and relevant international partners; (2) eliminating gender stereotypes and creating economic incentives to promote gender equality, including by showcasing best practices in supporting women's employment opportunities; (3) promoting women's representation in politics and in leadership at the decision-making level; (4) strengthening the national machinery for gender equality and promoting cooperation and partnership; and (5) improving the collection of sex-disaggregated data, gender statistics and gender analysis for the policy planning, implementation and reporting processes. **Welcoming the measures taken, the Committee asks the Government to pursue and strengthen its efforts, in collaboration with workers' and employers' organizations, to address persistent vertical and horizontal occupational gender segregation and enhance women's access to a wider range of jobs and higher-level positions. It asks the Government to provide information on: (i) any measures implemented to that end, in the framework of the Cross-Sectoral Strategic Plan for Promoting Gender Equality in Mongolia (2022-31) or otherwise, in particular to combat gender inequalities and stereotypes; (ii) the implementation of the "gender-sensitive workplace policy" and the development of gender plans by companies; (iii) the reconciliation of work and family responsibilities and the promotion of equitable sharing of family responsibilities between parents; (iv) any assessment made of the impact of these measures on women's access to employment, including access to self-employment and entrepreneurship, land and credit, in particular for rural women; and (v) the participation of men and women in employment, both in the public and private sectors, disaggregated by economic sector, where possible.**

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

## Montenegro

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2006)

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. Work of equal value. Legislation.* In its previous request, the Committee noted that, while the Labour Law of 2011 explicitly provides, in section 77(2), for the principle of equal remuneration for work of equal value by guaranteeing each employed man or woman an equal wage for equal work or work of the same value performed with an employer, section 77(3) of the same Law continues to limit the concept of work of equal value to the same level of education, or professional qualifications, responsibility, skills, conditions and results of work. The Committee also drew the Government's attention to the fact that the expression "with an employer" in section 77(2) of the Labour Law limits the application of the principle of equal remuneration to workers employed by the same employer. The Committee notes the adoption of the new Labour Law in 2020 and that section 99 provides for the principle of equal remuneration for work of the same *value*. However, the Committee notes with **regret** that sections 99(1) and 99(2) have the same wording as the previous sections 77(1) and 77(2) of the Labour Law 2011. The Committee therefore once again recalls that the concept of work of equal *value* entails comparing the relative value of jobs or occupations that may involve *different* types of skills, responsibilities or working conditions that nevertheless are of equal *value* (see General Survey of 2012 on the fundamental Conventions, paragraphs 673, 675, and 677). **The Committee urges the Government to take the necessary steps to amend the Labour Law of 2020 in order to give full legislative expression to the principle of the Convention, and to ensure that comparison**

***between the value of jobs or occupations can involve different employers and also different types of skills, responsibilities or working conditions that nevertheless are of equal value. It also requests the Government to provide information on all measures taken to this end.***

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)

#### Previous comment

*Articles 1(b), 2 and 3 of the Convention. Work of equal value. Concept and application.* The Committee recalls that article 18(4) of the Constitution of 2015 and section 18(3) of the National Civil Code of 2017, provide that there shall be no discrimination with regard to remuneration and social security between women and men “for the same work”, which is narrower than the principle of equal remuneration between men and women for work of “equal value” enshrined in the Convention. On the other hand, section 7 of the Labour Act of 2017 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. The Committee notes that, in its report, the Government affirms its awareness of and commitment to the importance of the principle of the Convention. It indicates that the principle is applied to all workers, including those falling outside the scope of protection of the Labour Act, such as civil service servants, army, police and armed forces, by the means of special legislation as well as the establishment of salary scales for government employees at all levels. The Committee notes that no details are provided as to how the application of the principle of equal remuneration between men and women is ensured in the definition of salary scales. The Committee also notes the information provided by the Government about the implementation of various awareness-raising activities on labour welfare, including non-discrimination, for workers, employers and trade unions as well as trainings for enforcement officials, although it is unclear from the information provided whether such activities cover specifically the principle of the Convention. It also notes the Government’s indication that the labour inspectors did not report any cases of gender discrimination in remuneration during the fiscal year 2022–23. The Committee furthermore notes the Government’s indication that during one of the meetings of the tripartite committee on minimum wage fixation the issue of objective job evaluation methods was discussed and it was recommended that the Government should develop and apply objective job evaluation criteria.

The Committee underscores that a clear understanding of the concept of “work of equal value” is essential to ensuring the full application of the Convention and refers the Government to its 2006 general observation on the subject. In this respect, it also wishes to emphasize the importance of ensuring consistency in legislative provisions providing for equal remuneration in order to ensure full application of the Convention, including its coherent monitoring by the competent authorities. It recalls that “value”, in the context of the Convention, refers to the worth of a job for the purpose of computing remuneration. While *Article 1* indicates what cannot be considered in determining rates of remuneration, *Article 3* presupposes the use of appropriate techniques for objective job evaluation to determine value, comparing factors such as skill, effort, responsibilities and working conditions. Comparing the relative *value* of jobs in occupations which may involve different types of skills, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize the value of work performed by women and men free from gender bias (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 674). ***The Committee encourages the Government to consider taking steps to harmonize its legislation with a view to removing any inconsistency in giving full expression to the***



***principle of equal remuneration between men and women for work of equal value. It also strongly recommends that the Government makes every effort to promote the public understanding of the principle of the Convention, undertaking specific awareness-raising and capacity-building activities on the principle of the Convention for workers, employers and their organizations and enforcement officials, and asks the Government to provide information on the measures taken in this regard in cooperation with the social partners. The Committee furthermore requests the Government to specify the special legislation and the provisions therein that guarantee equal remuneration between men and women for work of equal value with respect to the workers excluded from the scope of the Labour Act of 2017 as well as the measures adopted to ensure that the principle of the Convention is applied when setting salary scales for government employees. Please also provide information on: (i) any progress made in developing, promoting and implementing objective job evaluation methods in the public and private sectors;(ii) any trainings for inspectors on how to investigate and assess the presence of gender discrimination in remuneration; and (iii) any cases of pay inequality dealt with by the labour inspectors, the courts or any other competent authority, the sanctions imposed and remedies granted, and in particular on any cases involving the application of section 7 of the Labour Act of 2017. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance with regard to the issues raised above.***

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1974)

### Previous comments

*Article 1 of the Convention. Protection against discrimination. Legislation.* The Committee recalls its previous observation in which it referred to the adoption of several legislative provisions on non-discrimination but noted that they do not expressly cover the grounds of political opinion and national extraction set out in *Article 1(1)(a)* of the Convention. The Committee notes that, in its report, the Government states that article 18(3) of the Constitution as well as section 6 of the Right to Employment Act of 2018 cover the ground of “political opinion” in that they prohibit discrimination on the basis of “ideology”. The Government also clarifies that the protections against discrimination enshrined in the labour legislation apply to both national and non-national workers. ***The Committee encourages the Government to consider including an explicit prohibition of both direct and indirect discrimination in its legislative provisions on non-discrimination at the earliest opportunity and reiterates its request for information on the practical application of these provisions, namely 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 information on any relevant decisions by courts and tribunals which would allow the Committee to assess if and to what extent: (i) the ground of “national extraction” is covered under the legislative prohibition of discrimination on the basis of “origin”; and (ii) workers in the informal economy are also protected against discrimination in employment and occupation under the abovementioned legislation.***

*Articles 1 and 5. Restrictions on women’s access to employment and on women’s employment abroad.* The Committee refers to its previous comments on existing restrictions imposed on women with regard to access to employment abroad. It notes that the ban introduced by the parliamentary International Relations and Labour Committee on women’s emigration to the countries of the Gulf Cooperation Council for domestic work was removed in 2020, subject to the following conditions: (1) that there exists a bilateral agreement between Nepal and the destination country; (2) that destination countries have separate specific labour laws ensuring protection and rights of workers; (3) that a mandatory training course is followed before departure; and (4) that the concerned migrants have an understanding of local culture, language and job requirements. ***Welcoming the partial lifting of the restrictions on women’s access to employment abroad, the Committee requests the Government: (i) to provide information on***

***the number of requests rejected annually due to the unfulfillment of the conditions set out by the International Relations and Labour Committee and the measures adopted to enable women to meet such conditions and have an opportunity to emigrate, if they so wish, on an equal footing with men, including the number of bilateral migration agreements signed so far; and (ii) indicate whether other restrictions on women's employment abroad, such as those included in the guidelines regarding Nepalese migrant domestic workers, are still in force and if consideration is being given to their removal with a view to eliminating any discrimination between men and women with respect to access to employment and occupation.***

***The Committee requests the Government to provide information on any measure adopted to ensure better protection for both men and women wishing to work abroad, including equipping embassies to respond quickly to complaints of abuse.***

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

## Netherlands

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

#### Previous comment

The Committee notes the joint observations of the National Federation of Christian Trade Unions (CNV) and the Netherlands Trade Union Confederation (FNV) received on 30 August 2023, and then communicated by the Government.

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes.* The Committee notes that, in their joint observations, the CNV and the FNV express concern regarding the persistent gender pay gap which is higher than in other European countries. In that regard, the Committee observes that, according to EUROSTAT, in 2021, the unadjusted gender pay gap was estimated at 13.5 per cent (compared to 14.7 per cent in 2018) being higher than the average gender pay gap in the European Union (12.7 per cent). It notes that, according to the Central Bureau of Statistics (CBS), the gender pay gap was particularly high in the private sector (19.2 per cent, compared to 11.1 per cent in the public sector) and persisted in all economic sectors, including in those where women are more represented (such as healthcare, education and services). Furthermore, in 2020, the gender pay gap was as high as 28 per cent in the financial activities, 27 per cent in trade and 23 per cent in industry. The Committee notes the Government's statement, in its report, that the gender pay gap is a reflection of the different positions of men and women in the labour market, as men work more often in jobs with higher salaries, for example in the financial sector, while women work more often in lower-paid sectors, such as the healthcare sector. The Committee refers, in that regard, to its comments made on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee notes from the Government's report that several measures are being implemented to address the gender pay gap, namely: (1) the adoption of a new Action Plan on Labour Market Discrimination 2022-2025 which provides for various targeted measures in order to promote equal pay for work of equal value; and (2) the planned implementation of the Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 to strengthen the application of equal value between men and women, in collaboration with the social partners. Observing that the EU Directive entered into force on 6 June 2023 and must be implemented by EU Member States within three years, the Committee notes the Government's statement that, as part of the implementation process, awareness-raising and training activities for workers and employers shall be developed. The Government adds that the Ministry of Social Affairs and Employment will explore whether conducting further research into reduction of the gender pay gap is methodologically feasible and whether this can be helpful in further improving gender equality in the labour market. The aim is to inform the House of Representatives by the end of 2023. The Committee observes that, in their joint observations, the CNV and the FNV fully support this initiative and plead for not postponing such research. Welcoming the

measures taken and envisaged by the Government, the Committee observes that the gender pay gap only slightly decreased over the past years and remains high, more particularly in the private sector. ***In light of the high and persistent gender pay gap, the Committee asks the Government to strengthen its efforts in order to identify and address the likely underlying causes of the gender pay gap, such as occupational gender segregation and gender stereotypes. It asks the Government to provide information on: (i) any measures implemented to that end, in particular in the framework of the Action Plan on Labour Market Discrimination 2022-2025, and their impact; (ii) any developments introduced to improve pay transparency, in particular in the context of the transposition of the EU Pay Transparency Directive of 2023; and (iii) the earnings of men and women, in both the public and private sectors, disaggregated by economic sector and occupation, where possible, as well as any further research carried out by the Ministry of Social Affairs and Employment or any other body on the gender pay gap.***

*Article 2. Measures to address differences in remuneration of part-time workers and workers in other diverse forms of work contracts.* The Committee notes that, according to the CBS data ("Emancipatiemonitor" 2022), in 2020, 75 per cent of women worked part-time (a share that increased by 4.5 per cent since 2008, compared to 32 per cent for men) and the average hourly wages of part-time workers remain lower than those of full-time workers. Industries where many employees work part-time are relatively often industries with low hourly wages, such as the trade and the hospitality industry, where employees are mainly women, thereby leading to indirect discrimination based on gender with respect to pay. The Government adds that: (1) several measures have already been implemented to increase labour participation of part-time workers, such as the extension of the childbirth leave and parental leave; (2) a campaign has been launched to encourage part-time workers to start the conversation with their employer and at home in order to increase their working hours; and (3) a broad societal dialogue will be launched by the end of 2023 to discuss barriers for women to fully engage into the labour market. In that regard, the Committee notes that, in their joint observations, the CNV and the FNV express serious concerns about the Government's approach which increases pressure on women instead of adopting measures that would introduce systematic changes and correct structural discrimination and barriers for gender equality, in particular regarding the role of women as primary caregivers. In that regard, the Committee refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Workers with Family Responsibilities Convention, 1981 (No. 156). As regards other non-standard forms of work contracts, the Committee notes that, according to CBS, persons with a fixed-term contract earn on average less than persons with a permanent contract. The Government states that it plans to abolish zero-hour contracts and on-call contracts (except for students with part-time jobs) and to replace them by a new type of contract that will provide more predictability as regards number of working hours and wages. The Government adds that these measures will be debated in Parliament in 2023 and are expected to have positive effects on gender equality, as currently women are over-represented in non-standard forms of work contract. Welcoming this information, the Committee however notes with ***regret*** that the Government does not provide information on the measures implemented or envisaged to address differences in remuneration of part-time workers and workers in other non-standard forms of work contracts. ***The Committee urges the Government to strengthen its efforts in order to address differences in remuneration between men and women and implement the principle of equal remuneration for work of equal value, taking into account the high number of women engaged in part-time work and other non-standard forms of work contracts and their lower hourly rates, as well as their concentration in jobs that are generally lower paid. It asks the Government to provide information on: (i) any targeted measures elaborated and implemented to that end, including in collaboration with the social partners; (ii) any legislative developments regarding non-standard forms of work contracts, in particular zero-hour and on-call contracts, and their impact on the gender pay***

**gap; and (iii) the number of men and women engaged in part-time work and other non-standard forms of work contracts and their average remuneration in comparison to full-time workers.**

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1973)

### Previous comment

The Committee notes the joint observations of the National Federation of Christian Trade Unions (CNV) and the Netherlands Trade Union Confederation (FNV) received on 30 June 2022 and 30 August 2023, and then communicated by the Government.

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation. Social origin.* Recalling that “social origin” is not mentioned among the prohibited grounds of discrimination set out in the Equal Treatment Act, the Committee notes the Government’s indication, in its report, that: (1) no administrative or judicial decision has been issued regarding discrimination on the ground of social origin; (2) one of the current multi-annual programmes of the Netherlands Labour Authority (NLA, formerly the Labour Inspectorate – SZW) is focused on employment-related psychological pressure, including labour market discrimination, and covers all types of inappropriate behaviours, including but not limited to discrimination on the ground of social origin; and (3) from 2019 to 2023, around 50 complaints on potential instances of discrimination based on social origin resulted in an intervention by the NLA. While noting the lack of information regarding the nature and results of such interventions, the Committee notes the Government’s statement that the Bill on Monitoring Equal Opportunities in Recruitment and Selection covers all grounds of discrimination, and continued tripartite social dialogue is maintained on this issue. In that regard, the Committee notes that the Bill was adopted by the House of Representatives on 14 March 2023 and will be examined by the Senate, but observes that: (1) the Bill only covers access to employment and does not cover all aspects of employment and occupation in the meaning of *Article 1(3)* of the Convention; and (2) it does not explicitly refer to “social origin” as a prohibited ground of discrimination. ***The Committee asks the Government to take steps to explicitly prohibit discrimination based on social origin in the national legislation to cover at least all the grounds listed in Article 1(1)(a) of the Convention, in all aspects of employment and occupation. It asks the Government to provide information on any progress made in that regard, including in collaboration with social partners. Pending the adoption of such provisions, the Committee asks the Government to indicate how employees and applicants, in both the public and private sectors, are protected against discrimination based on social origin in practice, as well as any awareness-raising activities undertaken in that regard among the NLA, workers, employers and their respective organizations.***

*Articles 2 and 3. National equality policy.* The Committee notes the Government’s indication that a new Action Plan on Labour Market Discrimination for 2022-2025 is currently being implemented, building on the previous Action Plan. As a result, several actions will be implemented, such as awareness-raising activities among employers and workers about their rights and duties, developing tools to help employers establish fair recruitment procedures, conducting research and drafting legislation. The Government adds that the House of Representatives is informed annually about the progress made in the implementation of the Action Plan, although it is difficult to measure the effect of such policy directly. In that regard, the Committee notes that, in their joint observations, the CNV and the FNV acknowledge the attempts made to measure the effects of the policy but highlight that the Government has not set any goals aimed at reducing discrimination which remains persistent, with one in six workers reporting to have experienced discrimination. The Committee further notes that, in its 2022 conclusions, the European Commission against Racism and Intolerance (ECRI) noted that, in spite of its previous recommendations, neither indicators nor measurable targets were inserted into the Action Plan on Labour Market Discrimination (CRI(2022)03, 2022, page 5). In that regard, the Committee notes that, in its 2023 submission to the United Nations (UN) Committee on Economic, Social and

Cultural Rights (CESCR), the Netherlands Institute for Human Rights (NIHR) also regretted that even though the Action Plan sets out the intention to add measurable outcomes, the plan has not yet been updated with measurable outcomes one year after its publication. The Committee welcomes the measures taken and envisaged by the Government to prevent and address discrimination in the labour market but notes the repeated lack of information on the impact of the measures taken. **Therefore, the Committee asks the Government to ensure, in collaboration with the social partners, that appropriate indicators and measurable targets are designed and challenges are clearly identified to monitor and improve the effectiveness of any measures taken under the Action Plan on Labour Market Discrimination 2022-25 or otherwise. It asks the Government to provide information on the measures taken under the new Action Plan and their impact, including information from the progress reports presented to the Parliament at regular intervals.**

*Equality of opportunity and treatment irrespective of race, colour or national extraction.* The Committee notes that, according to Central Bureau of Statistics (CBS), the percentage of persons with a migration background in the Netherlands (including second-generation migrants) represented 25.4 per cent of the whole population in 2022. The Committee notes the Government's indication that several pilot projects were developed within the "For an Inclusive Labour Market" (VIA) Programme, that ended in 2021, to improve the labour market position of persons with a "non-Western" migration background (i.e. persons of whom both parents were born outside the Netherlands). The Government adds that these workers can also benefit from the generic measures taken to address discrimination, in particular in the framework of the Action Plan on Labour Market Discrimination for 2022-2025 and the Bill on Monitoring Equal Opportunities in Recruitment and Selection, which was adopted by the House of Representatives on 14 March 2023 and is now under consideration by the Senate. The Committee welcomes the appointment of: (1) a National Coordinator on Discrimination and Racism in October 2021 with the task to elaborate a multi-year action plan to combat all forms of discrimination, hate speech and racism; and (2) a Committee of State on Discrimination and Racism in July 2022. The Committee also notes, from a study carried out by the Netherlands Institute for Social Research (SCP), that persons with a "non-Western" migration background, particularly those of Moroccan and Turkish origin, more often experience labour market discrimination, both when looking for work and at work: they have to wait longer before finding a job and before obtaining a permanent contract and they are paid less than other persons ("Monitor of equal opportunities and positions in the labour market regardless of migration background", November 2021). Observing that the Government acknowledges that several studies showed that applicants with a Turkish or Moroccan name have still fewer opportunities in the labour market, the Committee notes that, in their joint observations, the CNV and the FNV, also express concerns at the persistent discrimination faced by workers with a "non-Western" migration background, in particular young workers and workers of Moroccan and Turkish origin, regarding their participation in the labour market. The trade unions highlight that their unemployment rate is still three times higher compared to Dutch nationals (16 per cent and 5 per cent respectively). The Committee further notes that, in its 2021 concluding observations, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed concerns about: (1) reports of discrimination against students with ethnic minority and immigrant backgrounds, in particular with respect to lower assessment from their teachers for their admission to secondary school and obtaining internships, which has a negative impact on their future prospects on the labour market; and (2) many people with an immigrant background and ethnic minorities who continue to face discrimination in access to employment (CERD/C/NLD/CO/22-24, 16 November 2021, paragraphs 19, 21 and 25). In that regard, the Committee also observes from the Government's report that the number of cases of discrimination at work reported to the NIHR by persons with a migration background increased from 27 in 2019 to 59 in 2022. Since 2019, the Netherlands Labour Authority received around 60 complaints on potential instances of discrimination against persons with a "non-Western" background which resulted in an intervention by the NLA. **In light of the above, the Committee urges the Government to strengthen its efforts to effectively address**

**discrimination and ensure equality of opportunity and treatment in education, employment and occupation for persons with a “non-Western” migration background, including those of Moroccan and Turkish origin. It asks the Government to provide information on: (i) the measures implemented to that end, in particular as regards recruitment and selection processes, including in the framework of the Action Plan on Labour Discrimination and the future legislation on Monitoring Equal Opportunities in Recruitment and Selection; (ii) the activities carried out by the National Coordinator on Discrimination and Racism and the Committee of State on Discrimination and Racism; (iii) any assessment made of the impact of these measures as well as of the situation of persons with a “non-Western” migration background on the labour market; and (iv) the number, nature and outcome of cases of discrimination against persons with a “non-Western” migration background dealt with by NLA, the NIHR, the courts or any other competent authorities.**

*Migrant workers.* The Committee notes the Government’s statement that, in order to address labour exploitation of migrant workers, several measures are being envisaged to implement the recommendations made in October 2020 by the Migrant Worker Protection Task Force in its report entitled “Not Second-Class Citizens”. The Government adds that such measures include: (1) the introduction of a certification scheme for temporary employment agencies; (2) the improvement of registration and housing for migrant workers; and (3) the recruitment of additional labour inspectors. Welcoming this information, the Committee also refers to its comments on the application of the Migration for Employment Convention (Revised), 1949 (No. 97) regarding the concerns expressed by both the CNV and the FNV about: (1) the exploitative labour conditions of migrant workers, in particular those employed as domestic workers; and (2) the lack of effective enforcement of existing laws and regulations, including by the labour inspectorate. In that regard, the Committee notes the Government’s indication that, between 2019 and 2023, around 10 to 15 complaints on potential cases of discrimination against migrant workers resulted in an intervention by the NLA. **The Committee urges the Government to take steps to ensure equality of opportunity and treatment for migrant workers in employment and occupation, in particular by combating exploitation of migrant workers and ensuring safe working conditions. It asks the Government to provide information on: (i) any measures and programmes implemented to that end, in particular in order to supervise the activities of temporary employment agencies and strengthen labour inspections in sectors employing a large number of migrants, including domestic work; (ii) any assessment made on the impact of these measures; and (iii) the number, nature and outcome of cases of discrimination against migrant workers detected by or reported to NLA, the NIHR, the courts or any other competent authorities.**

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

## **Workers with Family Responsibilities Convention, 1981 (No. 156)** (ratification: 1988)

### [Previous comment](#)

The Committee notes the joint observations of the National Federation of Christian Trade Unions (CNV) and the Netherlands Trade Union Confederation (FNV) received on 30 June 2022 and 30 August 2023, and then communicated by the Government.

*Article 4 of the Convention. Leave entitlements for men and women workers with family responsibilities.* The Committee welcomes the Government’s indication, in its report, that several measures have been implemented to enhance leave arrangements in order to facilitate a better reconciliation between work and family responsibilities, namely: (1) as of January 2020, the one week childbirth leave paid 100 per cent was increased by five additional weeks of partially paid leave amounting to 70 per cent of the daily wages; (2) as of August 2022, parents are entitled to nine weeks of partially paid parental leave amounting to 70 per cent of their daily wages; (3) several awareness-raising activities have been carried out on these new provisions which are expected to lead substantially more men to take leave; and (4) figures on the initial effects of these measures on the distribution of care responsibilities are not yet

available but an assessment of leave entitlements for workers with family responsibilities will take place in 2025. The Committee also notes that, in their joint observations, the CNV and the FNV reiterate their concerns regarding: (1) the lack of paid long-term care leave for other members of the family; and (2) the lack of fully paid childbirth leave and parental leave which results in a higher percentage of women employed in part-time jobs and negatively impacts on gender equality at work. The trade unions also express specific concerns about the accessibility of leave entitlements for parents from lower income groups, as 70 per cent of their daily wages may result in a level below the minimum wage or even the social benefit. A recent evaluation of the additional childbirth leave showed that 35 per cent of lower income partners do not take up this leave (compared to only 16 per cent for partners from higher income group). The Committee notes from the Government's report that a research has been commissioned to better understand this situation. The Government adds that the Ministry of Social Affairs and Employment is currently assessing the possibility for simplifying the leave system. In that context, recommendations from the Social and Economic Council (SER) would be taken into consideration and social partners would be included in the dialogue on gender equality in the labour market, that is expected to start by the end of 2023. The Committee wishes to draw the attention of the Government in that regard to its [2023 General Survey entitled achieving gender equality at work](#) (see chapter 7, "Reconciling work and family responsibilities" and with respect to the existence of statutory paternity leave, see paragraph 701). ***In light of persistent gender stereotypes concerning the sharing of family responsibilities, the Committee urges the Government to take steps to encourage more men to make use of family-related leave. It asks the Government to provide information on: (i) any awareness-raising activities undertaken to promote the exercise of shared parental responsibilities and caring for children and other immediate family members, as well as on the impact of such measures; (ii) any assessment made, in collaboration with the social partners, of the effectiveness of existing family-related leave entitlements, in particular regarding the reasons why partners do not make use of additional childbirth leave or parental leave; and (iii) the number of men and women workers making use of family-related leave entitlements, both in the public and private sectors. The Government is also requested to provide information on any initiatives and outcomes in collective bargaining in the area of work-life balance leave and benefits.***

*Article 5. Childcare and family services and facilities.* The Committee welcomes the Government's statement that, following up on the recommendations made by the SER in 2016, several measures have been implemented to improve the quality of childcare services, in particular by enhancing training opportunities and improving professional skills for workers involved in this area. The Government adds that: (1) to date, childcare benefit depends on the income of the working parents and covers up to 96 per cent of the costs for the lowest income group and 30 per cent for the highest income group; (2) in 2021, only 37 per cent of children from parents in the lowest income group attended childcare facilities (compared to 25 per cent in 2015); (3) as regards informal care, the Minister of Social Affairs and Employment has agreed to work together with the social partners in informing employers on this topic; (4) municipalities have also been tasked with supporting informal caregivers, on the basis of the Social Support Act; and (5) measures are planned to be introduced in 2027 to reorganize childcare. In that regard, the Committee notes that, in their joint observations, the CNV and the FNV stress the importance of high quality and affordable universal childcare, while highlighting that despite the promise made to ensure that childcare will be almost free for all working parents, such measure has been postponed and the corresponding budget has been reduced for the coming two years. The trade unions indicate that parents from the lowest income group will have to bear 5 per cent of the childcare costs (against 4 per cent currently), which means that they will pay €400 more per year while higher income groups will have to pay less than before. The CNV and the FNV also highlight the shortage of staff and low quality of existing facilities with low qualified childcare workers who are still in training, which means that access to childcare is not guaranteed for working parents. In addition, due to the lack of employees that want to work in childcare, partly because of the limited salaries, many young parents cannot find any place

for babies which leads to increasing inequalities, as it is mostly women staying at home to take care of them. **The Committee urges the Government to take 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 and addressing the challenges raised by the CNV and FNV. It asks the Government to provide information on: (i) any measures taken to professionalize care work and improve the education and training of care workers, and their impact; (ii) the extent of childcare and family services available for men and women workers with family responsibilities; and (iii) the number of workers with family responsibilities making use of the existing childcare and family services and facilities.**

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

## Nicaragua

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation.* The Government states in its report that it considers that there is a clear legal basis in the country to ensure the protection and restitution of the right to equal remuneration. In this regard, the Government refers to the Labour Code (Act 185), whose principle XIII guarantees to workers equal wages for equal work in identical working conditions, in line with their social responsibility. The Committee notes that this provision refers to equal wages for “equal work”. The Committee also notes that the terminology of that provision is more restrictive than the principle established by the Convention since this principle goes beyond equal remuneration for “equal”, “the same” or “similar” work and also encompasses work of a completely different nature which is nevertheless considered to be of “equal value”. The Committee also recalls that it noted in its previous comments that section 19 of Act No. 648 of 2008 on equality of rights and opportunities refers to “equal wages” for women and men for “equal work”. **The Committee once again urges the Government to take steps to amend the Labour Code (Act 185) and Act No. 648 of 2008 to ensure that both fully incorporate the principle of the Convention and cover not only equal remuneration for equal work but also equal remuneration for work of equal value.**

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

#### Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2023, in which the IOE reiterates comments made in the discussion that was held in the Committee on the Application of Standards (the Conference Committee) in June 2023 on the application of the Convention by Nicaragua. The IOE also indicated that several employer delegates to the 2023 International Labour Conference would file a complaint under article 26 of the Constitution of the ILO, alleging non-compliance by Nicaragua with the present Convention, as well as with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Committee notes that the said complaint was declared receivable by the Governing Body at its 349th Session (October–November 2023) and that its content would be examined by the Governing Body at its March 2024 session.



### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the [detailed discussion](#) held in the Committee on the Application of Standards (the Conference Committee) at the 111th Session of the International Labour Conference, June 2023, regarding the application of the Convention. The Conference Committee noted with deep concern the climate of violence, insecurity, and intimidation in the country, which is propitious for acts of discrimination in employment and occupation based on political opinion. The Conference Committee also noted the arbitrary detentions and the continuing reports of human rights violations and abuses, including gender-based discrimination. Taking account of the discussion, the Conference Committee urged the Government, in consultation with the social partners, to:

- take immediate measures to end the climate of violence, insecurity and intimidation in the country,
- adopt the necessary measures to eliminate discrimination in employment and occupation and provide adequate protection for workers in the event of discrimination on the basis of political opinion;
- refrain from discrimination on political grounds, ensure that no penalties are imposed and provide adequate protection in the event of discrimination on the basis of political opinion;
- provide adequate remedies including the restoration of citizenship and the return of seized assets to those who have been discriminated against on the grounds of political opinion;
- provide information on any additional measure taken to eliminate discrimination on political grounds and on the outcome of any investigation conducted into complaints made to the administrative or judicial authorities for acts of discrimination on the basis of political opinion;
- indicate the extent to which the provision of the Labour Code (section 17(p)) also covers the “hostile work environment”;
- provide details of any administrative complaint or legal action filed with the labour or criminal courts under the provisions of the Labour Code or Criminal Code in respect of sexual and quid pro quo harassment; as well as of the penalties imposed where complaints submitted to the Ministry of Labour are upheld and identified as acts of sexual harassment.

The Conference Committee also requested the Government to continue to:

- take all measures to ensure in practice the elimination of violence and harassment in the world of work and to provide information to the Committee of Experts on all measures adopted regarding sexual harassment, including awareness-raising and prevention;
- take specific measures in practice to protect indigenous and Afro-descendant peoples against racial discrimination in employment and occupation and provide information on all measures adopted or envisaged to protect indigenous and Afro-descendant peoples against racial discrimination in employment and occupation;
- provide information on the outcomes of the many actions taken relating to the national policy of equality of opportunity and treatment;
- provide information on the type of violations identified relating to the application of the Convention, the corrective measures introduced and the penalties imposed.

The Conference Committee reminded the Government that it can avail itself of ILO technical assistance, if needed. The Conference Committee requested the Government to report, in consultation with the social partners, on the progress achieved in the implementation of the Convention before 1 September 2023.

In its final statement before the Conference Committee (and in its report), the Government took note of the conclusions but considered that they had been adopted for politically motivated reasons and expressed concern in that regard. The Government stressed its rejection of interference, influence

and unequal treatment and affirmed that in Nicaragua, women, indigenous persons, persons of African descent and all men and women without discrimination, are protected and safeguarded and that the country protects all Nicaraguan women and men seeking labour stability and peace with employment and dignified lives.

***The Committee urges the Government to give effect to the recommendations of the Conference Committee without delay.***

*Article 1(1)(a) of the Convention. Discrimination on the basis of sex. Sexual harassment.* In its report the Government provides the following statistical information: (1) in 2020, 44 cases of sexual and quid pro quo harassment were filed with the criminal courts (25 concluded); in 2021, 37 cases (30 concluded); in 2022, 58 cases (37 concluded) and up to March 2023, 15 cases (5 resolutions); (2) the Labour and Social Welfare Courts upheld a claim of sexual harassment against a domestic worker who had been harassed by another employee (judgement No. 447/2021); (3) the Ministry of Labour dealt with 272 complaints of mistreatment and harassment at work related to non-compliance with holiday schedules, payment of overtime hours, special permissions and verbal dismissals; (4) a total of 6,609 inspections were conducted regarding equality and non-discrimination at work; and (5) between January 2018 and March 2023, 13 complaints were lodged under the administrative procedure for addressing sexual and workplace harassment in the judiciary, two of which concerned acts of sexual harassment, one of which was resolved with the termination of the harasser's employment contract. Regarding measures on awareness-raising and prevention of sexual harassment, the Government indicates that talks were held to provide training for courts, judges, directors, judicial and administrative staff from all circumscriptions, and that in 2022, a second round of training was completed for 2,710 judiciary officials, with a total of 74 workshops, aimed at preventing gender-based violence including both workplace and sexual harassment. While noting this information, the Committee observes that it does not make clear whether the cases of sexual harassment to which the Government refers include cases of sexual harassment derived from a "hostile work environment", that is, behaviour that creates an intimidating, hostile or degrading environment for the person targeted. The Committee also notes that in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) noted with concern reports of cases of gender-based violence, including psychological violence by employers and sexual harassment against many women working in the textile industry and recommended that the Government reinforce labour inspections to investigate and adequately punish such cases (CEDAW/C/NIC/PCO/7-10, 30 October 2023, paragraphs 37 and 38).

***The Committee requests the Government to: (i) take the measures required to prevent and address cases of sexual harassment in the textile industry without delay; (ii) provide detailed information on the application in practice of section 17(p) of the Labour Code to cover cases of sexual harassment derived from a "hostile work environment"; (iii) continue reporting on any administrative or judicial complaint lodged with the criminal or labour courts under the provisions of the Labour or Penal Codes in relation to sexual or quid pro quo harassment, and on the penalties imposed and redress provided accordingly; and (iv) report on all measures regarding awareness-raising and training on prevention and treatment of sexual harassment aimed at employers and workers and their respective organizations, as well as the persons and authorities that address such cases.***

*Discrimination on the basis of political opinion.* The Committee notes that the Government provided information orally to the Conference Committee regarding the legislation of the country, including on section 27 of the Constitution, which prohibits, inter alia, discrimination based on political opinion. The Government indicates that Special Act No. 779 refers to the subject of political discrimination and that the organization of access to power is governed by the Constitution of Nicaragua, by the electoral process and by Electoral Act No. 331. In its report, the Government states that between January 2018 and March 2023, two cases of discrimination on the grounds of political opinion were filed with the Labour and Social Welfare Courts: (1) a case of discriminatory dismissal against a woman worker whose politics aligned with the Government in which the court found for the defendant and upheld her claim

for compensation in its entirety (judgment No. 113/2019); and (2) a case of discrimination on grounds of political opinion against a woman worker, whose employment contract was affected by collective suspension measures, and in which the worker's claim for reinstatement was upheld in its entirety (judgment 06/2020).

The Committee observes with **deep concern** that the reports of United Nations bodies highlight the continuation of serious political discrimination in the country. The Group of Human Rights Experts on Nicaragua (GHREN) in its report and detailed conclusions of March 2023, indicates that: (1) serious and systematic human rights violations and abuses have been committed against a sector of the Nicaraguan population, including violations of the right to participate in public affairs and of the freedoms of expression, opinion, association, assembly, conscience and religion; (2) such violations and abuses constitute a systematic and generalized attack against a civilian population through a discriminatory policy that includes the perpetration of human rights violations and crimes under international law and that have not only resulted in the destruction of the civic and democratic space in Nicaragua but, after thorough verification, indeed reveal that crimes against humanity continue to be perpetrated; (3) health workers who defied the order not to provide assistance to persons taking part in the 2018 demonstrations have suffered reprisals, including detention, threats, harassment and dismissal, while students and teachers considered as Government opponents were subject, inter alia, to arbitrary expulsion, cancelled scholarships, unfair dismissal and were refused matriculation; (4) there are reasonable grounds to believe that the authorities have sought to silence journalists, men and women, using, among other methods, physical aggression of journalists during their work, constant surveillance of media installations and of their points of access, restrictions and censure rendering the work of various media impossible, orders to shut down dozens of communication media, and numerous detentions and interrogations; and (5) there would have been various unfair dismissals of officials in the justice system, judges threatened with dismissal unless they confirm charges, pressure on public servants to pay membership dues to the Sandinista National Liberation Front (FSLN) under threat of harassment and reprisals, and career advances to reward judges responsible for cases against persons considered to be Government opponents (see document A/HRC/52/63, paragraphs 31, 123, 124 and 126; and document A/HRC/52/CRP.5, paragraphs 167–183, 412–424, 557, 637, 792, 796, 799, 801, 806, 811 and 853–862).

Similarly, the Committee observes that in resolution A/HRC/RES/52/2 of 3 April 2023, the United Nations Human Rights Council: (1) expressed grave concern at the “deterioration of democracy, the rule of law, the separation of the powers and the situation of human rights in Nicaragua, in particular with regard to the enjoyment of civil and political rights”; (2) expressed concern at the worsening restrictions on civic and democratic space and the repression of dissent in Nicaragua, which includes acts of intimidation, harassment and unlawful or arbitrary surveillance of persons who express views that are critical of the Government of Nicaragua”; (3) urgently called on the Authorities in Nicaragua “to cease immediately the use of arbitrary arrests and detentions, as well as of threats and other forms of intimidation or alternative measures of detention, as a means to repress dissent; and (4) called on the Government of Nicaragua to prevent and publicly condemn, investigate, punish and abstain from any acts of intimidation, harassment or reprisal against [...] any individual critical of the Government, including against those who cooperate or seek to cooperate with international and regional bodies. By the same resolution, the Human Rights Council renewed the mandate of the GHREN for two years (A/HRC/RES/52/2, paragraphs 1, 2, 5, 12 and 15). The Committee also notes that in September 2023 the Chairperson of the GHREN gave an update to the Human Rights Council on the situation in the country, indicating that the general human rights environment had worsened and persecution of dissidents by the Government had escalated (see Human Rights Council press communiqué of 12 September 2023). Likewise, the Committee observes that the CEDAW, in its concluding observations, notes with concern the information about impunity for gender-based violence, including against women in detention for political reasons (CEDAW/C/NIC/PCO/7-10, of 30 October 2023, paragraph 27).

The Committee also notes with **deep concern** that the Inter-American Court of Human Rights (IAHCR), through its annual report for 2022 and various press communiqués from 2023, signalled a context of repression and human rights violations in the country (see IACHR Annual Report, 2022, Chapter IV.B, paragraphs 175 and 177; and press communiqués Nos 24/23, 67/23 and 123/23). The Committee notes that the IACHR and its Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (REDESCA) expressed concern at the violations of the social security rights of Nicaraguans arbitrarily deprived of their nationality; according to information received, the State decided decision to remove all older persons who have been declared stateless and “traitors to the country” from the Nicaraguan Institute of Social Security (INSS) registry (see the REDESCA report on Poverty, Climate Change and Economic, Social, Cultural and Environmental Rights in Central America and Mexico, in the context of Human Mobility (“Pobreza, Cambio Climático y DESCAs en Centro América y México, en el Contexto de Movilidad Humana”), and IACHR press communiqué 61/23 of 14 April 2023). The Committee also observes that during 2023 the Inter-American Court of Human Rights issued several resolutions on Provisional Measures related to the political situation in the country (such as the resolutions of 8 February, 22 March, 27 June and 25 September 2023).

The Committee emphasizes that protection against discrimination on the basis of political opinion in employment and occupation implies protection in respect of the activities of expressing or demonstrating opposition to established political principles and opinions, including political affiliation. The Committee affirms that the general obligation to conform to an established ideology or to sign an oath of political allegiance is discriminatory (General Survey on Equality in Employment and Occupation, 1988, paragraph 57, and General Survey on fundamental Conventions, 2012, paragraph 805). The Committee **deplores** that, according to United Nations bodies and the IACHR, human rights violations are continuing and worsening in the country. The Committee reiterates that a climate of violence, insecurity and intimidation as described by the United Nations bodies and the IACHR encourages the commission of serious acts of discrimination in employment and occupation against persons expressing their political opinion. In this regard, the Committee **deplores** the fact that the above institutions refer, inter alia, to acts that could amount to serious discrimination in employment and occupation against persons considered as in opposition to the Government, including acts of harassment and threats during, or in relation to the individuals’ employment, unfair dismissals, discrimination in appointments or promotions, preventing access to education and vocational training, and exclusion from social security systems.

***The Committee strongly urges the Government to adopt all necessary measures to give effect to the Committee’s observations in respect of discrimination in employment and occupation and, in particular to eliminate discrimination on political grounds and provide appropriate protection to workers in cases of discrimination on the basis of political opinion. The Committee requests the Government to provide information on the result of all investigations concluded in relation to complaints lodged with the administrative or judicial authorities regarding acts of discrimination on the basis of political opinion.***

*Discrimination on the basis of race. Indigenous peoples.* The Committee observes that in its oral statement to the Conference Committee, and also in its report, the Government notes that the Caribbean Coast is a priority area for human and socioeconomic development, including the creation of employment for indigenous families and families of African descent. Among the action adopted, the Government highlights: (1) the National Plan against Poverty for Human Development, 2021-2026, which includes, among other actions, teachers’ training as part of the bilingual intercultural transformation at pre-school, primary and secondary levels of education; strengthened partnerships and cooperative management and financing through a microcredit programme to promote entrepreneurship on the Caribbean coast; the promotion of agroforestry systems using crops strategically selected; assistance for families managing fowl and pigs for sustainable production; and by providing financial support for technology; and (2) the extension of technical education and training

coverage through the technical colleges – Bluefields, Héroes y Mártires de Puerto Cabeza, Bernardino Díaz Ochoa de Siuna, Waspam, Corn Island, Bonanza and Rosita – where students of different ethnicities, and of African descent can study in their own languages. The Committee observes that the CEDAW, in its concluding observations, notes with concern that: (1) indigenous and Afro-descendant women face intersecting forms of discrimination and have limited access to education, employment and economic opportunities; (2) the impact of non-recognition of indigenous lands on the livelihoods of indigenous women; and (3) the limited access of indigenous women to higher education (CEDAW/C/NIC/PCO/7-10 of 30 October 2023, paragraphs 35 and 45). Likewise, the Committee notes from its report that the GHREN considers it important to further investigate violations and abuses committed against indigenous peoples and rural workers, and aspects related to corruption and the instrumentalization of the State apparatus, as well as the confiscation of assets (see document A/HRC/52/63, paragraph 9). **The Committee requests the Government to: (i) report on any measures adopted to prevent and eliminate all forms of discrimination in employment and occupation against indigenous women; (ii) promote the access of indigenous women to education, employment and economic opportunities, including to the material resources required for the performance of their traditional occupations; and (iii) continue to report on any other measure adopted or envisaged to protect indigenous and Afro-descendant peoples against racial discrimination in employment and occupation.**

*Article 2. National policy on equality of opportunity and treatment. Public service and private sector.* **The Committee again requests the Government to provide information on the outcomes of the many actions taken relating to the national policy of equality of opportunity and treatment (for example, statistics on the labour market participation rate for women and men; the number of anti-discrimination activities undertaken; and the number of participants currently in training).**

*Enforcement. Labour inspection.* The Government reports that of the 83,576 labour inspections conducted between 2018 and 2023, 8,854 (around 10 per cent) concerned offences related to equality and non-discrimination. **The Committee requests the Government to provide detailed information on: (i) the prohibited grounds of discrimination alleged in the cases examined by the labour inspection, as well as any penalty imposed, and redress granted in cases that have been upheld; and (ii) any decision relating to cases of discrimination in employment and occupation adopted by the law courts.**

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

## Nigeria

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

#### Previous comment

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee notes with **regret** the Government's indication, in its report, that the Labour Standards Bill, which will introduce a provision covering the principle of equal remuneration for men and women for work of equal *value* in the legislation, has not yet been adopted. **Recalling that the adoption of the Labour Standards Bill has been pending since 2006, the Committee again urges the Government to take the necessary steps to accelerate the adoption of the Labour Standards Bill that should fully reflect the principle of equal remuneration for men and women for work of "equal value" in its provisions, allowing for the comparison not only of equal, the same or similar work but also of work of an entirely different nature.**

*Gender wage gap. Application of the Convention in practice.* The Committee notes the Government's indication that the gender pay gap is partly due to the cultural and value systems. It notes the Government's indication that measures have been taken to address the gender pay gap: (1) implementation of the National Policy on Gender in Education and its Implementation Guide (2021),

with a main focus to close the gender gap in school enrolment and drop-out rates at the primary, secondary and tertiary levels; (2) implementation of the Adolescent Girl Initiative for Learning and Empowerment Programme (AGILE) (2020-2025), supported by the World Bank, to enhance women's economic empowerment and increase women's access to education and employment; and (3) skills training and capacity building of women entrepreneurs through the "50 Million African Women Speak" project. The Committee takes note of the data provided by the Government on the employment of men and women in different employment sectors for 2019 and 2020. The Government further indicates that statistical data is available in the Nigerian Living Standard Survey 2018-2019, but the Committee notes that this Survey provides information on the poverty rates in urban and rural areas and not on the earnings of men and women in different economic sectors and professional categories. In this regard, the Committee refers to its [General Survey on the fundamental Conventions](#), 2012, paragraph 888. **The Committee requests the Government to provide: (i) information on the impact of the measures adopted to address the gender pay gap; (ii) up-to-date statistical data, disaggregated by sex, on the distribution of workers in the public sector, by occupational category, specifying their corresponding remuneration level; and (iii) information on the measures adopted in cooperation with workers and employers' organizations to raise awareness and promote the application of the provisions of the Convention in practice.**

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

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

*Articles 1 and 2 of the Convention. Protection of workers against discrimination. Legislation.* The Committee notes with **concern** that the Government's report still has not taken any steps for the adoption of comprehensive anti-discrimination legislation. It notes that the Government merely states that the Labour Standards Bill has been approved by the Federal Executive Council and is before the Ministry of Justice for legal drafting for onward transmission to the National Assembly. **Recalling that the adoption of the Labour Standards Bill has been pending since 2006, the Committee again urges the Government to take the necessary steps to accelerate the adoption of the Labour Standards Bill and the Gender and Equal Opportunities Bill 2016, and to ensure that the legislation 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 employment.**

*Article 1(1)(a). Discrimination based on sex. Maternity.* With reference to the Committee's previous requests that the Government take measures to address discriminatory practices in the workplace against women based on maternity and marital status, the Committee notes the Government's brief statement that it will collaborate with the social partners on this issue. It notes with **regret** that no further information is given. The Committee recalls that distinctions in employment and occupation based on pregnancy or maternity are discriminatory, as they can only, by definition, affect women. Discriminatory practices linked to pregnancy or maternity continue to exist and have been particularly linked to dismissal and denial of the return to work following maternity leave, the use of temporary contracts to discriminate against pregnant women and mandatory pregnancy testing (see [General Survey of 2012 on fundamental Conventions](#), paragraph 784). **The Committee urges the Government to: (i) take measures to address discriminatory practices in the workplace based on maternity and marital status, such as awareness-raising activities in collaboration with workers' and employers' organizations; (ii) provide information on the progress achieved to this end; and (iii) provide information on the number and nature of the cases identified and addressed by the competent authorities, in particular by labour inspectors, the sanctions imposed and remedies granted.**

*Sexual harassment.* The Committee welcomes the ratification by Nigeria, on 8 November 2022, of the Violence and Harassment Convention, 2019 (No. 190). It notes the Government's repeated

indication, in its report, that the issue of sexual harassment at the workplace will be addressed in the Labour Standards Bill. However, it notes that the Government does not clarify whether the bill will prohibit both quid pro quo and hostile work environment sexual harassment, and whether it will provide access to remedies for all workers. **The Committee therefore again asks the Government to ensure that the Labour Standards Bill include provisions that: (i) clearly define and prohibit all forms of sexual harassment in employment and occupation (both quid pro quo and hostile environment sexual harassment); (ii) provide access to remedies for all workers, men and women; and (iii) provide for sufficiently dissuasive sanctions and adequate compensations. It asks the Government to provide information on any progress made in this regard and on the status of the Bill. The Committee also asks the Government to: (i) take measures to prevent and address sexual harassment in employment and occupation, including in the informal economy; and (ii) provide information on the number of complaints lodged concerning sexual harassment and the sanctions imposed and remedies granted.**

*Discrimination based on race, colour, religion, national extraction or social origin. Ethnic and religious minorities.* Recalling that Nigeria is an ethnically and linguistically diverse society, the Committee notes the Government's general indication, in reply to its previous comment, that the Constitution prohibits discrimination based on race, colour, religion, national extraction or social origin and that there is no such discrimination in the country. The Committee notes with **concern** the lack of information in the Government's report on the application of the Convention with respect to the different ethnic and religious groups in the country. It recalls that constitutional provisions and the absence of complaints is not sufficient to fulfil the obligations of the Convention; nor is it an indicator of the absence of discrimination in practice, but it is only a first step in implementing a national equality policy. Where no cases or complaints, or very few, are being lodged, this is likely to indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures, or fear of reprisals. The lack of complaints or cases could also indicate that the system of recording violations is insufficiently developed (see the [General Survey of 2012 on the fundamental Conventions](#), paragraphs 850 and 870). **Recalling that no society is free from discrimination and that continuous action is required to address it, the Committee urges the Government to take concrete measures to ensure that the right to equality and non-discrimination for ethnic and religious minority groups is effective in practice, such as affirmative action and awareness-raising measures or the adoption of policies and programmes. The Committee requests the Government to provide information on: (i) the measures taken to this end; (ii) the number and nature of complaints filed with the Human Rights Commission that relate to discrimination based on race, colour, religion or national extraction, as well as the grounds relied upon; and (iii) any legislative developments relevant to the rights of minorities.**

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

## Republic of Korea

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

#### Previous comment

The Committee notes the observations of the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU) received, respectively, on 18 July 2022 and 8 September 2023. It also notes the comments of the Government on FKTU's observations dated 5 October 2023.

*Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee recalls, once again, that section 8(1) of the Equal Employment Opportunity and Work-Family Balance Assistance Act only provides for equal wages for work of equal value "in the same business" and that the Equal Treatment Regulation (No. 422) limits the possibility of comparing work performed by men and women to "work of a similar nature". It notes the Government's indication that section 4(1) of the Operational Guidelines on Equal Employment Opportunities for Men

and Women, which was drawn up to ensure equal opportunities and treatment for men and women and to support workers' work-life balance, stipulates that "work of equal value" under the Act means work of the same or similar nature between men and women compared to each other in terms of skills, efforts, responsibilities and working conditions required to perform labour, or work that is recognized as having essentially the same value by methods such as job evaluation even if the two jobs are somewhat different. It also notes the Government's statement that extending the scope of comparison beyond the same workplace or the same company might be unreasonable or place undue burden on small business owners. Taking into consideration the extremely high and persistent gender wage gap (31.2 per cent in 2022 according to data from the Organisation of Economic Co-operation and Development (OECD)) and the occupational gender segregation of the labour market in Korea, the Committee wishes to recall 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", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. For more information in this regard, the Committee refers the Government to its [General Survey of 2012 on fundamental Conventions](#), paragraphs 672–675. ***The Committee once again urges the Government to ensure that its legal framework does not only provide for 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, including beyond the same establishment or enterprise, so as not to hinder progress in eradicating gender-based pay discrimination.***

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1998)

### [Previous comment](#)

The Committee notes the observations of the Korean Confederation of Trade Unions (KCTU) received on 18 July 2022 and those of the Federation of Korean Trade Unions (FKTU) received on 8 September 2023. It also notes the observations of the Korea Employers' Federation (KEF), communicated by the Government on 5 October 2023, together with the comments of the Government on KEF's and FKTU's observations.

*Article 1 of the Convention. Inherent requirements of the job. Discrimination on the basis of political opinion. Public officials.* The Committee notes the indication contained in the Government's report that the amendment bills introduced in 2017 to guarantee public officials', including teachers', political freedom (such as political party membership and the right to participate in election campaigns) – which the Committee had noted in its previous comment as pending before the National Assembly – have been withdrawn due to the expiration of the 20th National Assembly. It also notes the Government's indication that three new amendment bills to the State Public Officials Act (SPOA) have been introduced in June 2023 in order to alleviate the prohibition of political activities by public officials. These amendments would allow public officials to join political parties and organizations, but would prohibit them from engaging in political activities "when they use their public status". It further notes the Government's pledge to "proactively support a comprehensive review by the National Assembly of the observations of [the] Committee of Experts, other government cases and decisions made by the Constitutional Court of Korea, during the dialogue regarding the amendments." In this regard, the



Committee notes the FKTU's call for an urgent review of approximately 40 laws and regulations imposing such extensive restrictions on the activities and fundamental political rights of public servants, including teachers, that it amounts to encroaching on the fundamental human rights of citizens of a democratic society, such as freedom of expression. In reply, the Government acknowledges that it is necessary to strike a balance between the duty of political impartiality incumbent upon public officials and the value of political freedom enjoyed by individual citizens and that it is therefore imperative to engage in legislative policy discussions and make informed decisions. The Committee emphasizes, once again, that political opinion may, in certain circumstances, constitute a bona fide qualification for certain senior posts which are directly concerned with developing government policy. However, this is not the case when conditions of a political nature are laid down for public employment in general, or for certain other professions. It is essential that such restrictions are not carried beyond certain limits – to be evaluated on a case-by-case basis – as such practices may then come into conflict with the Convention's provisions calling for the implementation of a policy designed to eliminate discrimination based on political opinion, in particular in respect of public employment (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 831). The Committee also recalls that it has examined and commented on the issue of discrimination based on political opinion since 2012 and that this has been discussed by the Conference Committee on the Application of Standards (as regards teachers) for three consecutive years (2013 to 2015). ***In view of the above, and in particular the failure to conclude the examination of past legislative amendment proposals, the Committee expresses the firm hope that the Government will take concrete and efficient steps to keep to the strict minimum the limitations to the freedom of political opinion and expression of public officials (at the national, regional or local level) – including teachers at all levels of the education system. In this regard, it asks the Government, once again, to consider the possibility of adopting, in the near future, a list of jobs in the public service for which political opinion would be considered an inherent requirement. Finally, it requests the Government to provide information on any development in this regard, including before the National Assembly.***

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

## Romania

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1973)

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 2024, 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 and 2 of the Convention. Discrimination based on religion. Access to education, training and employment.* The Committee notes, from the European Commission's website, that a draft bill to amend the Romanian Education Law was filed on 2 December 2017 and received a positive advisory opinion from the Economic and Social Council on 9 January 2018. The bill proposes the following additions to section 7 of the Education Law: "for the purpose of facilitating the identification of persons in educational units, institutions and all spaces used for education and professional training, it is prohibited to cover one's face with any material which make it difficult to recognize the face, except for medical reasons. Infringement of these provisions constitutes a reason to deny access to the perimeter of the educational units, institutions and spaces for education and professional training." The sanction, introduced as an amendment to section 360(1) of the Education Law would be a fine ranging from 5,000 to 50,000 Romanian Leu (RON) (approximately €1,100 to €11,000). The Committee notes that, if adopted, this new provision will be discriminatory towards those Muslim women and girls who wear a full face veil in terms of their access to educational or training institutions and might therefore limit their opportunities to find and exercise employment in the future – for

reasons associated with their religious convictions, contrary to the Convention. **Noting that this provision of the draft bill may have a discriminatory effect towards Muslim women who wear a full-face veil in terms of their possibilities of finding and exercising employment, the Committee requests the Government to provide information on: how it is ensured that this provision of the draft bill will not have the effect of reducing the opportunities of girls and women to access education and finding employment in the future; (ii) the progress of the draft bill in the legislative process; and (iii) to supply information on the number of girls and women who might be affected by the implementation of this new provision.**

*Articles 1(2) and 4. Discrimination based on political opinion. Inherent requirements of the job. Activities prejudicial to the security of the State.* For a number of years, the Committee has been drawing the Government's attention to the fact that the restriction set by section 54(j) of Act No. 188/1999, which provides that "to hold public office a person shall meet the following conditions: ... (j) shall not have been carrying out an activity in the political police as defined by the law", could amount to discrimination on the basis of political opinion because it applies broadly to the entire public service rather than to specific jobs, functions or tasks. In its previous report, the Government had explained that, in order to clarify the legal norm and remove any possible inconsistency with the Convention, it had proposed an amendment to the current text of section 54(j) of Act No. 188/1999 as follows: "... was not a worker of the Securitate or a collaborator thereof, as provided by specific legislation». According to the Government, "specific legislation" refers to section 2 of Ordinance No. 24/2008 which defines an "employee of Securitate" and a "collaborator of Securitate". While understanding the Government's concerns regarding the requirement for all government unit members to be loyal to the State, the Committee had drawn attention to the fact that, for such measures not to be deemed discriminatory under *Article 4* of the Convention relating to activities prejudicial to the security of the State, they must affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken. These measures become discriminatory when taken simply by reason of membership to a particular group or community. They must refer to activities that are objectively prejudicial to the security of the State and the individual concerned must have the right to appeal to a competent body in accordance with national practice (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 832–835). The Committee therefore requested the Government to specify and define the functions in respect of which section 54(j) of Act No. 188/1999 would apply and to provide information on its application in practice. The Committee notes that the Government's report does not contain any information in this regard. It notes, however, that the European Court of Human Rights (ECHR) (*Naidin v. Romania*, No. 38162/07) held that the barring of a former collaborator of the political police from public service employment was justified by the loyalty expected from all civil servants towards the democratic regime. In this regard, the Committee recalls that, under *Article 1(2)*, political opinion may be taken into account as an inherent requirement of a particular position involving special responsibilities in relation to developing government policy, which is not the case of section 54(j) given that it applies to any state civil service position, whatever the level of responsibility. Further, the Committee recalls that the principle of proportionality must apply and that the exception under *Article 4* should be interpreted strictly. **The Committee urges the Government to take the necessary steps to amend section 54(j) of Act No. 188/1999 or to adopt other measures clearly stipulating and defining the functions to which this section applies. It also asks the Government to provide information on the application of section 54(j) of Act No. 188/1999 in practice, including information on the number of persons dismissed or whose application has been rejected pursuant to this section, the reasons for these decisions and the functions concerned, as well as information on the appeal procedure available to the affected persons and any appeals lodged and their results.**

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

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

## Singapore

### Equal Remuneration Convention, 1951 (No. 100) (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 2024, 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 and 2 of the Convention. Assessing and addressing the gender pay gap.* The Committee recalls the lack of legislation requiring equal remuneration for men and women for work of equal value. The Committee previously noted the Guidelines issued by the Tripartite Alliance for Fair Employment Practices (TAFEP) on 3 May 2007, which include a section on remuneration stating that “[e]mployers should pay employees wages commensurate with the value of the job [...] regardless of age, gender, race, religion and family status, employees should be paid and rewarded based on their performance, contribution and experience”. It notes, from the TAFEP’s website, that as of September 2019, 7,144 organizations have signed the Employers’ Pledge for Fair Employment Practices, which is a public commitment from employers to create fair and inclusive workplaces according to the TAFEP’s Guidelines. The Committee notes the Government’s statement, in its report that, in July 2017, Tripartite Standards (TSes) were introduced to enhance fair and progressive employment practices on flexible work agreements, recruitment practices and unpaid leave for unexpected care needs. Noting that the TAFEP continued training workshops to assist employers implementing fair and progressive employment practices, the Committee notes the Government’s indication that the Human Capital Partnership (HCP) Programme was launched in 2017 by tripartite partners to “grow an inclusive community of progressive employers”, and will be managed by the TAFEP. The Committee however observes that the Government does not provide information on any measures taken by the TAFEP to promote specifically the principle of equal remuneration for men and women for work of equal value. While noting the Government’s statement that the gender pay gap was estimated at 11.8 per cent in 2017 with broad-based improvement across most occupational groups, the Committee notes, from the statistical information provided by the Government, that in 2017 the median gross monthly salary of women employed in the same occupational category as men was systematically lower than that of men, except for clerical support workers where it was slightly higher. It notes in particular that the gender wage gap was estimated at 12.2 per cent for managers and administrators; 18.7 for working proprietors; 14.4 for professionals and still remains wider for craftsmen and related trades workers (22.3 per cent) and plant and machine operators and assemblers (19.1 per cent). The Committee notes the Government’s indication that the wage gap can be attributed to the fact that women are more likely to exit the workforce or have intermittent patterns of work, for reasons such as childcare and the care of the elderly. The Government adds that its approach to address the gender pay gap is to empower women with choices to stay in the workforce, instead of having to exit it to fulfil caregiving responsibilities. In this regard, the Committee welcomes the adoption and implementation of measures to assist women to enter, re-enter or remain in the workforce, including through flexible working arrangements and the introduction of measures to encourage shared parental responsibilities (such as a two weeks paid paternity leave and the possibility for fathers to share up to four weeks of their wife’s maternity leave). The Committee however notes that, in its 2017 concluding observations, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) remained concerned about: (i) the persistent gender wage gap in all occupational categories, except clerical support; (ii) the continued vertical and horizontal occupational segregation in both the public and private sectors; (iii) the persistence of discriminatory stereotypes about the role of women as primary caregivers, including as caregivers of older persons; (iv) the fact that women still remain underrepresented in traditionally male-dominated fields of study, such as engineering, electronics and information technology, at the tertiary level; as well as (v) the underrepresentation of women on corporate boards, notwithstanding their high educational and professional achievements and qualifications. The Committee further notes that the CEDAW recommended that “the Government reduces the gender wage gap by regularly reviewing wages in sectors in which women are concentrated and by establishing effective monitoring and regulatory mechanisms for employment and recruitment to ensure that the principle of equal pay for work of equal value is adhered to in all sectors” (CEDAW/C/SGP/CO/5, 21 November 2017, paragraphs 18, 26, 28 and 29). The Committee notes that the CEDAW, as well as the UN Independent Expert on the enjoyment of all human rights by older persons, also expressed specific concern that older women frequently lack sufficient savings to sustain a living as a result of the gender pay gap, a lack of employment opportunities and their caregiving responsibilities, and are therefore forced to continue to work beyond their retirement age in low-paid and low-skilled occupations (CEDAW/C/SGP/CO/5, 21 November 2017, paragraph 38 and A/HRC/36/48/Add.1, 31 May 2017, paragraphs 27 and 93). ***In light of the absence of a legislative framework providing for equal remuneration for men and women for work of equal value and the persistence of significant gender wage gaps, in particular in sectors where women are traditionally***

*concentrated, the Committee asks the Government to take proactive measures, including legislative measures in the framework of the Tripartite Alliance for Fair Employment Practices, to establish the principle of the Convention and raise awareness among workers, employers and their respective organizations, as well as among law enforcement officials of the right to equal remuneration for men and women for work of equal value. It also asks the Government to continue to take measures to address the underlying causes of the gender wage gap, such as vertical and occupational gender segregation and stereotypes relating to the aspirations, preferences and abilities of women, including by encouraging girls and women to choose non-traditional fields of study and professions and promoting their access to jobs with career prospects and higher pay. The Committee asks the Government to continue to provide statistical information on the level of earnings of men and women, disaggregated by economic activity and occupational group, both in the public and private sectors.*

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

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

## Slovenia

### Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1992)

#### Previous comment

*Articles 3 and 4 of the Convention. National policy, non-discrimination, leave and benefits. Legislative developments.* The Committee takes due note of the detailed information provided by the Government in its report on the legislative developments to transpose the European Union Directive No. 2019/1158 on work-life balance for parents and carers. In particular, it takes note of the following amendments to the Parental Protection and Family Benefits Act (ZSDP-1): (1) the introduction of more flexibility to use the paternity leave and the introduction of a parental leave for adoptive parents (Amendment ZSDP-1B); (2) the extension of paternity leave by ten days in the event of the birth of twins or multiple live births, (3) the increase of the minimum payment of maternal, paternal and parental benefits to equal the basic minimum income (Amendment ZSDP-1C); (4) the increase of the amount of partial payment for loss of income for parents or other person who takes care of two or more children with disabilities (Amendment ZSDP-1E); and (5) the alignment of maternal, paternal and parental leave entitlements to the requirements set in the above mentioned Directive (Amendment ZSDP-1F). The Government also indicates that another series of amendments to the Employment Relationship Act (ZDR-1) are under discussion, also to transpose the EU Directive 2019/1158, and that these amendments covers issues such as: (1) the reversal of the burden of proof in the event of a dispute related to exercising special protection due to carers' leave; (2) the employer's obligation to enable a better work-life balance; (3) the determination of absence from work due to carers' leave as an unfounded reason for ordinary employment contract termination; and (4) a right to part-time or full-time absence from work for the purpose of using carers' leave. The Committee notes the Government's indication that 15,594 fathers used their paternity leave in 2020 and 23,906 in 2021. The Committee also notes the information included in the report on the activities of the Office of the Advocate of the Principle of Equality, including awareness-raising activities with workers' and employers' organizations, the publication and distribution of a special leaflet titled "Say no to discrimination of pregnant women and parents in the workplace", and the current development of a Guide on the protection against discrimination and equal opportunities at work. ***The Committee requests the Government to provide information on: (i) the implementation in practice of the recent amendments to the Parental Protection and Family Benefits Act (ZSDP-1), such as statistical data disaggregated by sex, on the number of workers with family responsibilities exercising leave and working arrangement options provided for by the legislation; (ii) the amendments to the Employment Relationship Act (ZDR-1) that should be adopted to transpose the Directive of the European Union No. 2019/1158 on work-life balance for parents and carers; and (iii)***

**the work of the Advocate of the Principle of Equality, especially with regards to spreading public awareness about legislative changes related to working parents.**

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

## Sri Lanka

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

#### Previous comment

*Articles 1 to 4. Assessing and addressing the gender pay gap.* The Government indicates in its report that it has planned to undertake a survey to assess wage gaps and identify more clearly its underlying causes. The Committee notes from the Labour Force Survey (2019-2020) that the average monthly gross salary of women employees in public and private sector and in the informal sector tend to be lower than of men employees in all sectors of economic activity. **The Committee asks the Government to take proactive steps to reduce the gender pay gap, including measures aimed at identifying and addressing the underlying causes of pay differentials such as vertical and horizontal job segregation and gender stereotypes. In this regard, the Committee requests the Government to provide detailed information on: (i) the findings of the planned survey and the actions envisaged and implemented as a follow-up; and (ii) the average level of earnings of men and women, disaggregated by economic activity and occupation, both in the private and public sectors, as well as in the informal economy if available.**

*Articles 1 and 2(2)(a). Definition of remuneration. Equal remuneration for men and women for work of equal value. Legislation.* The Committee notes that the Ministry of Labour and Foreign Employment is currently undertaking a review of labour laws. The Committee recalls that, for a number of years, it has been raising concerns about the absence of legislation providing for equal remuneration for men and women for work of equal value, as well as the limitations of the principle of equal wages for the “same” or “substantially the same” work, arising out of wage ordinances and collective agreements. It also recalls that the definition of “remuneration” in *Article 1(a)* for the purpose of applying the principle of the Convention includes “the ordinary, basic or minimum wage or salary and 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 notes the Government’s indication that the decision has been made to include the principle of “equal remuneration for men and women for work of equal value” in the Shop and Office Employees Act and the Wages Board Ordinance. A tripartite subcommittee has been established to prepare the draft amendment. **Welcoming this information, in the context of the ongoing labour law reform, the Committee requests the Government to make all efforts, in cooperation with employers’ and workers’ organizations, to ensure that: (i) the principle of equal remuneration for men and women for work of equal value set out in the Convention is given full legislative expression and covers all categories of workers in the private sector; (ii) all components of remuneration enumerated in Article 1(a) of the Convention are included in the definition of “remuneration” for the purpose of applying this principle; and (iii) the determination of work of equal value is based on objective job evaluation, using objective criteria such as qualifications and skills, responsibilities, efforts and working conditions. It requests the Government to provide information on the progress made towards the amendment of the Shop and Office Employees Act and the Wages Board Ordinance in this regard as well as a copy of the amended texts, once adopted.**

*Article 2. Minimum wages. Wages boards.* Referring to its previous observation regarding the scope of the National Minimum Wage Act No. 3 of 2016, the Committee notes the Government’s indication that: (1) the Act covers all workers, in both the formal and informal economy, with the exception of domestic workers; and (2) discussions are being held with the purpose of addressing issues concerning the wage fixing mechanism. The Committee recalls that domestic workers make up a female-dominated group of workers generally with poor working conditions, including lower pay. As 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. Moreover, the principle of equal remuneration for work of equal value is to apply to domestic workers, whether nationals or non-nationals, and particular attention should be given to ensuring that domestic work is not undervalued due to gender stereotypes (see [General Survey of 2012 on the fundamental Conventions](#), paragraphs 683 and 707). **Therefore, the Committee requests the Government to: (i) take the necessary measures to ensure that equal remuneration for men and women for work of equal value is ensured for domestic workers; and (ii) envisage extending the national minimum wage to domestic workers. It also requests the Government to provide information on the progress made in this regard and in simplifying the wages boards system, as well as on any measures taken to ensure that the rates of wages fixed by the wages boards are based on objective criteria free from gender bias (such as qualifications and skills, effort, responsibilities and conditions of work), including as a result of the ongoing discussions on the wage-fixing mechanism reported by the Government.**

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(ratification: 1998)

### Previous comments

*Articles 1 and 2 of the Convention. Protection against discrimination. Legislation.* The Committee recalls the lack of provisions in the labour or other legislation providing for protection against discrimination in employment and occupation in the private sector. In addition, it recalls that, for many years, it has been pointing out that articles 12 (equality before the law and protection of citizens against discrimination on the grounds of "race, religion, language, caste, sex, political opinion, place of birth or any of such grounds"), 14 (freedom for citizens to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise) and 17 (remedy for the infringement of fundamental rights) of the Constitution appear to cover citizens only and do not prohibit discrimination on the grounds of colour or national extraction. In response, the Government indicates that: (1) provisions of labour legislation in Sri Lanka are applied to "employees working in the private sector establishments and statutory bodies, based on the contract of employment"; (2) the term "employee" is clearly defined in all labour legislation; and (3) the definition does not discriminate any employee or worker based on gender, race, colour, ethnicity, nationality, citizens, non-citizens, religion, etc. While noting these explanations, the Committee recalls that, under *Article 2*, with a view to achieving the elimination of discrimination in employment and occupation, States are required to develop and implement a multi-faceted national equality policy. The implementation of the national equality policy presupposes the adoption of a range of specific and concrete measures, including in most cases the need for a clear and comprehensive legislative framework, and ensuring that the right to equality and non-discrimination is effective in practice (see [General Survey of 2012 on the fundamental Conventions](#), paragraph 732). The Committee underlines that: (1) the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 set, as an explicit objective, the enactment legislation to guarantee the right to non-discrimination on any prohibited ground, including sex, race, ethnicity, religion, caste, place of origin, gender identity, disability or any other status in all workplaces, including in the private sector; and (2) this plan does not refer explicitly to the grounds of "colour", "political opinion", "national extraction" and "social origin", which are enumerated in *Article 1(1)(a)* of the Convention. **The Committee again urges the Government to take all the necessary steps to introduce comprehensive legislative provisions in order to ensure that all men and women workers, citizens and non-citizens, are effectively protected from both direct and indirect discrimination in all aspects of employment and occupation and on all the grounds enumerated in the Convention, including colour and national extraction. It also asks the Government to indicate if any progress was made in this regard under the National Action Plan for the Protection and promotion of Human Rights. Noting that a draft new Constitution is being prepared, the Committee expresses the hope that the new**

**Constitution will prohibit discrimination on at least all the grounds listed in Article 1(1)(a) of the Convention and will extend such prohibition to non-citizens.**

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

## Syrian Arab Republic

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)

The Committee notes with **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 2024, 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 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) (General Survey of 2012 on fundamental Conventions, paragraphs 673 and 675). **In light of the above, the Committee asks the Government to take the necessary measures to amend section 75(b) of the Labour Code in order to ensure equal remuneration for men and women not only in situations in which they perform the same work, but also in situations in which they carry out work which is different but nevertheless of equal value.**

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

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

## Tajikistan

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

#### Previous comment

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes. Private sector.* The Committee welcomes the Government's information regarding the decreasing gender pay gaps in the agriculture sector, where the ratio of women's wages to men's went from 79.5 per cent in 2018 to 97.2 per cent in 2021; in the education sector, from 77 to 89 per cent; in healthcare, from 74.5 to 79.4 per cent; and in public administration and defence, from 77.2 to 87.4 per cent. It notes however the information from the World Bank, based on *TajStat statistics*, that overall women earned 60 per cent of what men earned in 2018. According to the Government, the pay gap persists due to the following factors: (1) there are more male managers in all sectors; (2) women are less likely to be involved in harmful working conditions, overtime and night work, and are therefore not paid the

corresponding supplements as part of their average wage; (3) in most cases, women work fewer hours; and (4) the total number of female workers is lower than the total number of male workers. Regarding measures adopted to increase women's equal participation in the economy and reduce the gender pay gap, the Committee notes the Government's indication that, during the 2018–22 period: (1) under the State Employment Promotion Programmes and social support for women, 175,700 women were employed in various sectors of the economy of which 16,100 unemployed women were employed through quota-based jobs; (2) 9,700 women were granted access to preferential interest-free loans for the development of self-employment; (3) 11,500 women were engaged in paid public work; (4) 73,900 women received free vocational training; and (5) 16,300 received vocational guidance services. The Committee notes that a Programme for the Development of Handicrafts for 2021–25 was adopted, making it possible for a significant number of women and girls living in villages to participate in training in these crafts. The Committee further notes the adoption of several new policies that have contributed to promoting the employment of women in various sectors of the economy, according to the Government. ***Welcoming the various measures taken to promote the employment of women and their impact on their labour force participation and reducing the gender pay gap, the Committee asks the Government to step up its efforts and pursue its action towards the elimination of the gender pay gap in all sectors of the economy, particularly in male-dominated sectors, and to continue to address the underlying causes it has identified. It asks the Government to provide detailed information on: (i) the measures taken in this regard and their impact; and (ii) wages of women and men, disaggregated by sector of the economy and occupational category, as well as any recent statistics on the gender pay gap itself.***

*Articles 1(b) and 2(2)(a). Work of equal value. Legislation.* The Committee notes that section 140(2) of the Labour Code provides that the “employer is obliged to pay the employee the same salary for the performance of *equivalent* work”. It recalls 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 on the fundamental Conventions](#), paragraph 673). ***The Committee asks the Government to consider the possibility of harmonizing section 140(2) of the Labour Code with section 13 of the Law on State Guarantees of Equal Rights for Men and Women, which provides for equal remuneration for men and women for “the same work or work of equal value”, to ensure that the former explicitly refers to the concept of “work of equal value” 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.

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1993)

### [Previous comment](#)

*Article 1 of the Convention. Protection against discrimination. Legislative developments.* The Committee recalls the conclusions of the Committee on the Application of Standards (CAS) of the International Labour Conference at its 108th Session (June 2019), calling upon the Government to report on the concrete measures taken to ensure that direct and indirect discrimination on all grounds is prohibited in law and in practice. The Committee notes the adoption of the Act No. 1890 of 19 July 2022 on Equality and the Elimination of All Forms of Discrimination. It notes with ***interest*** that, pursuant to this Act: (1) the definition of discrimination in section 1.1 includes (by way of article 5) both direct and indirect discrimination, the latter being defined as “rules and principles and (or) practices that are apparently harmless, but have serious disproportionate consequences, which put a person in a disadvantageous situation compared to other persons in similar conditions due to any of the factors provided for” in section 1.1 of this Act; (2) “skin colour” and “origin” are now included in the list of



prohibited grounds of discrimination (section 1.1); and (3) all State structures, self-governing bodies of towns and villages, officials, natural and legal persons, regardless of their organizational and legal form and direction of activity are covered (section 3). It further notes the Government's indication that: (1) work is underway to harmonize the national legislation with Act No. 1890 of 19 July 2022 through the creation of an interdepartmental working group consisting of representatives of the Executive Office of the President, the Ministry of Justice, the Prosecutor General's Office, the Committee for Women and Family Affairs (CWFA) and the Commissioner for Human Rights; and (2) a working group for the implementation of the Act was also created under the Commissioner for Human Rights. With respect to the civil service, the Committee recalls that the notion of "social status" in the Civil Service Act is narrower than the notion of "social origin" set out by the Convention. **The Committee asks the Government to: (i) take measures to raise awareness of the provisions of Act No. 1890 of 19 July 2022 among public and private employers, workers and enforcement officials, including through the above working group; and (2) provide information on its implementation in practice, including examples of complaints or cases dealt with by the Courts, the CWFA or the Commissioner for Human Rights concerning indirect discrimination and their outcome (ground(s) invoked, sanctions applied and compensation granted). It also asks the Government to clarify whether the term "origin" in section 1.1 of Act No. 1890 of 19 July 2022 encompasses the concept of "social origin" as set out in Article 1(1)(a) of the Convention. It also asks the Government to take the opportunity of the planned legislative harmonization of national legislation to: (i) take steps to amend section 7 of the Labour Code and the Civil Service Act to ensure that the grounds of "colour" and "social origin" are expressly included as prohibited grounds of discrimination; and (ii) more generally, consider harmonizing the anti-discrimination provisions of the Civil Service Act with the provisions of Act No. 1890 of 2022. The Committee asks the Government to provide information on the progress achieved to this end.**

*Article 2. National equality policy.* The Committee notes with **interest** that, under section 12 of Act No. 1890 of 19 July 2022, in order to ensure equality and eliminate all forms of discrimination, the Government has the power to ensure the development and promotion of a unified state anti-discrimination policy. In this regard, the Committee recalls that, in previous comments, the International Trade Union Confederation (ITUC) emphasized 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 asks the Government to take steps to adopt and pursue a national policy on equality of opportunity and treatment in employment and occupation addressing all the grounds protected by the Convention, namely sex, race, colour, national extraction, religion, political opinion and social origin, as required by Article 2 of the Convention and envisioned under Act No. 1890 of 19 July 2022 (section 12).**

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** *Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Benin, Botswana, Cabo Verde, Cambodia, Canada, Chile, China, China - Macau Special Administrative Region, Comoros, Croatia, Cuba, Cyprus, Denmark (Greenland), Dominican Republic, El Salvador, Equatorial Guinea, Eritrea, Estonia, Eswatini, Fiji, France, France (French Polynesia), France (New Caledonia), Gabon, Georgia, Ghana, Guatemala, Guinea, Haiti, Iceland, Iran (Islamic Republic of), Japan, Kenya, Kiribati, Lao People's Democratic Republic, Latvia, Lesotho, Madagascar, Malawi, Malta, Mauritania, Mauritius, Mexico, Mongolia, Montenegro, Nepal, Netherlands, Nicaragua, Nigeria, Norway, Republic of Korea, Romania, Singapore, Solomon Islands, South Sudan, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, Timor-Leste, United Kingdom of Great Britain and Northern Ireland (Isle of Man), Yemen* **Convention No. 111** *Antigua*

and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Belarus, Benin, Bolivia (Plurinational State of), Botswana, Burkina Faso, Cabo Verde, Cambodia, Canada, Chile, China - Macau Special Administrative Region, Comoros, Croatia, Cuba, Cyprus, Dominican Republic, El Salvador, Eritrea, Estonia, Eswatini, Fiji, France, France (French Polynesia), France (French Southern and Antarctic Territories), France (New Caledonia), Gabon, Georgia, Ghana, Guatemala, Guinea, Haiti, Iceland, Kenya, Kiribati, Kuwait, Lao People's Democratic Republic, Latvia, Lesotho, Liberia, Madagascar, Malawi, Malta, Mauritania, Mauritius, Mexico, Mongolia, Montenegro, Nepal, Netherlands, Nicaragua, Nigeria, Norway, Republic of Korea, Romania, Solomon Islands, Somalia, South Sudan, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, Timor-Leste, United Kingdom of Great Britain and Northern Ireland (Isle of Man), Yemen **Convention No. 156** Albania, Argentina, Australia, Azerbaijan, Bolivia (Plurinational State of), Mauritius, Montenegro, Netherlands, Norway, Slovenia **Convention No. 190** Ecuador, Namibia.

## Tripartite consultation

### Antigua and Barbuda

#### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2002)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 5(1) of the Convention. Effective tripartite consultations.* The Government indicates in its report that the National Labour Board is currently engaged in the revision of the Labour Code. The Committee notes that the Government envisages establishing a subcommittee composed of members of the National Labour Board, along with representatives of workers and employers, to review international labour standards, engage the public in consultations when necessary and to make recommendations to the Minister on actions to be taken. The Committee notes, however, that once again the Government's report does not contain information with regard to tripartite consultations on the matters related to international labour standards covered by Article 5(1) of the Convention. **Recalling its comments since 2008 concerning the activities of the National Labour Board, and noting that section B7 of the Labour Code, which establishes the Board's procedures, does not include the matters set out in Article 5(1) of the Convention, the Committee once again requests the Government to provide detailed information on the activities of the National Labour Board on matters related to international labour standards covered by the Convention. It further requests the Government to identify the body or bodies mandated to carry out the tripartite consultations required to give effect to the Convention. The Committee reiterates its request that the Government provide precise and detailed information on the content and outcome of the tripartite consultations held on all matters concerning international labour standards covered by Article 5(1)(a)–(e) of the Convention, especially those relating to the questionnaires on Conference agenda items (Article 5(1)(a)); reports to be presented on the application of ratified Conventions (Article 5(1)(d)); and proposals for the denunciation of ratified Conventions (Article 5(1)(e)).**

*Article 5(1)(b). Submission to Parliament.* The Government reiterates information provided in April 2014, indicating that the 20 instruments adopted by the Conference from its 83rd to its 101st Sessions (1996–2012) were resubmitted to Parliament on 11 March 2014. It adds that a request would be made to the Minister by 15 November 2017 via the Labour Commissioner and Permanent Secretary concerning submission of the instruments to Parliament. **The Committee refers to its longstanding observations on the obligation to submit and once again requests the Government to indicate whether effective consultations leading to conclusions or modifications were held with respect to the proposals made to the Parliament of Antigua and Barbuda in connection with the submission of the above-mentioned instruments, including information regarding the date(s) on which the instruments were submitted to Parliament. In addition, the Committee requests the Government to provide information on the content, agenda, discussions and resolutions and on the outcome of the tripartite consultations held in relation to the submission of instruments adopted by the Conference as of 2014: the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session.**

*Article 5(1)(c). Examination of unratified Conventions and Recommendations.* The Government reports that the unratified conventions noted in its report were submitted to the National Labour Board on 11 November 2017 for re-examination with the **social** partners. **The Committee requests the Government to provide updated information on the outcome of the re-examination of unratified Conventions, in particular: (i) the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which is deemed a governance Convention; (ii) the Holidays with Pay Convention (Revised), 1970 (No. 132), (which revises the Weekly Rest (Industry) Convention, 1921 (No. 14); the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), to**

*which Antigua and Barbuda is a State party); and (iii) the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), (which revises the Seafarers' Identity Documents Convention, 1958 (No. 108), that has also been ratified by Antigua and Barbuda).*

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

## Democratic Republic of the Congo

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

#### [Previous comment](#)

*Articles 2 and 5 of the Convention. Tripartite consultations.* The Government indicates that it has sent the competent national authority a submission report on ten instruments adopted by the International Labour Conference between 2010 and 2019. The Government also indicates that seven ordinary sessions and one special session of the National Labour Council (CNT) were held between 2013 and 2021. It states that, at its last session, the CNT examined and adopted a draft decree establishing the High Council for Social Dialogue. The Committee notes with **deep regret**, however, that the Government's report still contains no response to its previous comments, reiterated since 2013. **Concerning the serious failure to submit the instruments adopted by the International Labour Conference, laid down in article 19(5) and (6) of the ILO Constitution, the Committee refers to its comment of 2023 on submission to the competent authorities and once again reiterates its request to the Government to provide information on the consultations held with the social partners prior to the submission of instruments. The Committee recalls that the instruments in respect of which the Government has yet to fulfil its obligation to submit them to the competent authority concern those adopted at the 99th, 100th, 101st, 103rd, 104th, 106th, 108th and 111th Sessions, or 9 Recommendations, 3 Conventions and 1 Protocol. As to the frequency, the content and the results of the consultations held on all the questions covered by Article 5(1) of the Convention, the Government once again reiterates its request for detailed information in this regard (that is, for each consultation, the date, the subject and the position adopted at the end of the consultation).**

*COVID-19 pandemic.* The Committee notes the information provided in response to its previous comment on the use of tripartite consultations to formulate responses to the socio-economic repercussions of the pandemic.

## Djibouti

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)

#### [Previous comment](#)

In its previous comments, the Committee noted the observations of the General Union of Djibouti Workers (UGTD) and the Labour Union of Djibouti (UDT), received on 4 May 2021. Despite its request in this regard, the Committee has not received the Government's comments concerning the observations of the social partners. **It therefore reiterates its request to the Government to provide its comments on the observations made jointly by the UGTD and UDT.**

*Articles 1 and 3(1) of the Convention. Participation of representative organizations.* The Government once again reiterates that two draft texts, prepared in 2013, are in the process of being adopted. The first text is a draft decree establishing the definition of the different forms of trade union organizations and the criteria for representativeness. The second text is a draft order setting out the terms for the organization of occupational national elections. The Government recalls that these texts, established in

consultation with the social partners, were referred in 2014 to the National Council for Labour, Employment and Social Security (CONTESS), which did not adopt them. CONTESS subsequently assigned the examination of the drafts to a standing tripartite committee but no consensus was reached. The Government indicates that, to break this stalemate, the Department of labour, employment and social security (DLESS) met with the Office in the margins of the International Labour Conference in June 2019. Following this meeting, the Office prepared a memorandum of technical comments on the draft decree. The Office recommended that the memorandum be communicated to the workers' and employers' organizations, within the framework of the revision process of the draft decree. The Government does not provide any information in this regard but once again states that it will inform the Office as soon as possible of any developments in the adoption of the above-mentioned draft decree and draft order. In the meantime, the Government indicates that it is sending written invitations to the "recognized" occupational organizations to freely designate their representatives but does not attach to its report a copy of this invitation or provide more detailed information on its application. The Government adds that there are two workers' trade union confederations (the UGTD and UDT) and that the employers' organizations (the National Confederation of Employers of Djibouti (CNED) and the Federation of Employers of Djibouti (FED)) merged on 26 December 2015 to form a single organization, the CNED. In this regard, the Government provides the records of a CNED general meeting held on 22 December 2015, showing that the CNED was in favour of a single employers' union. The document does not refer, however, to a decision by the FED in this regard or to a merger with the FED. The Government states that it provided copies of its report to the following representative workers' and employers' organizations: the CNED, UDT and UGTD. With regard to the observations of the social partners, the Committee notes that the UGTD and UDT report Government interference in trade union affairs, as well as threats, arbitrary detention, unfair dismissals and punitive transfers of trade unionists. Further to its previous comment, the Committee notes with **concern** that the objective criteria for designating the most representative organizations and the procedures guaranteeing the free choice of their representatives in tripartite bodies has yet to be determined. ***As this is a situation that has persisted for many years, despite the technical assistance of the Office, the Committee urges the Government to adopt, as soon as possible and following effective consultation with the employers' and workers' organizations, the texts establishing the objective criteria for representativeness of these organizations, as well as the procedures guaranteeing the free choice of their representatives. The Committee requests the Government to provide detailed and up-to-date information on the measures taken to this end. In addition, regarding the merger between the CNED and FED, the Committee requests the Government to provide any decisions of the FED general meeting in this respect. If not available, the Committee requests the Government to provide information on any particular issues in the country that would explain why it did not provide its latest report to the FED. With regard to the observations of the UGTD and UDT, alleging Government interference in trade union affairs, as well as threats, arbitrary detention, unfair dismissals and punitive transfers of their representatives, the Committee refers to its comments on the application by Djibouti of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).***

*Articles 2 and 5. Tripartite consultations. Frequency and effectiveness of tripartite consultations.* The Government indicates that CONTESS held tripartite consultations on the following dates: 27–28 November 2017, 14 January 2019, 27–28 October 2019 and 21 September 2020. The Government does not provide the records of these meetings, even though the Committee requested a copy in its previous comments. The Government provides details of the meeting agendas, which included discussion of draft texts on labour law, the adoption of an inter-occupational collective agreement and the ratification of ILO Conventions. In this respect, the Committee notes the adoption of the Bills ratifying the Instrument for the Amendment of the Constitution of the ILO, 1986, and the Maternity Protection Convention, 2000 (No. 183). With regard to the observations of the social partners, the Committee notes that the UGTD and UDT report that there are "clones" of the representative organizations that, notably, adopted the

new Labour Code in 2006. They also allege that CONTESS is a fictional council, in which only “union alibis” are involved, which support the Government’s proposals. The UGTD and UDT add that CONTESS meets only rarely – once or twice every two years. They state that CONTESS “disappeared” for over ten years and “has recently been resuscitated in order to deceive the Office”. ***The Committee reminds the Government that, in accordance with Article 5(2) of the Convention, tripartite consultations must be undertaken at appropriate intervals fixed by agreement with the workers’ and employers’ representatives, but at least once a year. The Committee requests the Government to continue to provide detailed information on the frequency, content and outcome of the tripartite consultations held on each of the matters referred to in Article 5(1) of the Convention. It also reiterates its request to the Government to send copies of the records of CONTESS meetings. If it does not appear in the records, it requests the Government to provide detailed information on the composition of CONTESS. The Committee notes, with concern, the allegations of the UGTD and UDT concerning cloning of the representative organizations and the presence of “trade union alibis” in CONTESS. The Committee requests the Government to provide detailed information on how it ensures, in accordance with Article 2(1) of the Convention, effective consultations between the representatives of the employers and workers on all the matters referred to in Article 5(1) of the Convention. In particular, the Committee requests the Government to report the measures taken to avoid any identity theft of the representative organizations and their representatives during tripartite consultations.***

*Article 4. Training.* The Government refers to the existence of a programme to strengthen social dialogue, as well as to several employment measures, especially for young people but does not, however, respond to the Committee’s request for updated information on the financing of the necessary training of participants in consultative procedures. With respect to the social partners, the Committee notes that the UGTD and UDT noted that the Government does not organize or finance any worthwhile training and prohibited training set up with the help of outside trade unions. The UGTD and UDT also report that it was impossible to attend any training sessions organized by the Office. ***The Committee reiterates its request to the Government to provide information on the appropriate arrangements made for the financing of any necessary training of participants in consultation procedures, in accordance with the Convention.***

*Technical assistance.* The Committee notes the Government’s request to benefit from the assistance of the Office in the implementation of its programme to strengthen social dialogue. While hoping to be able to note progress in the area of tripartite consultation in the country shortly, the Committee confirms that the technical assistance of the Office remains available to the tripartite constituents, while underscoring that this assistance is defined by social dialogue.

## El Salvador

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

#### [Previous comment](#)

The Committee notes the observations of the Trade Union Confederation of Workers of El Salvador (CSTS), received on 17 May 2023. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September and 16 November 2023. Both observations provided information on matters dealt with in this comment, which are examined below. ***The Government is requested to provide its comments in this regard.***

#### [Follow-up to the conclusions of the Committee on the Application of Standards \(111th Session of the International Labour Conference, June 2023\)](#)

The Committee takes note of the discussion that took place in the Conference Committee on the Application of Standards (hereafter the Conference Committee) in June 2023 with regard to the

application of the Convention. In its conclusions, the Conference Committee notes the allegations concerning serious and repeated violations of the Convention by El Salvador. Likewise, the Conference Committee also noted with deep concern the multiple allegations of interference by the authorities in the appointment of employers' and workers' representatives in public tripartite and joint bodies.

Taking the discussion into account, the Conference Committee urged the Government, in consultation with the social partners, to: (i) immediately cease all acts of violence, threats, persecution, stigmatization, intimidation or any other form of aggression against individuals or organizations in connection with both the exercise of legitimate trade union activities and the activities of employers' organizations, and adopt measures to ensure that such acts are not repeated, in particular in relation to the National Business Association (ANEP) and its members; (ii) refrain from any interference in the exercise of freedom of association of employers and workers, including in the constitution of workers' and employers' organizations; (iii) put a stop to the delays in issuing the credentials of workers' and employers' organizations, including for ANEP, in line with their right to representation; (iv) ensure that all workers' and employers' organizations, including ANEP, enjoy the rights and freedoms under the Convention and are fully included in tripartite consultation and social dialogue; (v) reactivate, without delay, the full operation of the Higher Labour Council (CST) and other tripartite bodies, as well as ensure the development and adoption, in consultation with social partners, of clear, objective, predictable and legally binding rules to ensure their effective and independent functioning, without any external interference; (vi) take without delay all necessary measures to repeal the legal obligation on trade unions to request renewal of their legal status every 12 months; (vii) amend the 23 decrees adopted on 3 June 2021 to ensure that employers' organizations are able to exercise their right to freely elect their representatives without any external interference; and (viii) develop a time-bound road map to implement without delay all the recommendations made by the 2022 ILO high-level tripartite mission and the Conference Committee's recommendations.

The Conference Committee requested the Government to accept a direct contacts mission to ensure full compliance with the Convention. It further requested the Government to submit a detailed report on the implementation of the Convention in law and practice, including information on the content and outcome of the tripartite consultations, to the Committee of Experts by 1 September 2023.

*Articles 2 and 3(1) of the Convention. Adequate procedures. Reactivation of the Higher Labour Council (CST). Allegations of Government interference.* The Committee notes that the Government's report – which the Conference Committee requested for June 2023 – was received late, on 29 November 2023, after its session had already started. The Government indicates that the CST has been functioning since its reactivation in 2019, in compliance with the provisions of its Statute regarding the number of sessions required. In this regard, the Government indicates that, in accordance with section 11 of the Statute, at least two meetings per year must be held. The Government reiterates once again that as of December 2021 the CST was established for 2021–23 and that the representatives of workers and employers were freely and independently elected. The Government also states that it is inappropriate to point out the inactivity of the CST on the basis of the meetings of its plenary session. By way of example, the Government refers to the creation by the plenary of the CST of a technical working group consisting of a tripartite commission for the discussion of the Early Childhood Act with a view to subsequently submitting the elements deemed necessary to the CST Board of Directors and ultimately to its plenary. However, the Government indicates that this process could not be completed due to the lack of agreement from some sectors to complement the first steps agreed upon in a tripartite manner. In relation to the repeal of the 23 decrees related to official autonomous institutions, the Government indicates that this is an internal decision that only concerns El Salvador as a free and sovereign State and, therefore, for the time being, no response can be given to such request. The Government indicates that the necessary studies will be conducted to examine the extent to which the said decrees affect ANEP and adds that they refer to bipartite or parity institutions and therefore do not relate to the scope of this Convention. The Government further states that it is inappropriate to state that such decrees

affect the productive sector of the country since various employers' organizations are allowed to participate in bipartite or tripartite forums and ANEP continues to be recognized as a representative organization and its members continue to participate in various forums for dialogue. Lastly, the Government indicates that tripartite institutions, such as the Salvadoran Social Security Institute (ISSS) and the Social Housing Fund (FSV), have a "transparency portal" on their website where they publish their reports, while the minutes and reports of the CST are delivered to all its members and are publicly accessible.

The Committee notes that, in its observations, the IOE reiterates the comments made by the Employer members during the discussion on the implementation of the Convention held in the Conference Committee in June 2023. The Committee also notes the IOE's allegations denouncing the Government for not accrediting the representatives designated by ANEP to participate in the 111th Session of the Conference, despite it being the most representative employers' organization of El Salvador. The IOE emphasizes the gravity of such acts and maintains that they are contrary to the present Convention as well as to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In this connection, the Committee notes that the IOE also denounces the Government for putting pressure on certain employer delegates to quit ANEP leadership. In this regard, the Committee notes with **concern** that, at the 111th Session of the Conference, the Credentials Committee of the Conference, in its examination of this question, concluded that it had no evidence that the Government had effectively consulted the most representative employers' organization and, therefore, that the employers' delegation of El Salvador to this session of the Conference was nominated in accordance with article 3(5) of the ILO Constitution. In this regard, the Credentials Committee trusted that the Government will in future resort to a consultation procedure that will ensure full and effective consultation with the most representative employers' organization, in accordance with the requirements of the ILO Constitution (see the [Second report of the Credentials Committee](#), 16 June 2023, paragraphs 69–74).

The Committee also notes that the IOE, in its observations, refers to the draft Act to establish the National Capacity-building and Training Institute (INCAF), stressing that the aim of the draft is to dissolve the El Salvador Vocational Training Institute (INSAFORP), together with its Governing Body, which has been holding tripartite meetings for 30 years with representatives of government, workers and employers. The Committee notes that the above draft was adopted by the El Salvador Legislative Assembly on 15 November 2023. The Committee notes that the IOE expresses its hope that progress will be made in the application of the Convention, in accordance with the conclusions of the Conference Committee, and in close collaboration with the most representative organization of employers of El Salvador.

The Committee also notes that the CSTS expresses its willingness to collaborate with and support all efforts by the Government to strengthen all spaces for tripartite social dialogue, such as the CST, the National Minimum Wage Council, and other national instances of bipartite or tripartite dialogue. The CSTS also highlights the importance of tripartite social dialogue and points out that it constitutes a fundamental component for the construction of a democratic country, to generate governance and improve living conditions, especially for the working class.

In light of the information provided by the Government in its report, the Committee emphasizes that, while it is for the national legal framework to establish the modus operandi of the meetings of the bodies in which the tripartite consultations required by the Convention take place, the CST has not held the minimum of two plenary sessions per year required by national legislation. The Committee recalls that, in accordance with *Article 5(2)* of the Convention, such consultations should be held at least once a year. While noting the Government's indication concerning the holding of tripartite consultations in the framework of subcommittees or other tripartite technical bodies of the CST, the Committee observes that the Government does not provide information that would make it possible to establish that consultations were held on issues relating to international labour standards as required by *Article 5(1)*



of the Convention. The Committee further notes that the Government also fails to provide information on the measures taken or envisaged with a view to giving effect to the conclusions of the Conference Committee. **Accordingly, the Committee once again urges the Government to take the necessary measures to ensure the effective and immediate operation of the CST, respecting the independence of the social partners, including with regard to the appointment of their representatives. It reiterates its request to the Government to report on any developments in this respect, as well as on the content and outcome of tripartite consultations held within the framework of this tripartite body.**

**Likewise, the Committee once again urges the Government to: (i) take the necessary measures to ensure without delay the repeal of the 23 decrees which transfer the function of electing employers' representatives from the employers to the President of the Republic, thus depriving the employers' organizations of the exercise of their right to freely elect their representatives in conformity with the instruments ratified by the country; and (ii) make every effort to ensure the formulation and adoption without delay of the road map requested by the ILO high-level tripartite mission in 2022, as well as by the Conference Committee on the Application of Standards in June 2022 and June 2023. In light of the IOE's observations regarding the Act Establishing the National Capacity-building and Training Institute (INCAF), the Committee requests the Government to provide information on its impact on the implementation of the Convention.**

*Article 2. Ensure effective tripartite consultations. Issuance of Credentials.* The Committee recalls that in its previous comment it noted the observations of the International Trade Union Confederation (ITUC), which highlighted that the requirement under the Labour Code that workers' organizations renew their executive boards every 12 months was unfounded and constituted a form of interference in the functioning of the organizations in question. In this regard, the Committee noted that the Government had initiated a study process to prepare reforms to the Labour Code with a view to facilitating and speeding up the procedure for the issuance of credentials and that a Trade Union Service Office had been set up in the Directorate General for Labour to provide legal assistance to union representatives. The Committee notes the Government's indication that it is still working with the social partners on the proposed reforms of the Labour Code, which, once finalized, will be sent to the CST for analysis, review and discussion. The Government indicates that the proposals include the amendments of section 221 of the Labour Code and section 87 of the Civil Service Act, which provide for a one-year term for the boards of directors of trade unions in the private and public sectors, respectively. The Government indicates that, on 26 July 2023, the establishment of a technical roundtable was announced for the purpose of discussing and analysing possible reforms to the Labour Code. The Committee also notes that the Government reports that, between August 2022 and August 2023, the Trade Union Service Office, created to reduce the period for issuing credentials to trade unions to less than 30 days, delivered 875 accreditations and provided 969 advisory services. The Government indicates that the deliveries were made in an average of 15 days. While noting the measures taken by the Government to expedite the issuance of credentials, the Committee considers that the requirement to renew annually the composition of the boards of directors of trade unions and their legal status is a disproportionate measure that impedes the proper functioning of the tripartite bodies responsible for giving effect to the Convention. **The Committee therefore once again urges the Government to adopt without delay the necessary measures to repeal the legal obligation on trade unions to renew the composition of their boards of directors and their legal status every 12 months and requests the Government to provide detailed and updated information in its next report on all progress achieved in this respect.**

*Article 5. Effective tripartite consultations.* The Committee notes the copies of the letters dated 19 May 2022 (DM/DRIT/No.28/2022) and 1 September 2022 (DE/DRIT/No.38/2022), sent by the Government to the employer and worker vice-chairpersons of the CST with a view to their dissemination with the organizations grouped in their sectors. The Government indicates that it has not received any reply from the social partners in this respect. The Committee also notes of the copies of letters dated 13 March 2023 (DM/DRIT No.78/2023 and DM/DRIT No.79/2023), presented by the Government after the

discussion in the Conference Committee in June 2023, by which the Ministry of Labour and Social Welfare conveyed copies of the reports on the implementation of Conventions ratified by El Salvador to the employer and worker vice-chairpersons of the CST for their comments. The Committee notes that some of these reports were sent to the office in 2022 and others in March 2023. In this regard, the Committee recalls that “in order to be effective, consultations must take place before final decisions are taken, irrespective of the nature or form of the procedures adopted. ... The effectiveness of consultations thus presupposes in practice that employers’ and workers’ representatives have all the necessary information far enough in advance to formulate their own opinions.” ([General Survey on tripartite consultation](#), 2000, paragraph 31). ***In consequence, the Committee once again reiterates that it hopes to see progress in full and sustained compliance with the Convention in the country as soon as possible, including the regular holding of effective tripartite consultations within the CST on the subjects provided in Article 5(1) of the Convention, as well as the promotion of stable and continuous social dialogue in the other tripartite entities in the country. In this regard, the Committee once again recalls that ILO technical assistance remains at the disposal of the tripartite constituents to support the efforts made by all the tripartite actors to ensure full compliance with the provisions of the Convention.***

## Fiji

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)

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. Election of representatives of employers and workers organizations.* In its previous comments, the Committee requested the Government to explain the manner in which the representative national workers’ and employers’ organizations have been able to determine their representatives. In this regard, the Committee notes the discussion that took place in the Conference Committee on the Application of Standards (the Conference Committee) in June 2019 concerning the application by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Conference Committee called upon the Government to, inter alia, refrain from interfering in the designation of the representatives of the social partners on tripartite bodies and to reconvene the Employment Relations Advisory Board (ERAB) without delay, in order to start a legislative reform process. The Government indicates in its report that, according to the 2007 Employment Relations Act, the Minister for Employment is the appointing authority for the ERAB, and representatives of workers and employers are appointed from among persons nominated by workers’ and employers’ organizations. It adds that there is no Government interference in the designation of representatives of the social partners to the ERAB. In this context, the Committee notes section 8(3) of the 2007 Act, which provides that, in making appointments to the ERAB, “... the Minister may take into account the principles of equality set out in section 38 of the Constitution, necessary for the effective operation of the Board.” The Government reports that, after the expiration of the ERAB membership in October 2019, it invited the social partners to submit their nominees to the Minister. The Fiji Commerce and Employer’s Federation (FCEF) submitted their nominees on 21 October 2019 and 23 October 2019, respectively, while the Fiji Trades Union Congress (FTUC) submitted their nominees on 30 October 2019. The Committee nevertheless refers to its 2019 observation in relation to the application of Convention No. 87, in which the FTUC observed that the Government provided no indication regarding when the appointment of the ERAB members would be made, despite the urgency of the situation, also recalling the observations of the International Trade Union Confederation (ITUC), which expressed concern about government manipulation of national tripartite bodies, thus curtailing the possibility of genuine tripartite dialogue. ***Referring to its 2019 observation under Convention No. 87, the Committee expresses its firm hope that the Government will refrain from any undue interference in the nomination and appointment of representatives of the social partners to the ERAB, and will take steps to ensure that the social partners are able to freely designate their representatives. The Committee urges the Government to take steps to appoint the ERAB members without delay so that the ERAB may reconvene and hold regular***

**tripartite consultations for the purposes of the procedures covered by the Convention. It requests the Government to provide updated information on progress made in this regard. In addition, the Committee requests the Government to describe the manner in which the discretion provided for under section 8(3) of the 2007 Employment Relations Act has been applied in practice.**

*Article 5(1) of the Convention. Effective tripartite consultations.* The Committee notes the Government's indication that meetings of the ERAB were held regularly during the reporting period despite the boycott of the FTUC and its withdrawal from ERAB meetings in June 2018, February 2019 and August 2019. In this respect, referring to its 2019 observation on Convention No. 87, 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. The Committee notes the information provided by the Government with regard to the tripartite consultations held within the ERAB during the reporting period. The Government reports on the submission to Parliament of the questionnaire on the abrogation and withdrawal of: the Night Work (Women) Convention, 1919 (No. 4); the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15); the Protection against Accidents (Dockers) Convention, 1929 (No. 28); the Night Work (Women) Convention (Revised), 1934 (No. 41); the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60); and the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67). The Government indicates that the Conventions concerned were abrogated or withdrawn. In addition, tripartite consultations were held with regard to the ILO Centenary ratification campaign and proposals of newly adopted instruments pending submission to Parliament, including the Violence and Harassment Convention, 2019 (No. 190), were discussed. With respect to the re-examination of unratified Conventions, the Government indicates that it is envisaged to ratify the Protocol of 2002 to the Occupational Safety and Health Convention, 1981; the Labour Statistics Convention, 1985 (No. 160) and its accompanying Labour Statistics Recommendation, 1985 (No. 170). Finally, the Government indicates that it remains committed to holding tripartite consultations with regard to the reports on the application of ratified Conventions (*Article 5(1)(d)*) and the proposals for denunciation of ratified Conventions (*Article 5(1)(e)*). The Committee notes the ratification of the Violence and Harassment Convention, 2019 (No. 190) on 25 June 2020. The Government has not, however, provided detailed information as requested on the content and the outcome of the tripartite consultations held under this Article of the Convention. **The Committee therefore requests the Government to provide updated and detailed information on the content and outcome of the tripartite consultations held on all matters concerning international labour standards covered by the Convention, particularly relating to the questionnaires on 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)*); reports to be presented on the application of ratified Conventions (*Article 5(1)(d)*); and the proposal for the denunciation of Conventions (*Article 5(1)(e)*).**

In the context of the global COVID-19 pandemic, the Committee recalls the comprehensive guidance provided by international labour standards. It encourages Member States to engage in tripartite consultation and social dialogue more broadly as a solid foundation for developing and implementing effective responses to the profound socio-economic impacts of the pandemic. **The Committee invites the Government to provide updated information in its next report on measures taken in this respect, including with regard to steps taken to build the capacity of the tripartite constituents and strengthen mechanisms and procedures, as well as challenges and good practices identified.**

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

## Grenada

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the

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

*Article 5 of the Convention. Effective tripartite consultations.* The Committee recalls that, in its previous comment, it had requested the Government to provide detailed information on each of the tripartite consultations held on matters concerning international labour standards covered by the Convention. The Government indicates in its report that tripartism is working well in the country to the extent that it has moved towards establishing a Committee of Social Partners. The said Committee includes civil society organizations and the conference of churches; it is responsible for the monitoring of the IMF Structural Adjustment Programme 2014–16 in Grenada, including labour reforms. Additionally, the Government specifies that a comprehensive review of the Labour Code was conducted during the 2014–15 period. Moreover, the Government recalls that, pursuant to section 21(2) of the Employment Act, the functions of the Labour Advisory Board reflect the provisions of *Article 5(1)* of the Convention. **The Committee requests the Government to provide detailed information on the activities of the Labour Advisory Board on the tripartite consultations on international labour standards covered by the Convention, including full particulars on the consultations held on each of the matters listed in Article 5(1) of the Convention. The Government is also requested to indicate the intervals at which the abovementioned consultations are held, and the nature of the participation by the social partners during these consultations.**

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

## Madagascar

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

#### [Previous comment](#)

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), attached to the Government's report. The Committee also notes the observations of the General Confederation of Workers' Unions of Madagascar (FISEMA) and of the Confederation of Malagasy Revolutionary Workers' Unions (FISEMARE), received on 1 September 2022. **The Committee requests the Government to provide its comments on the observations of the social partners.**

*Part I of the report form. National legislation.* The Committee notes the recently adopted regulatory texts, in particular: (i) Decree No. 2017-843 of 19 September 2017, reforming the National Labour Committee (CNT), the tripartite consultation body for the social partners on employment, vocational training, social protection, labour and wages; and establishing Tripartite Regional Labour Councils (CRTTs) to ensure the effectiveness of tripartite consultations at the regional level; (ii) Decree No. 2020-1357 of 21 October 2020, on the composition, organization and functioning of the Higher Public Service council (CSFOP), a bipartite consultation body on regulations and laws concerning the public service; (iii) Order No. 18455/2018/MTM, establishing procedures for appointing members of the CNT; (iv) Order No. 18455/2018/MTM, establishing procedures for appointing members of the National Tripartite Maritime Labour Council (CNTTM); (v) Order No. 16817/2019/MTM, nominating members of the CNTTM; (vi) Circular No. 30/MTEFPLS/SG/DGTLS/20, extending until further notice the term of office of staff delegates, board members and management committee members of different tripartite management bodies; and (vii) Circular No. 055/MTEFPLS/SG/DGTLS/22 of 27 April 2022, requiring the election of staff delegates no later than September 2022. **The Committee requests the Government to provide information on the impact of the newly adopted legislation on the manner in which the Convention is applied and to continue providing information on the adoption of texts giving effect to the Convention.**

*Articles 2 and 5 of the Convention. Effective tripartite consultations.* The Committee notes with **interest** that the Government ratified the following six instruments in June 2019: (i) the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); (ii) the Labour Relations (Public Service) Convention, 1978 (No. 151); (iii) the Collective Bargaining Convention, 1981 (No. 154); (iv) the Private

Employment Agencies Convention, 1997 (No. 181); (v) the Domestic Workers Convention, 2011 (No. 189); and (vi) the Protocol of 2014 to the Forced Labour Convention, 1930. The Government indicates that it consulted the social partners regarding these ratifications and commissioned a prior gap analysis relating to these instruments and had it validated by the social partners. The Government explains that consultations are held in the CNT for matters concerning the private sector and in the CSFOP for matters concerning the public sector. The Government also indicates that workshops on tripartite consultations are held to involve representatives of the workers and of the employers in decision-making which relates to them. With regard to the ratification of Conventions Nos 143, 154, 181 and 189 and the Protocol of 2014, consultations took place in the CNT on 6 September 2018. The views of the representative employers' and workers' organizations that participated are recorded in a memorandum of 5 October 2018. With regard to Conventions Nos 151 and 154, the Government indicates that it also held consultations in the CSFOP. At a meeting of 2 August 2018, the CSFOP issued a favourable opinion regarding the ratification of Convention No. 151. As regards Convention No. 154, the formal opinion of the CSFOP was issued at a workshop held the same month. The views of the representative organizations in the CSFOP are reproduced in a memorandum of 6 September 2018. The Government adds that tripartite consultations also took place regarding the adoption of texts taking account of the above-mentioned ratifications. Following the ratification of Convention No. 151, exchanges took place with the ministries, "strengthened by the participation of representatives of the trade unions", regarding a Bill issuing the General Public Service Regulations, to replace the current General Regulations for Public Servants. A tripartite consultation workshop on this subject was held from 8 to 11 September 2020. The process of the adoption of the Bill was interrupted by the COVID-19 pandemic and is still in progress. Numerous tripartite consultations also took place on the alignment of the Labour Code with Conventions Nos 143, 181, 189 and the Protocol of 2014. Initial tripartite consultations to identify the texts needing amendments took place in July 2019. In February 2020, preliminary work on reform of the Labour Code took place with the participation of the tripartite actors at a technical validation workshop. Tripartite consultations were then held from 22 to 26 March 2021, from 21 to 24 September 2021 and from January to April 2022. Regarding the application of Conventions Nos 143 and 181, the Government indicates that in December 2020 it organized a workshop to give official status to the focal points for fair recruitment in the two regions of origin of Malagasy migrant workers. The focal points comprise civil society organizations and employers' and workers' representatives from the most representative regional organizations. The Government also explains that the CNT was consulted on 5 April 2022 regarding the adoption of Decree No. 2022-626 fixing the minimum initial wage (SME) for the private sector. It was also consulted on 10 June 2022 concerning a draft order updating the list of occupational diseases.

With regard to potential issues in reports to be submitted to the Office under article 22 of the ILO Constitution, the Government indicates that in August 2022, at a workshop for the presentation and tripartite validation of the country report, the most representative employers' and workers' organizations were called upon to give their views on the application of the Conventions and on the reports. Regarding the ratification proposals, the Government proposed ratifying the Work in Fishing Convention, 2007 (No. 188). However, further to a consultation and cooperation workshop, the stakeholders agreed to, first, ratify the Maritime Labour Convention, 2006, as amended (MLC, 2006). A validation workshop took place in 2017 during which a road map for ratification of the MLC, 2006, was adopted. The procedure for the adoption of the ratification Act was launched. The ministers concerned signed the ratification Bill, which was deposited with a view to being placed on the agenda of the Council of Ministers. Following the change of Government, a new presentation of the ratification Bill is being prepared. At a general assembly on 1 October 2019, the CNTTM supported the ratification process. As regards denunciations of ratified Conventions, the Government states that no tripartite consultations took place since the Government did not denounce any Convention during the period covered by the report.

As regards the observations of the social partners, the Committee notes that FISEMA, while recognizing that the reforms demanded of the CNT took place in early 2020, observes that the functioning of the CNT still needs to be improved. For example, FISEMA notes that the CNT is still chaired by the Ministry of Labour, whereas, under the terms of Decree No. 2017-843 of 19 September 2017, it should rotate each year between representatives of the Government, workers and employers, respectively. FISEMA also points out that the agenda and activities of the CNT are generally fixed according to the needs and priorities of the Government, which is not in line with the provisions of Decree No. 2017-843. According to FISEMA, international labour standards and their transposition into national law are not examined regularly, effectively and seriously but “in an untimely manner” according to the whim of the Government. As regards the CRTTs, FISEMA emphasizes that they have not been established and are not operating.

The Committee also notes that FISEMARE, while recognizing that there is cooperation between employers' and workers' representatives, observes that the functioning of the CNT is “limited”. FISEMARE points out that tripartism is not always respected and that social dialogue is not practiced systematically. FISEMARE considers that the Government often forgets the trade unions in decision-making.

The Committee also notes that SEKRIMA, while recognizing that the social partners are in general duly consulted, emphasizes that the concrete application of the results of tripartite consultations is problematic. By way of example, SEKRIMA states that, as regards the application of Decree No. 2022-626 fixing the SME, the Government decided to subsidize the difference between the amount of the SME and the amount of wages in the private sector by paying part of employers' contributions to the National Social Security Fund (CNaPS). However, not all workers are affiliated to the CNaPS. ***In light of the above, the Committee requests the Government to respond to the concerns expressed by the above-mentioned trade union organizations regarding the manner in which national law and practice give effect to the requirement of the Convention to hold effective consultations on each of the matters set out in Article 5(1) of the Convention. The Committee reminds the Government that, under Article 5(2) of the Convention, tripartite consultations on the above-mentioned matters shall be undertaken at appropriate intervals fixed by agreement, but at least once a year. The Committee considers that the existence of major disagreements regarding the effective nature of consultations within the CNT is such as to compromise the proper application of the Convention. The Committee therefore requests the Government to send detailed information on the measures taken or envisaged to ensure effective tripartite consultations at appropriate intervals. The Committee also requests the Government to provide information on the coordination between the various tripartite consultation bodies, in particular the CNT (at the national level) and the CRTTs (at the regional level). Lastly, the Committee requests the Government to keep it informed of any developments regarding the ratification of Convention No. 151 and the MLC, 2006.***

*Article 3. Choice of the representatives of employers and workers by their respective organizations.* The Government recalls that in 2015 it adopted Order No. 34-2015 on determining trade union representativeness for 2014 and 2015. Since then, on 19 September 2017, it adopted Decree No. 2017-843 on the reform of the CNT and the establishment of the CRTTs. The Government indicates that the CNT functions on the basis of this text and sent a copy of it. The Government explains that it did not hold staff delegate elections for the 2018–19 period owing to the social and political crisis affecting the country at the time. Similarly, in 2020–21, elections were postponed because of the COVID-19 pandemic. The Government states that, under the provisions of Circular No. 30/MTEFPLS/SG/DGTLIS/20, the term of office of staff delegates was extended during this period. With a view to returning to normal, Circular No. 055 MTEFPLS/SG/DGTLIS/22 of 27 April 2022 was adopted, requiring the election of staff delegates to be held by the end of September 2022. The Government emphasizes that a new order on representativeness was to regulate this matter from 2022. In addition, new Decree No. 2017-843 provides for joint representation of employers and workers in the CNT and the CRTTs. The Committee also notes that elections for staff delegates did not take place between 2018 and 2021 and were due to

occur in September 2022 at the latest. **The Committee requests the Government to provide up-to-date information on the manner in which the new regulatory texts regarding the choice of employers' and workers' representatives are applied in practice taking account of the areas covered by tripartite consultations under Article 5 of the Convention. The Committee also requests the Government to explain how these texts establish or implement objective and transparent criteria for the appointment of representatives to national and regional tripartite bodies.**

*Article 4. Administrative support. Training necessary for persons participating in procedures.* FISEMA observes that the procedures covered by the Convention do not have appropriate administrative support, a budget or adequate financing. FISEMA indicates that these procedures are largely organized with ILO assistance. Similarly, FISEMARE underlines the fact that the CNT has problems functioning, owing to lack of status and budget. **Recalling that Article 4 of the Convention requires participants in the consultation procedures covered by the Convention to enjoy the necessary administrative support and to have access to any training needed to enable them to duly discharge their duties, the Committee notes with concern the observations of FISEMA and requests the Government to provide detailed information on the manner in which it provides, or intends to provide, all the administrative and financial support necessary for the consultation procedures covered by the Convention.**

*Article 6. Annual report.* FISEMA observes that, contrary to the provisions of Decree No. 2017-843 of 19 September 2017, no annual report on the activity of the CNT has been drawn up. **The Committee requests the Government to provide its comments on this observation of FISEMA and to indicate, if applicable, the reasons why no annual report has been produced as required by the national legislation, and whether the Government is making provision to ensure compliance with this obligation in the future.**

*Part VI of the report form. Representative organizations consulted.* The Committee notes the Government's indication that it consulted the representative employers' and workers' organizations at a report presentation and validation workshop held from 3 to 5 August 2022. The Government states that it sent a copy of the report to the Madagascar Enterprise Group (GEM) and Fivondronan'ny Mpandraharaha eto Magagasikara (FIVPAMA) (for the employers' organizations) and to FISEMARE, FISEMA and SEKRIMA (for the workers' organizations). The Committee also notes FISEMA's observation that it did not receive the Government's report. **The Committee reminds the Government that, under article 23(2) of the ILO Constitution, it is required to send the report to the representative organizations and requests the Government to provide its comments on the observation of FISEMA that it did not receive the Government's report.**

## Serbia

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)

#### [Previous comment](#)

The Committee notes the observations of the Serbian Association of Employers (SAE) and the Confederation of Autonomous Trade Unions of Serbia (CATUS) communicated with the Government's report, received on 30 September 2022.

*Articles 2 and 5 of the Convention. Effective tripartite consultations.* The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (the Conference Committee) at its 108th Session in June 2019 concerning the application by Serbia of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1979 (No. 129). The Conference Committee called upon the Government to, inter alia, 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 that, following the

recommendations of the Conference Committee, a tripartite workshop to follow-up on the application of Conventions Nos 81 and 129 was held on 11 and 12 February 2020, with technical assistance from the ILO.

The Committee notes the Government's indication that social dialogue takes place by way of regular meetings within the Social and Economic Council of the Republic of Serbia (SEC), an independent tripartite body. The Government indicates that the SEC held ten sessions in 2021 and four collegiums and sessions in the first half of 2022 on various topics, such as employment, situation of women at work, minimum wage, child allowance, collective agreements, occupational safety and health, peaceful resolution of labour disputes. These meetings resulted in initiatives and opinions on laws, collective agreements, rules, regulations and plans submitted to the competent ministries, including on the Proposed Employment Strategy in the Republic of Serbia for the period 2021–26 and the initiative to ratify the Violence and Harassment Convention, 2019 (No. 190). The Government also reports on the participation of all representative workers' and employer's organizations and the Ministry of Labour, Employment, Veterans and Social Affairs in preparations to the 110th Session of the International Labour Conference and SEC's adoption of a joint platform accommodating tripartite suggestions. The Committee notes the Government's indication that it undertakes, as part of the IPA 2022 project supported by the ILO, to improve the capacities of the social partners through amendments to the Act on the Social and Economic Council, as well as to take measures to improve social dialogue, including through analyses of law and practice with a view to revising laws and policy documents on social dialogue. The Committee notes that, in its observations, the CATUS states that tripartite consultations are misused for political purposes. It also highlights instances in which trade unions were not involved in dialogues between large investors and the State on issues concerning relations between employers and workers, such as wage setting. The CATUS also indicates that its initiative to ratify Convention No. 190, supported by employers and forwarded to the relevant authorities, has been stalled for almost a year. The Committee notes the SAE's observation that many initiatives adopted by the SEC have not been implemented through laws and by-laws. **The Committee requests the Government to respond to the observations made by the CATUS and the SAE.**

The Committee recalls that the Convention requires effective tripartite consultations to take place on a list of matters related to international labour standards as stipulated in *Article 5(1)* and that, in order to be "effective", consultations need to enable employers' and workers' organizations to have a useful say in matters relating to the activities of the ILO referred to by this provision of the Convention. **The Government is therefore requested, to provide detailed information on the manner in which effective tripartite consultations are carried out on each of the items specified by the Convention, detailing their content, frequency and outcome. In particular, the Committee requests the Government to keep it informed of the result of the consultations held with the social partners relating to the possible ratification of Convention No. 190 as well as of any amendments made to the Act on the Social and Economic Council to improve the capacities of the social partners through amendments, as well as on any measures to improve social dialogue more generally.** The Committee recalls in this respect that "the active engagement and meaningful participation in decision-making of the social partners ... can help to build a climate of trust and ensure the development, adoption, implementation and review of measures that are both evidence- and consensus-based and promote increased ownership among the tripartite partners" (see the Committee's [Addendum to the 2020 General Survey on employment](#), p. 151).



## Spain

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1984)

#### Previous comment

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), received on 4 August 2022. The Committee also notes the observations of the Spanish Confederation of Employers' Organizations (CEOE) and the Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME), as well as those of the CCOO and the General Union of Workers (UGT), transmitted by the Government in its report.

*Article 1 of the Convention. Representative organizations.* The Committee notes that, in its observations, the CEOE requests the inclusion of the CEPYME in the tripartite consultation procedures on the preparation of reports. In this respect, the Government indicates that it sent copies of the reports on ratified Conventions to the CEPYME. In this context, the Committee recalls that "the obligation to consult the representative organizations on the reports to be made concerning the application of ratified Conventions must be clearly distinguished from the obligation to communicate these reports under article 23, paragraph 2, of the Constitution. To fulfil their obligations under this provision of the Convention, it is not sufficient for governments to communicate to employers' and workers' organizations copies of the reports that they send to the Office. The consultations of the employers' and workers' organizations implies their active participation in the formulation and communication of their respective views. The comments on the reports that these organizations may subsequently transmit to the Office cannot replace the consultations which have to be held during the preparation of the reports" (see [General Survey of 2000 on tripartite consultation](#), paragraph 92). **The Committee requests the Government to provide updated and detailed information on how consultation is guaranteed with all the employers' organizations, including the CEPYME, in the procedures required under the Convention.**

*Articles 2, 5 and 6. Effective tripartite consultations.* The Committee notes the detailed information provided by the Government concerning the consultations held with the social partners between June 2017 and June 2022 on matters relating to international labour standards covered by the Convention. With regard to the consultations concerning the reports on ratified Conventions, the Government indicates that such reports, once drafted, were sent to the social partners to enable them to make observations they considered important, and to which the Government responded. Subsequently, the observations of the social partners were sent, together with the reports, to the Office. The Government indicates that the views of the social partners are also included in the files for submitting and ratifying international labour instruments, which are sent to the Cortes Generales.

The Committee notes that the workers' organizations - the CCOO and UGT - state that, while the timelines for the social partners to make their observations and contributions to the reports have improved, the Government continues to conduct consultation procedures in writing, despite the opposing position expressed by the workers' organizations in this respect. The CCOO states that this consultation model is not tripartite, as the employers' and workers' organizations are not aware of the other parties' observations and the Government's responses to those until they receive the final version of the reports. The CCOO and UGT consider that it would be useful to explore procedures to guarantee effective tripartite consultations. In this regard, the CCOO maintains that such consultations could take place in in-person meetings with the three constituents, while the UGT has requested that the possibility be explored of establishing a tripartite committee specifically in charge of matters relating to international labour standards, or of holding consultations within a tripartite body with general economic, social or labour-related competence. The UGT highlights the failure to implement the Convention, as long as a new procedure to guarantee effective tripartite consultation is not established. In this respect, the Committee once again recalls that paragraph 2(3) of the Tripartite Consultation

(Activities of the International Labour Organisation) Recommendation, 1976 (No. 152) sets out the possibilities available to Member States to undertake the tripartite consultations required by the Convention. Under the terms of paragraph 2(3)(d) of the Recommendation, consultations may not be undertaken in writing except “where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient” (see [General Survey of 2000 on tripartite consultation](#), paragraph 71). Lastly, the Committee notes the CCOO’s statement that it may be useful to draft an annual report on the working of the procedures provided for in the Convention, in accordance with Article 6 of the Convention. **Therefore, the Committee once again requests the Government to indicate how it takes into account the opinions expressed by the representative workers’ organizations on the working of effective prior consultative procedures provided for in the Convention, as well as on the possibility of establishing amended procedures in response to the concerns expressed by the trade union organizations in their observations. The Committee also requests the Government to continue to provide detailed and updated information on the content and outcome of the tripartite consultations held on all matters related to international labour standards covered by the Convention. The Committee also requests the Government to indicate whether, in accordance with Article 6, it has consulted the representative organizations to draft an annual report on the working of the consultative procedures provided for in the Convention and, if so, to indicate the outcome of these consultations and provide a copy of the relevant report.**

## Sri Lanka

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

#### [Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC) and the International Transport Workers’ Federation (ITF), received on 27 September 2023. The Committee also notes the Government’s reply received on 7 November 2023.

The Committee further notes that a representation under article 24 of the ILO Constitution was presented to the Governing Body by the Free Trade Zones and General Services Employees’ Union (FTZ and GSEU), the Ceylon Estates Staffs’ Union (CESU), the United Federation of Labour, the Sri Lanka National Union of Seafarers, the Lanka Jathika Estate Workers’ Union, the Ceylon Bank Employees’ Union (CBEU), the Ceylon Federation of Trade Unions, the Sri Lanka Nidahas Sewaka Sangamaya, the Inter-Company Employees Union (ICEU), and the Ceylon Mercantile Industrial and General Workers Union (CMU), alleging non-observance by Sri Lanka of this Convention. The ILO Governing Body declared the representation receivable at its 348th Session in June 2023 (GB.348/INS/6/4, paragraph 6).

*Article 2 of the Convention. Operation of the consultative procedures.* The Committee notes that, in its observations, the ITUC and ITF express their concern that, in June 2023, four unions were arbitrarily removed from the National Labour Advisory Council (NLAC) prior to the circulation of the Single Employment Bill, in an attempt to muzzle dissenting voices. The ITUC and ITF also denounce the failure to consult the NLAC on the Bill and that it was rushed through a falsely consultative process by the Ministry of Labour and Foreign Employment (MLFE). In this context, the ITUC and ITF urge the Government to reinstate the four trade unions that were unlawfully removed from the NLAC in June 2023, to engage in meaningful social dialogue with representative trade unions and to immediately halt the current labour law reform process. Moreover, the Committee notes that, in its response, the Government indicates that, in July 2023, the MLFE shared the first draft of the Bill and invited all stakeholders to formulate their proposals. The Government adds that, while it received numerous proposals from stakeholders, the trade unions did not submit any written proposal despite their active participation in the stakeholder consultation. The Government expresses its regret that the trade unions did not utilize this opportunity to engage constructively in the process. It adds that the Bill is still under

discussion and trade unions can therefore still submit their proposals to be taken into consideration. ***In light of the lack of information from the Government as regards the removal of representatives of trade unions from the NLAC in July 2023, and the fact that effective consultations on the implementation of the commitments made under the Convention cannot be expected to take place within the dedicated tripartite bodies without one of the three stakeholders being duly represented, the Committee requests the Government to provide information on whether representatives of trade unions were removed from the NLAC and on actions taken or envisaged with a view to resolving the current problems with respect to the application of the Convention. It requests the Government to report on any progress made in this regard.***

*Article 5(1). Effective tripartite consultations.* The Committee notes the information provided by the Government regarding the tripartite consultations held within the NLAC between 2017 and 2022 on a broad range of labour-related matters, such as proposals on labour law reforms, the establishment of a retirement age for workers in the private sector, amendments to the Workmen's Compensation Ordinance and proposals to revise the national minimum wage. The Committee notes with **interest** the ratification on 10 April 2019 of the Protocol of 2014 to the Forced Labour Convention, 1930, following a tripartite workshop in 2018 on the content of the Protocol and the findings of a gap analysis between the national legislation and the Protocol (*Article 5(1)(c)* of the Convention). The Government provides a copy of the agenda of the 2020 meetings of the Tripartite Task Force created to examine issues related to the impact of the COVID-19 pandemic on employment and the measures taken to address it. The Government also reports on tripartite consultation held on issues concerning the plantation sector in 2022. The Committee observes, however, that the Government does not provide information on each of the matters listed in *Article 5(1)* of the Convention. ***The Committee therefore once again requests the Government to provide detailed information on the content and outcome of the tripartite consultation held, including within the NLAC, on each of the matters related to international labour standards covered by Article 5(1) of the Convention, particularly with regard to Conference agenda items (Article 5(1)(a)); proposals to be made in connection with the submission of the instruments adopted by the Conference to the Parliament (Article 5(1)(b)); questions arising out of 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)).***

## Türkiye

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)

#### [Previous comment](#)

The Committee notes the observations of the Confederation of Public Employees' Trade Unions (KESK) received on 31 August 2022 and the Government's response thereto, received on 25 November 2022. The Committee also notes the observations of the Turkish Confederation of Employers' Associations (TISK), communicated together with the Government's report.

*Articles 2(1) and 5(1) and (2) of the Convention. Effective tripartite consultations at appropriate intervals, but at least once a year.* The Government indicates that efforts have been made to improve social dialogue mechanisms at the national, local and enterprise levels. It adds that, historically, Türkiye has relatively strong tripartite social dialogue mechanisms at the national level. The Government recalls in this respect that the Economic and Social Council, the Labour Assembly and the Tripartite Consultative Board are the most important social dialogue mechanisms in Türkiye for purposes of the Convention. In relation to tripartite consultations held on the matters concerning international labour standards set out in *Article 5(1)* of the Convention, including on the re-examination of unratified Conventions (*Article 5(1)(c)*), the Government indicates that it has consulted the social partners through the use of written questionnaires to gather their opinions and feedback on certain unratified ILO Conventions. The

Government further indicates that, in relation to the ILO reporting process (*Article 5(1)(d)*), it accords all of the social partners, including KESK, sufficient time to provide their comments on the reports to be submitted to the ILO in relation to the application of ratified ILO Conventions. In this context, the Government indicates that, on 13 April 2022, it requested comments from the social partners in relation to the reports on the ratified ILO Conventions to be prepared and submitted to the ILO in 2022. As regards *Article 5(1)(c)* of the Convention, the Committee notes the indication by TISK, which refers to steps taken in 2013 and 2016 in relation to the possible ratification of Convention No. 181, indicating that the Government has implemented legal arrangements to enable private employment agencies to provide temporary employment. In its 2022 observations, KESK indicates that there are several tripartite bodies established with the aim of collecting the opinions of the social partners but most of these tripartite bodies are dysfunctional, with some bodies meeting quite irregularly and some not at all. The Tripartite Consultative Board has thus not held meetings since 2018. The Committee notes the observations of the TISK, which also indicates that, while the Tripartite Consultative Board met five times in 2016, it convened only once in 2014, not at all in 2015, and once in 2017 and 2018 respectively. TISK also observes that the Tripartite Consultative Board has not been convened since its last 2018 meeting. The Committee recalls that the consultations held to give effect to the Convention need to be effective and held, in principle, within a tripartite setup at least once a year. The Committee also recalls that, according to the *Tripartite Consultation (Activities of the International Labour Organization) Recommendation, 1976 (No. 152)*, written consultations, such as those carried out by way of questionnaires, could also be undertaken where those involved in the consultative procedures are in agreement that such communications are appropriate and sufficient. **Noting that the social partners indicate that the system of tripartite consultations in the country is dysfunctional, the Committee requests the Government to indicate the measures taken or envisaged to give effect to the Convention by putting in place and activating procedures which ensure effective tripartite consultations as regards the matters listed in Article 5 of the Convention. Noting that the Government's report does not provide detailed information on how specific effect is given to Article 5(1) of the Convention, the Committee requests the Government to supply full information in this respect with its next report, including as regards the tripartite consultations held in respect of: the Government's replies to questionnaires concerning items on the agenda of the International Labour Conference (Article 5(1)(a)); information on proposals to be made to the competent authorities in connection with submissions (Article 5(1)(b)); information on the re-examination of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)); questions arising out of reports to be made to the International Labour Office under article 22 of the ILO Constitution (Article 5(1)(d)); and proposals for the denunciation of ratified Conventions (Article 5(1)(e)). The Committee also requests the Government to provide updated information on developments in relation to the possible ratification of the Private Employment Agencies Convention, 1997 (No. 181), including on the content and outcome of prior tripartite consultations held in this respect.**

*Articles 1 and 3(1). Representatives of the social partners.* The Committee refers to its previous comment and recalls the observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ), in which they maintain that the manner in which the representatives of workers' organizations are selected to the Tripartite Consultative Board does not comply with *Article 1* of the Convention, as those selected must be the "most representative organizations of employers and workers enjoying the right of freedom of association", whereas section 4 of the Regulations of the Board provides for the selection of the top three worker confederations with the most members. The Committee notes the Government's indication that the procedures in place for the selection of representatives of the social partners to the Tripartite Consultative Board are carried out in compliance with *Article 1* of the Convention. The Government adds that the regulations in Türkiye have been developed and implemented in line with the Convention. **The Committee requests the Government to provide detailed updated information on**

***the current composition of the Tripartite Consultative Board and the manner in which the representative organizations of employers and workers are selected and appointed to the Board.***

## United Republic of Tanzania

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

#### Previous comment

*Article 5 of the Convention. Effective tripartite consultations.* The Committee notes the Government's indication that the Labour, Economic and Social Council (LESCO) met once in 2019. The Government further indicates that the Zanzibar Labour Advisory Board (LAB) met on several occasions between 2019 and 2022 and that in the future the LAB agenda will include issues related to international labour standards. The Committee wishes to recall that by ratifying the Convention each Member State commits to operate procedures which ensure effective consultations at least once a year between representatives of the Government, employers and workers with respect to all the matters concerning the activities of the International Labour Organization set out in *Article 5(1)* of the Convention. While it notes that the Government intends to reform the LAB to include in its mandate the examination of issues related to the application of the Convention, the Committee notes that, once again, the Government's report does not provide the information requested on the consultations held during the reporting period to give effect to the Convention. ***In these circumstances, the Committee is bound to conclude that the national legislation and practice do not give effect to the Convention and asks the Government to take all measures necessary with a view to complying with its obligation to hold effective consultations on all matters concerning international labour standards set out in Article 5(1) of the Convention, namely: replies to the questionnaires on Conference agenda items (Article 5(1)(a)); the submission of instruments adopted by the Conference (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)); reports to be presented on the application of ratified Conventions (Article 5(1)(d)); and the possible denunciation of ratified Conventions (Article 5(1)(e)).***

*Article 4. Administrative support and financing of training.* The Committee notes with ***interest*** that, with ILO assistance, LESCO members were trained on their roles and responsibilities in 2017 and 2021 and newly appointed members of the LAB were expected to receive training in September 2022. Referring to its comments above, the Committee recalls that the competent authority needs to actively take measures so as to duly assume its responsibility for the administrative support of the work of tripartite entities charged with implementing the obligations assumed under the Convention. This includes financing the training of the officials sitting on these entities but also making the appropriate arrangements allowing their meeting to actually take place at least once a year. ***The Committee therefore requests the Government to provide detailed updated information on the specific measures taken to effectively assume responsibility for the administrative support of the procedures provided for in this Convention to allow for their smooth functioning.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 144** *Afghanistan, Argentina, Bahamas, Barbados, Belgium, Bulgaria, Comoros, Dominica, France (New Caledonia), Jamaica, Jordan, Kiribati, Mongolia, Morocco, Netherlands (Sint Maarten), Pakistan, Panama, Philippines, Republic of Moldova, Romania, Saint Kitts and Nevis, Samoa, San Marino, Senegal, Seychelles, South Africa, Suriname, Switzerland, Syrian Arab Republic, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yemen, Zambia, Zimbabwe.*

## Labour administration and inspection

### Albania

**Labour Inspection Convention, 1947 (No. 81)** (ratification: 2004)

**Labour Inspection (Agriculture) Convention, 1969 (No. 129)** (ratification: 2007)

#### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos. 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12(1), 22 and 24 of Convention No. 129. Prosecutions and penalties.* Following its previous comment, the Committee notes the indication of the Government that during the 207 inspections carried out in 2021 following notification of industrial accidents to labour inspectors, a warning was issued in 39 per cent of the cases and a fine was imposed in 28 per cent of the cases. **Noting that the information provided by the Government only refers to measures taken following a violation of occupational safety and health (OSH) measures, the Committee requests once again that the Government indicate the measures it is taking to ensure the application of adequate penalties for violations of all legal provisions enforceable by labour inspectors. In addition, the Committee requests once again that the Government provide detailed information on the number and nature of fines imposed, the outcomes of the judicial appeals of inspection decisions and the percentage of violations detected during unscheduled and scheduled inspections respectively.**

*Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Conditions of service.* **Noting the absence of any information on this matter, the Committee urges once again the Government to provide information on any progress made to improve the conditions of service of labour inspectors or results achieved within the framework of the salary and job classification reform. The Committee once again requests the Government to strengthen its efforts to ensure the availability of comparative information on the actual remuneration scale of labour inspectors in relation to other comparable categories of Government employees exercising similar functions, such as tax inspectors or police officers, and to provide detailed information in this regard.**

*Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129. Staffing and material means of the labour inspection services.* **Noting the absence of information on this matter, the Committee once again urges the Government to: (i) 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 labour inspectorate, by providing it with adequate staffing and material means, such as suitably equipped offices and necessary transport facilities, and (ii) provide detailed information in this respect.**

*Articles 12(1) and 16 of Convention No. 81 and Articles 16(1) and 21 of Convention No. 129. Right of inspectors to enter freely any workplace and undertaking of inspections as often and as thoroughly as is necessary.* Following its previous comment, the Committee notes that the Government indicates that in 2021, labour inspectors carried out 7,039 inspections, out of which 14 per cent were unscheduled inspections (627 inspections in response to complaints, 207 due to occupational accidents and 135 for indications of flagrant violations). The Committee notes that the Government does not provide information on the measures taken to amend sections 26 and 27 of the Law No. 10433 of 2011 on inspection which, as noted in its previous comment, restrict the free initiative of inspectors by providing that “off-programme” inspections may only be carried out in prescribed situations and by requiring a formal authorization to inspect, issued by the Chief Inspector or the chief inspector of the territorial branch. **Therefore, the Committee once again requests that the Government adopt the necessary legislative measures to ensure that labour inspectors are empowered to enter workplaces liable to**

**inspection freely and without previous notice in conformity with Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129, and that they are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in conformity with Article 16 of Convention No. 81 and Article 21 of Convention No. 129. The Committee once again requests the Government to continue to provide information on the number of scheduled and unscheduled inspections as well as the total number of workplaces liable to inspection. In addition, the Committee renews its request for the Government to provide information on any disciplinary measures imposed on labour inspectors related to the procedures for the authorization of inspection under the Law on inspection.**

Matters specifically relating to labour inspection in agriculture

*Articles 6(1)(a) and (b) and (3), and 19 of Convention No. 129. Labour inspection activities in agriculture.* Following its previous comment, the Committee notes the indication of the Government that in 2021, 213 workplaces (covering 1006 employees) were inspected in the agriculture, forestry and fishery sector, corresponding to three per cent of the total number of the workplaces inspected during that year. The Committee further notes that in 2021, out of the 207 workplaces that were inspected following the notification of industrial accidents to labour inspectors, only three were in the agriculture, forestry and fishery sector. **Noting that the percentage of the inspection visits carried out in agriculture continues to be low, the Committee once again requests the Government to strengthen its efforts to ensure the enforcement of laws and regulations in agriculture, including with respect to OSH, and to continue to provide information on the number of inspections carried out in that sector. Noting the absence of information on this matter, the Committee also requests the Government to provide information on measures undertaken or envisaged to ensure that training is provided to labour inspectors on agriculture-related subjects, and on any progress made in this respect.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Argentina

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1955)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1985)**

[Previous comment](#)

In order to provide a comprehensive view of the issues relating to the application of ratified labour inspection Conventions, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the General Confederation of Labour of the Argentine Republic (CGT RA) on the application of Conventions Nos 81 and 129, received in 2018 and 2022. The Committee also notes the observations of the Confederation of Workers of Argentina (CTA Workers) on the application of Convention No. 81, received in 2021.

The Committee further notes the Government's reply to the observations of the Association of State Workers (ATE) and the Latin American and Caribbean Confederation of Public Sector Workers (CLATE) on Convention No. 81, received in 2017.

*Representation made under article 24 of the ILO Constitution.* The Committee notes that the Governing Body, at its 349th Session, declared receivable the representation made under article 24 of the ILO Constitution by the CTA Workers and the Trade Union Association of Subway and Light Rail Workers (AGTSyP), alleging non-observance by Argentina of Convention No. 81, the Occupational Cancer Convention, 1974 (No. 139), the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). The

Committee observes that the allegations contained in the representation refer to the application of *Articles 3 and 9 of Convention No. 81*. In accordance with its usual practice, the Committee has decided to suspend the examination of these issues until the Governing Body adopts its report on the representation.

*Articles 16, 18 and 24 of Convention No. 81 and Articles 21 and 24 of Convention No. 129. Supervisory function of labour inspectors, frequency and scope of labour inspections, and penalties.* With regard to its previous comment on activities and inspections carried out in relation to conditions of work and the penalties imposed, the Committee notes that the Government provides information in its report on the various activities carried out by the labour inspectorate since 2018, including activities in the context of the National Plan for the Regularization of Labour (PNRT). In particular, the Government indicates that, between January 2019 and June 2022, a total of 224,707 inspections were conducted in urban areas and 4,731 in rural areas in the context of the PNRT, and a total of 15,159 penalties were imposed for violations of the labour regulations. The Committee also notes that, according to the Government, the National Labour Inspection Directorate at the Ministry of Labour, Employment and Social Security (Ministry of Labour) plays an important role in the implementation of actions in the context of the prevention and prosecution components of the National Biennial Plan 2020–22 on Combating Trafficking in Persons. Moreover, the Committee observes the Government's indication that, in the context of activities to detect evidence of labour exploitation, inspectors must take account of issues of safety and health and conditions of work during inspections in order to detect evidence of labour exploitation.

The Committee observes that although statistics are provided on activities under various plans, there are still no full statistics on inspections carried out by the Integrated Labour and Social Security Inspection System, established by the Act No. 25877 of 2004, and also none on infringements detected and penalties imposed in relation to conditions of work and the protection of workers while engaged in their work. Moreover, the Committee notes that, according to the observations of the CTA Workers, Bill No. 1381/18 provides that employers who have used unregistered or incompletely registered workers can regularize the situation of such workers, with all resulting fines or sanctions waived. In addition, the CGT RA considers that the system of penalties and measures to promote spontaneous regularization, reduce employer contributions or increase the number of inspections are inadequate. ***Also referring to its comment below on annual inspection reports, the Committee therefore requests the Government to provide more information on the number and nature of activities and inspections carried out in relation to conditions of work (particularly as regards hours of work, wages, weekly rest, holidays and the employment of women). Furthermore, the Committee requests the Government to indicate whether Bill No. 1381/18 has been adopted, and to take steps to strengthen the system of penalties. The Committee also requests the Government to provide information on the number and nature of violations found, penalties imposed and any court rulings in this regard.***

*Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Stability of employment and conditions of service of labour inspectors.* With regard to its previous comment on the stability system and the contract system for staff under Framework Act No. 25164 of 1999 on the regulation of national public employment (Act No. 25164), the Committee notes the Government's indication that the Occupational Risk Supervisory Authority (SRT) at the Ministry of Labour employs 100 inspectors on contracts of unlimited duration and 28 inspectors on automatically renewable one-year fixed-term contracts. The Committee also notes that, according to the Government's reply to the observations of the ATE and CLATE, an analysis of the procedure for incorporating public employees and the need for such was required in 2016, owing to an unusually high number of competitions launched and the large number of temporary contracts concluded during the previous administration, an analysis which revealed many instances of failure to comply with procedures. The Government also indicates that some staff who were recruited on temporary contracts who did not have their contracts renewed in 2016 were



subsequently incorporated under the procedure established by section 9 of Act No. 25164 (contract system).

The Committee notes that under section 156 of the General Collective Employment Agreement for the National Public Administration, non-permanent staff of decentralized authorities and entities shall not exceed 15 per cent of the permanent staff under the terms of the second paragraph of section 9 of the Annex to Act No. 25164. Furthermore, the Committee notes that the CGT-RA refers in its observations to the existence of frequent cases of precarious employment in the inspection corps. In this regard, the Committee recalls once again that, according to *Article 6* of Convention No. 81 and *Article 8* of Convention No. 129, the 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. ***The Committee therefore requests the Government to take the necessary steps to ensure that all labour inspectors are public officials, and the stability of their employment is ensured. Noting that this information is not available to inspectors outside the SRT, the Committee requests the Government to indicate the type of employment relationship occupied by all federal and provincial inspectors, disaggregating the number of inspectors under the stability system and the number under the contract system.***

*Articles 20 and 21 of Convention No. 81 and Articles 26 and 27 of Convention No. 129. Annual inspection report.* With regard to its previous comments, the Committee notes the reports of the National Labour Directorate and the National Register of Rural Workers and Employers for the 2019–22 period. However, the Committee once again observes that it has not received the annual inspection report. ***The Committee once again urges the Government to take rapid steps to ensure that the central inspection authority publishes an annual general report on the work of the labour inspection services under its control (Article 20 of Convention No. 81 and Article 26 of Convention No. 129), covering each of the subjects indicated in Article 21 of Convention No. 81 and Article 27 of Convention No. 129.***

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

## Armenia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

#### Previous comment

The Committee notes the observations from the Confederation of Trade Unions of Armenia (CTUA) communicated with the Government's reports.

*Articles 3, 4, 7, 9, 12, 13, 16 and 17 of the Convention. Moratorium on labour inspections.* The Committee notes that the moratorium on inspections expired on 1 January 2018. ***Taking due note of this information, the Committee expects that no moratorium on inspections will be placed in the future. Therefore, it requests the Government to provide detailed statistics on the number of inspection visits undertaken by the Health and Labour Inspection Body (HLIB).***

*Article 3(2). Additional duties of labour inspectors.* The Committee notes the Government's indication that the amendments to the Labour Code introduced by the Law N HO-265-N of 4 December 2019, which entered into force on 1 July 2021, provide that labour inspectors are empowered to control compliance with labour legislation and collective agreements and can apply enforcement measures in cases stipulated by law. The Government further indicates that the amended section 230 of the Code on Administrative Offences, which came into force on 1 July 2021, grants to the HLIB the authority to handle cases regarding administrative offences for violating the requirements of the labour legislation.

The Committee also notes the Government's indication about the amendments to HLIB's Statute by Prime-Minister's Decision N 768-L of 3 July 2020 and Decision No. 781-L of 23 July 2021. The Committee notes that section 11 of HLIB's Statute enlists HLIB's supervisory powers on a number of areas, including labour and OSH legislation. The Committee notes that other areas under HLIB's

supervision refer to matters unrelated to conditions of work and protection of workers (such as supervision over circulation of medicine; donation of human blood and its components and transfusion; human reproductive health and reproductive rights; psychiatric care, among others). The Committee recalls that according to *Article 3(1)* of the Convention, 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 that according to *Article 3(2)*, any further duties which may be entrusted to them must not be such as to interfere with the discharge of their primary duties.

***Noting that the tasks assigned to the HLIB include a number of substantial functions in addition to the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, the Committee requests the Government to take measures in law and practice to ensure that, in accordance with Article 3(2) of the Convention, additional functions entrusted to labour inspectors do not interfere with the effective discharge of their primary duties and to provide specific information on all progress thereon.***

*Articles 12 and 16. Free access of inspectors to workplaces without previous notice. Inspections as often and as thoroughly as necessary.* The Committee notes the Government's indication that section 7 of the Law "On Organization and Conduct of Inspections in the Republic of Armenia (RA)" provides for inspectors' powers, while section 8(1) stipulates inspectors' duties. However, the Committee notes that the Law does not provide for the right of labour inspectors to enter any workplace liable to inspection without previous notice at any hour of the day or night, as stipulated in *Article 12(1)(a)* of the Convention.

In addition, the Committee notes that section 3(2) of the same Law obliges inspection authorities, prior to inspection visits, to issue an order for inspection specifying, among others, the body conducting the inspection, full name of the commercial entity under inspection, name, surname of the official(s) conducting the inspection, scope of issues, period under review, purpose, inspection term, and legal basis for the inspection. The Committee notes the general requirement for the inspection authority to submit to the employer the order for inspection at least three working days in advance of the inspection (section 3(3)). The Committee also notes CTUA's observations according to which the procedure for conducting inspections, as established by the legislation, is not in line with the requirements of *Article 12(1)* of the Convention.

The Committee recalls that *Article 12(1)(a)* 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. In addition, *Article 12(2)* provides that labour inspectors shall have the right to decide not to inform the employer or their representatives of their presence on the occasion of an inspection visit when they consider that such a notification may be prejudicial to the performance of their duties.

The Committee also notes the Government's indication that the inspection body undertakes inspection based on an annual plan, which is presented by the Head of the inspection body, approved by the Governing Council of the inspection body and published on HLIB's webpage, or alternatively in case of necessity. The Committee notes the Government's reference to section 4(3) of the Law on Organization and Conduct of Inspections, which limits frequency of labour inspection visits in workplaces in accordance with risk categorization, such as high risk (inspections not more than once in a year), medium risk (inspections not more than once in three years) and low risk (inspections not more than once in five years). The Government indicates that public complaints about business entities are used in the risk-based gradation and that inspections in case of necessity, outside the annual plan, are undertaken in view of a high level of risk, or in case of multiple complaints about the same business entity in a short period of time. Noting the Government's explanation about the possibility to modify the annual plan, the Committee once again expresses the view that limiting the number of inspection visits to a specific number for a certain time period raises obstacles to the effective performance of labour inspection functions.

Furthermore, the Committee notes that section 4(1) and (2) of the same Law limits the duration of an inspection visit to up to 15 consecutive working days per year, which can be extended up to the total duration of actual inspection of 30 working days upon a written justification. The Committee further observes that section 5 allows repeated inspections only in exceptional cases, such as following an instruction of the Prime Minister or within a criminal procedure. The Committee recalls that, according to *Article 16*, labour inspectors shall undertake inspections as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions. **Noting with serious concern the extent of limitations imposed on the authority and powers of labour inspectors, the Committee requests the Government to take the necessary measures to ensure that labour inspectors provided with proper credentials are empowered to enter freely any workplace liable to inspection without previous notice and to conduct inspections as often and as thoroughly as necessary. The Committee also requests the Government to provide information on the number of announced and unannounced inspections conducted by labour inspectors as well as the number and nature of inspections conducted outside the scope of the annual plan. The Committee further requests the Government to provide its comments in respect of CTUA's observations.**

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

## Azerbaijan

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2000)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2000)

#### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified labour inspection Conventions, the Committee considers it appropriate to examine Conventions Nos 81 and 129 together.

*Articles 12 and 16 of Convention No. 81 and Articles 16 and 21 of Convention No. 129. Limitations and restrictions of labour inspections. Powers of labour inspectors. 1. Moratorium and restrictions on labour inspections.* The Committee notes that, according to the Law of the Republic of Azerbaijan dated October 20, 2015, No. 1410-IVQ "On Suspension of Inspections in the Field of Entrepreneurship", inspection of business entities in the territory of the Republic of Azerbaijan have been suspended until January 1, 2024. In accordance with the requirements of this Law, inspection of business entities by the Service have been suspended since 1 November 2015, except for control of safe operation of potentially dangerous facilities and mining. **Recalling with deep concern that a moratorium placed on labour inspection is a serious violation of the Conventions and with reference to its 2019 general observation on the labour inspection Conventions, the Committee urges the Government to eliminate the temporary ban on inspections and to ensure that labour inspectors are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in compliance with Article 16 of Convention No. 81 and Article 21 of Convention No. 129.**

*2. Other limitations on labour inspections.* The Committee notes that Law No. 714-IVQ of 2 July 2013 regulating inspections of business and protecting the interests of business owners, contains various limitations on labour inspectors' powers, including with regard to: (i) the frequency of inspections (section 10); (ii) the scope of unscheduled inspections (section 16); (iii) the ability of labour inspectors to undertake inspection visits without previous notice (section 17.3); (iv) the duration of inspections (section 18); and (v) the issues that can be examined in the course of inspections (section 19). The Committee also notes the Government's indication that, in order to implement paragraph 1.3 of Presidential Decree No. 955 of 28 August 2013 concerning the application of Law No. 714-IVQ of 2 July 2013, a draft decision approving the criteria for identifying risk groups for monitoring of compliance with labour law was submitted to the Cabinet of Ministers for examination in April 2021. **In light of the**

**above, the Committee urges the Government to take the necessary measures to revise Law No. 714-IVQ, in order to ensure that labour inspectors: (i) are empowered to make visits to workplaces liable to inspection without previous notice, in conformity with Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129; (ii) are empowered to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed in conformity with Article 12(1)(c) of Convention No. 81 and Article 16(1)(c) of Convention No. 129; (iii) can choose not to notify the employer or his representative of their presence, if they consider that such notification may be prejudicial to the performance of their duties, in accordance with Article 12(2) of Convention No. 81 and Article 16(3) of Convention No. 129; and (iv) are empowered to inspect workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in accordance with Article 16 of Convention No. 81 and Article 21 of Convention No. 129. The Committee further requests the Government to provide information on the development of criteria for identifying risk groups for the government monitoring of labour law compliance, and to provide a copy of the decision adopted.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Bangladesh

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

#### Previous comment

The Committee notes the observations of the Trade Union's International Labour Standards Committee (TU-ILS Committee), communicated with the Government's report. The Committee also notes the reply of the Government to the observations submitted by the TU-ILS Committee in 2022.

The Committee notes that the complaint submitted in 2019 under article 26 of the ILO Constitution, concerning non-observance by the Government of Bangladesh of the Convention as well as of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), is pending before the Governing Body. At its 349th Session (November 2023), taking note of the report submitted by the Government on 19 September 2023 on the progress made with the implementation of the road map of actions, the Governing Body, on the recommendation of its Officers, decided to: (i) request the Government of Bangladesh to report on further progress made in the implementation of the road map of actions to address all the outstanding issues mentioned in the article 26 complaint at its 350th Session (March 2024); and (ii) defer the decision on further action in respect of the complaint to that session or any subsequent session.

The Committee takes note of the additional information provided by the Government on 19 September 2023 on the progress made in the implementation of the road map to address all the outstanding issues mentioned in the article 26 complaint.

*Legislative developments.* Following its previous comments on the labour law reform, the Committee notes the Government's indication in its report that the tripartite working group, headed by the Joint Secretary of Labour, has finalized a draft amendment of the Bangladesh Labour Act, 2006 (BLA) and submitted its recommendations to the Tripartite Law Review Committee (TLRC). According to the Government, the amendment process is expected to be completed by December 2023, and it "will be more [in] compliance with ILO labour Standards." The Government further indicates that the Bangladesh Export Processing Zone Authority (BEPZA) has formed a 15-member tripartite committee, responsible for amending the Export Processing Zone (EPZ) Labour Act, 2019 and that technical notes were prepared on the EPZ laws with the technical support from the ILO, with discussions being held to hold consultative workshops on their content. The Committee nevertheless notes the observations of

the TU-ILS Committee, that there has been no agreement reached on 51 issues discussed by the TLRC. The Committee notes that the forthcoming legislative amendments provide an opportunity to resolve once and for all the outstanding issues of compatibility with the Convention. **Noting also the trade union's observations, the Committee expects that the amendments to the BLA and the EPZ Labour Act will take into account all the outstanding issues concerning the application of the Convention raised by the Committee in these comments, and requests the Government to continue providing detailed information on the progress of its legislative reform.**

*Articles 2, 4, 12 and 23 of the Convention. Labour inspection in EPZs and special economic zones (SEZs).* Following its previous comments, the Committee notes the Government's indication that, pursuant to section 290 of the EPZ Labour Rules of 2022, labour inspectors of the Department of Inspection for Factories and Establishments (DIFE) are only required to give written or oral intimation to the Executive Chairman of the BEPZA to conduct inspections in the EPZs, and do not need prior approval. The Government indicates that the BEPZA is currently working on the revision process of the EPZ Labour Act, in consultation with social partners and stakeholders, and that the Act will be amended by 2025. The Committee also notes the EPZ inspection checklist communicated by the Government. The Committee further notes the indication by the Government that as of July 2023, the DIFE has inspected 52 factories within EPZs with the overall compliance of the factories concerned having been found to be satisfactory in general. **The Committee requests the Government to continue to take the necessary measures to ensure that labour inspectors are empowered to enter freely establishments in EPZs and SEZs without any restrictions, including by amending section 168 of the EPZ Labour Act which provides that DIFE inspectors are required to receive approval from the Executive Chairman of the BEPZA prior to the inspection of EPZs. In addition, the Committee requests the Government to indicate whether labour inspectors of the DIFE can carry out tests, examinations, and enquiries that are not covered by the EPZ inspection checklist but that they consider necessary to verify the strict observance of the relevant legal provisions. In the absence of information in this regard, the Committee once again requests the Government to provide detailed information on the number of inspections in the EPZs and SEZs undertaken by the DIFE that were announced, as compared with those that were unannounced, the number and nature of violations detected in each group, and the measures taken as a result of such violations. The Committee also requests the Government to indicate the number of workers employed in the EPZs and SEZs and those covered by the 52 inspection visits indicated by the Government.**

*Articles 5(b) and 15(a). Cooperation with employers and workers. Impartiality of labour inspectors.* Following its previous comments, the Committee notes that the Government denies all previous allegations of the TU-ILS Committee regarding corruption and political or undue pressure on labour inspectors during inspections. The Government further states that there are institutional mechanisms in place to deal with malpractice, and that any written allegation of corruption or undue exercise of power would be investigated. Regarding the Hashem Food Factory incident in 2021, the Government indicates that the inspection occurred during the COVID-19 lockdown, and that the focus was on preventing the spread of COVID-19. The Committee also notes, however, that according to the TU-ILS Committee, factory operations at the Hashem Food Factory restarted soon after without the necessary changes, and that labour inspectors of the DIFE visit small establishments and shops instead of factories, because of the informal relationships between factories and labour inspectors. The TU-ILS Committee also alleges that labour inspectors do not sufficiently collaborate with the ready-made garment Sustainability Council (RSC) and that the National Industrial Health and Safety Council, which has identified 5,000 factories requiring safety changes, does not have workers' representation. **The Committee requests the Government to provide its comments in respect of each of these observations. In addition, the Committee requests information on any instance in which inspectors were investigated for charges of being corruptly or politically influenced in the performance of their duties, and the results of any such investigations. The Committee also requests the Government to take measures to**

**further improve collaboration between officials of the labour inspectorate and employers and workers or their organizations.**

Articles 5, 7, 10, 11 and 16. *Human and material resources of the labour inspectorate. Frequency and thoroughness of labour inspections. Cooperation with employers and workers organizations.* Following its previous comments, the Committee notes that, according to the Government, as of 30 June 2023, there are 711 sanctioned posts compared to 575 sanctioned posts in 2022, of which 396 posts are filled (366 noted in 2022). The Government also indicates that there are 133 posts to be filled by promotion (2 for joint inspector-general and 131 for assistant inspector general). The Committee notes the statistics provided regarding the number of inspection visits conducted in the year 2022–23, with 47,826 inspection visits in total. Regarding material resources, the Committee notes that the statistics provided by the Government are similar to those of 2022, and that the labour inspectors have at their disposal two cars (previously five), three jeeps, 27 minibuses, 158 motorcycles, 40 scooters, 292 laptops and 339 desktop computers. The Government also indicates that the annual budget allocated for the DIFE has increased almost ten times since 2013 from 56.12 million Bangladeshi taka to 524.1 million taka in 2023. **Noting that a considerable number of labour inspectors' posts remain vacant, the Committee requests the Government to intensify its efforts to increase the number of labour inspectors through recruitment and promotion of inspectors. The Committee requests the Government to continue to provide statistics on the number of labour inspectors in the DIFE, including the number of posts filled by recruitment of new labour inspectors and those filled by promotion.**

Article 6. *Status and conditions of service of labour inspectors.* Following its previous comments, the Committee notes the information provided by the Government on the current workforce of the DIFE, including the number of approved and filled posts for inspectors, and the information comparing the remuneration and conditions of employment of labour inspectors with tax collectors and the police. The Committee takes note of this information, which addresses its previous request.

Articles 12(1) and 15(c). *Inspections without previous notice. Duty of confidentiality in relation to complaints.* Following its previous comments, the Committee notes the statistics provided by the Government concerning the number of inspection visits conducted by labour inspectors of the DIFE in the year 2022–23. In particular, the Government indicates that a total of 47,826 inspections were conducted in 2022–23, with 19,229 announced and 28,597 unannounced inspections, out of which 3,150 were conducted by the DIFE as a result of a complaint. Regarding the confidentiality of complaints, the Committee notes the Government's indication that complaint boxes are set up during inspections outside the range of camera surveillance, to allow workers to submit complaints anonymously. In addition, the Government indicates that workers can submit grievances against DIFE officials in cases where union members or workers who submitted a complaint face negative consequences from labour inspectors disclosing information. The Committee also notes the observations of the TU-ILS Committee, that: (i) there should be more unannounced inspections; (ii) labour inspectors may not conduct inspection visits at night; and (iii) there are limitations to the scope of labour inspection, as labour inspectors may not inspect sectors falling outside the scope of BLA. **The Committee requests the Government to provide its comments in respect of these observations. The Committee further requests the Government to continue to provide information on the number of inspection visits disaggregated between announced and unannounced inspection visits, separately noting the number of inspections resulting from complaints, along with information on the number and nature of violations found in response to each category of inspection visit. The Committee requests the Government to continue providing statistics on the use of the helpline and other mechanisms to submit anonymous complaints, including the number of inspections conducted as a result of a complaint and the outcome of such inspections.**

Articles 17 and 18. *Legal proceedings. Effectively enforced and sufficiently dissuasive penalties.* Following its previous comments, the Committee notes that, according to the Government, the legal unit of the DIFE is fully functional and has one Legal Officer (with another who has yet to join), an

inspector and other staff members. The Committee also notes the statistics provided by the Government indicating that in the year 2022–23, there were 495 cases solved in court with fines imposed in all of them, that the total amount of money collected from fines was 1,163,667 taka, equivalent to US\$10,559 or an average of US\$21.33 for each case where a fine was imposed, and that 653 cases are still pending. The Committee notes the Government's indication that increasing penalties for relevant violations is being considered in the labour law reform. The Committee notes that, according to the additional information provided by the Government concerning the implementation of the third priority area of the road map of actions, a proposal to set up a fully-fledged Labour Court in Faridpur is currently awaiting approval. **Noting that the Government had previously indicated that the legal unit would be expanded to nine officers, the Committee requests the Government to pursue its efforts to fill in the posts of the legal unit of the DIFE. The Committee urges the Government to take measures to ensure that penalties for labour law violations are sufficiently dissuasive and to clear the backlog of labour cases. The Committee further requests the Government to provide statistics on the number of violations detected by labour inspectors, and the provisions to which they relate. The Committee also requests the Government to provide information on any progress made in the establishment of a Labour Court in Faridpur.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Belarus

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)

#### Previous comment

*Articles 6, 12, 13 and 16 of the Convention. Limitations and restrictions on the powers of labour inspectors.* The Committee notes that, according to the Decree of the President of the Republic of Belarus No. 376 of 2017 on measures to improve the activities of the control (supervisory) system, which entered into force on 1 January 2018, a number of limitations on the powers of labour inspectors and the undertaking of labour inspections are envisaged, including restrictions relating to: (i) the free initiative of labour inspectors (sections 1.1.9 and 1.1.11); (ii) the frequency of labour inspections (sections 1.1.7 and 1.1.10); (iii) the scope of inspections, particularly in terms of the issues that can be examined in the course of inspections (sections 1.1.9 and 1.1.11); and (iv) the power of labour inspectors to issue suspension orders in case of threat to life and health (section 1.1.6). The Committee recalls that *Article 12* of the Convention provides that labour inspectors shall be empowered to enter workplaces liable to inspection freely and to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, while *Article 16* provides that workplaces shall be inspected as often as is necessary to ensure the effective application of the relevant legal provisions. In addition, *Article 13* empowers labour inspectors to adopt measures with immediate executory force in the event of imminent danger to the health or safety of the workers.

The Committee further notes that labour inspectors are subject to disciplinary liability, including dismissal and fines, for conducting inspections without justified reasons, for exceeding the time limit for conducting inspections, for requesting the production of documents if they are not related to the matters specified in the inspection order, and for taking samples for investigation in quantities exceeding the established limits (section 1.2). The Committee recalls that according to *Article 6*, the inspection staff shall be composed of public officials who are independent of improper external influences. The Committee notes that as public servants, labour inspectors can only be dismissed for serious professional misconduct, which should be defined in terms that are as precise as possible to avoid arbitrary or improper interpretation (*General Survey of 2006 on labour inspection*, paragraph 203). **The Committee requests the Government to indicate if Decree No. 376 of 2017 is still in force and,**

***in such case, to take prompt measures to bring its national legislation into full conformity with the Convention.***

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

## Central African Republic

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

#### Previous comment

*Article 3(2) of the Convention. Duties of labour inspectors.* In response to the Committee's previous comment, the Government indicates in its report that, in addition to their advice and supervision duties, labour inspectors play a conciliation role and provide assistance in enforcing the applicable principles on freedom of association and the promotion of collective bargaining. The Government states that, while prioritizing urgent situations, the inspectors plan their administrative tasks with a view to promptly and effectively performing their additional duties and, thereby, preserving the social peace. Moreover, the Committee notes that section 436 of the draft revised Labour Code still provides that the conciliation duties that fall within the labour inspector's remit are an obligatory stage of the amicable settlement of individual and collective labour disputes. The Committee recalls the importance of avoiding overburdening inspectorates with tasks, which by their nature may be understood as incompatible with their primary function of enforcing legal provisions (2006 General Survey on Labour Inspection, paragraph 72). The Committee also recalls that Paragraph 8 of the Recommendation No. 81 provides that the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes. ***The Committee once again requests the Government to provide information on the time and resources spent by labour inspectors on their various duties. It also requests the Government to adopt the necessary measures to ensure that the additional duties entrusted to labour inspectors are not an obstacle to the performance of their main duties, including in the context of the reform of the Labour Code.***

*Articles 11 and 16. Material means and transport facilities placed at the disposal of labour inspectors and reimbursement of necessary expenses. Frequency of inspection visits and effectiveness of the system.* The Committee notes that in response to its previous comment, the Government indicates that it has renewed its commitment to pursue its efforts to furnish the labour inspection services with material means and transport facilities to enable them to perform their duties with impartiality and independence. The Government also indicates that it is continuing its efforts to refurbish the local labour inspection offices, both at the central level and in the seven regional directorates of labour. ***The Committee requests the Government to: (i) intensify its efforts to ensure that labour inspectors are afforded offices that are properly set up, and resources and reimbursement of necessary expenses for the effective performance of their duties; and (ii) continue to provide information on any measure taken to this end.***

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

## Colombia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1976)

#### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.



The Committee notes the observations on the application of Conventions Nos 81 and 129 submitted jointly by the Confederation of Workers of Colombia (CTC), the General Confederation of Labour (CGT) and the Single Confederation of Workers of Colombia (CUT), transmitted together with the Government's reports. The Committee also notes the observations of the National Employers Association of Colombia (ANDI), received on 1 September 2023.

*Articles 3(1), 7(3), 9, 13, 14, 20 and 21 of Convention No. 81 and Articles 6(1), 9(3), 11, 18, 19, 26 and 27 of Convention No. 129. Labour inspection functions in the area of occupational safety and health (OSH). Industrial accidents and cases of occupational disease.* In relation to its previous comments, the Committee notes the Government's indication that, in accordance with section 8 of Act No. 1610 of 2013 of the Labour Inspectorate, labour inspectors are empowered to order the closure of a workplace where there are conditions endangering the life, physical integrity and safety of the workers, without requiring the violation to be serious. However, the Committee notes that Decision No. 3029 of 2022 empowers the inspectors to order a prohibition or a stoppage in the event of serious and imminent risk (section 2(10)), while *Article 13(2)(b)* of Convention No. 81 and *Article 18(2)(b)* of Convention No. 129 empower labour inspectors to adopt measures with immediate executory force, in the event of imminent danger to health or safety, without requiring the danger to be serious.

***The Committee requests the Government to consider amending Decision No. 3029 of 2022 to ensure that labour inspectors are empowered to adopt measures with immediate executory force, in the event of imminent danger to health or safety, without requiring the danger to be serious, in accordance with Articles 13(2)(b) of Convention No. 81 and 18(2)(b) of Convention No. 129.***

With respect to the composition of the internal working groups on occupational risks inspection and their functions, the Government reports that these groups are composed of labour inspectors whose functions are set out in section 2 of Decision No. 3029 of 2022 and encompass inter alia the coordination and realization of inspection activities in application of OSH standards, assistance for workplaces in implementing actions to prevent industrial accidents and occupational disease, and interventions in the economic sectors with the highest rates of occupational accidents and diseases.

With regard to the high rate of accidents in the mining sector, the Committee notes that the Government indicates: (i) the number of occupational accidents and diseases recorded between 2019 and 2022 in the different economic sectors, including the number of deaths of workers; (ii) the number of fatal accidents of workers in the mining sector between 2005 and 2023, and the causes of the accidents, including explosions and contaminated environments inside the mines; and (iii) the number of preventive inspections in mines with the highest rates of accidents, and the provision of training for labour inspectors in the mining sector to strengthen activities to prevent occupational risk.

The Committee also notes that the CUT, the CTC and the CGT allege that during the course of 2022, 23 per cent of labour inspectors were adequately trained in OSH.

***The Committee once again requests the Government to provide statistical information on the preventive measures taken by inspectors to: (i) to make or cause to make orders that alterations to the installation, plant, premises, tools, equipment or machines are carried out, within a specified time limit, as may be necessary to ensure compliance with the legal provisions relating to health or safety (alteration orders) (Article 13(2)(a) of Convention No. 81 and Article 18(2)(a) of Convention No. 129); and (ii) to make or cause to make orders requiring measures with immediate executory force, which can go as far as halting the work, in the event of imminent danger to the health or safety of workers (Article 13(2)(b) of Convention No. 81 and Article 18(2)(b) of Convention No. 129).***

***The Committee also requests the Government to provide information on the measures taken to continue providing OSH training to labour inspectors, as well as on the number of OSH inspections carried out in the mining sector and the results of such inspections.***

*Articles 10 and 16 of Convention No. 81 and Articles 14 and 21 of Convention No. 129. Number of labour inspectors. Frequency of inspections.* In response to its previous comments, the Committee notes the

information provided by the Government on the number of labour inspector posts (1,259) and the number of inspectors effectively assigned to a post, which rose by 335 inspectors between 2021 and 2022 (1,151 inspectors in 2022 compared to 816 inspectors in 2021) and their geographic distribution (144 inspectors fall under the Bogota D.C. regional directorate and the remainder under other regional directorates) and the number of vacant labour inspector posts (108). The Committee also notes that the number of labour inspections, including in the agricultural sector, rose from 7,194 in 2018 to 14,688 in 2022.

The Committee notes that the CUT, the CTC and the CGT allege that the number of labour inspectors has not been increased, which makes it difficult to conduct inspections and monitor compliance with labour standards.

***While welcoming the increase in the number of inspectors and of inspections carried out, the Committee expects that the Government will continue to take appropriate measures to ensure that the number of labour inspectors is sufficient to ensure that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the legal provisions.***

*Articles 17 and 18 of Convention No. 81 and Articles 22 and 24 of Convention No. 129. Discretion to give a warning or advice. Imposition of penalties. Discretionary powers of labour inspectors to give a warning or advice, instead of initiating legal proceedings.* With reference to its previous comments, the Committee notes with **interest** the Government's indication that Decision No. 772 of 2021, which establishes guidelines for the exercise of the preventive function in the form of prior notice, was derogated by Decision No. 4798 of 29 of November 2022.

*Suspension or termination of administrative penalty proceedings.* With reference to its previous comments, the Committee notes with **interest** the Government's information that, in accordance with section 372 of Act No. 2294 of 2023, section 200 of Act No. 1955 of 2019 was repealed. This section empowered the Ministry of Labour to suspend or terminate administrative penalty proceedings for violation of labour standards, other than those relating to labour formalization. The Government also indicates that the power of the Ministry of Labour set out in section 200 above is not applied in practice.

***With regard to the allegations of the CUT, the CTC and the CGT indicating that: (i) according to the 2022 quarterly inspection bulletins of the Ministry of Labour, 573 agreements were signed between the Ministry of Labour and several employers for the suspension and termination of administrative proceedings under section 200 of Act No. 1955 of 2019; and (ii) despite the repeal of section 200 above, the Ministry of Labour continues to generate such agreements under Decree No. 1368 of 2022, which regulates the operation of the agreements that were provided for in the repealed standard, the Committee requests the Government to provide its comments.***

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

## Croatia

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1991)**

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. Additional functions entrusted to labour inspectors.* In reply to the Committee's previous comment, the Government indicates that labour inspectors are entrusted with supervising the implementation of provisions of the Foreigners Act regarding the legality of work and employment of third-country nationals without residence and work

permits. The Government indicates that, in cases where the labour inspectors recognize the existence of illegal work performed by a third-country national, they take the prescribed misdemeanour and administrative measures and inform the Ministry of Interior and the Tax Administration of the Ministry of Finance for further action. The Committee notes that according to the 2022 Labour Inspection Report, the labour inspectorate identified 526 undeclared workers which were third-country nationals whose status was contrary to the provisions of the Foreigners Act. The Committee recalls that the primary duty of labour inspectors is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers and not to enforce immigration law. It further recalls that pursuant to *Article 3(2)* of Convention No. 81 and *Article 6(3)* of Convention No. 129, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. **Therefore, the Committee requests once again that the Government take measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as set forth in Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. It also requests the Government to indicate how the labour inspectorate ensures the enforcement of employers' obligations with regard to the statutory rights of workers found to be working irregularly, including migrant workers, particularly with regard to the payment of wages and social security credits.**

*Articles 3(2), 10, and 16 of Convention No. 81 and Articles 6(3), 14 and 21 of Convention No. 129. Number of labour inspectors for the effective discharge of the duties of the inspectorate and additional duties.* In reply to the Committee's previous comment, the Government indicates that in recent years, the number of cases communicated by the Tax Administration on non-payment of wages has significantly decreased, as well as the number of workers who have not been paid the minimum wage, so that these tasks no longer represent a burden that significantly impedes the conduct of inspections in the field of labour relations. The Committee also notes the Government's indication that according to the Ordinance on the internal organization of the State Inspectorate No. 97 of 2020, a total of 268 labour inspector positions are foreseen within the State Inspectorate (148 in the field of labour relations and 120 in the field of occupational safety). The Government indicates that as of 31 December 2022, 188 positions were filled (108 in the field of labour relations, and 80 in the field of occupational health and safety). Finally, the Committee also notes the Government's indication that difficulties in the application of the Convention derive from an insufficient number of labour inspectors. **Noting that a considerable number of labour inspection positions are still vacant, the Committee requests the Government to take the necessary measures to fill them as soon as possible and also to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate, including in the agricultural sector, and that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the provisions of these Conventions.**

*Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12, 22(1) and 24 of Convention No. 129. Institution of legal proceedings and enforcement of adequate penalties.* The Committee takes note of the information provided by the Government that, in recent years, there have been fewer verdicts dismissing charges filed by labour inspectors in misdemeanour cases due to failure to comply with the applicable statute of limitations. However, the Government reports that it does not have statistical data on the number of prosecution motions rejected due to the limitation period in misdemeanour cases, nor on the fines imposed. The Committee also notes a decrease in the number of indictments submitted by labour inspectors to the competent courts in the past four years (2,366 in 2019, 1,608 in 2020, 1,466 in 2021 and 1,642 in 2022). The Committee recalls that in its [2007 general observation](#) on Convention No. 81 it emphasized that the effectiveness of the binding measures taken by the labour inspectorate depends to a large extent on the manner in which the judicial authorities deal with cases referred to them by, or at the recommendation of, labour inspectors. It is therefore indispensable for an arrangement to be established whereby relevant information can be notified to the labour inspectorate.

**Accordingly, the Committee requests that the Government indicate the measures adopted in order to ensure effective cooperation between the inspection services and the judiciary with regard to the effective enforcement of legal provisions relating to conditions of work and the protection of workers by labour inspectors. The Committee requests the Government to provide information on the progress achieved or the difficulties encountered in the effective enforcement of adequate and sufficiently dissuasive penalties, including information on the number and nature of penalties assessed, the total amounts assessed, and other sanctions. The Committee also encourages the Government to pursue its efforts in the collection of statistical information on the number of legal proceedings initiated by labour inspectors that were declared inadmissible, and the main reasons for their inadmissibility. Finally, the Committee requests the Government to provide information on the reasons for the decrease in the number of indictments submitted to the courts by labour inspectors.**

## Djibouti

### Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63) (ratification: 1978)

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

*Technical assistance.* The Committee notes the information provided by the Government in its brief report, including its request for ILO technical assistance to assist it in filling the gaps in implementation of the Convention. It recalls that the Government had not submitted information since October 2005. The Committee notes the information concerning the 2012 Statistical Yearbook, which is available online, as well as the 2015 Household Survey, to be published in June 2016. The Committee further notes that, according to the information available to the ILO Department of Statistics, labour market statistics in Djibouti are not compiled on a regular basis. **The Committee requests that the Government provide information on the results and methodology of the 2015 Household Survey, as soon as it becomes available, and to regularly provide information on the application of the Convention.**

The Committee notes the recommendations of the Standards Review Mechanism Tripartite Working Group and the corresponding decision of the Governing Body at its 328th Session in October–November 2016 (GB/328/LILS/2/1) calling upon the Office to commence follow-up with member States that are still bound by this Convention, encouraging them to ratify the Labour Statistics Convention, 1985 (No. 160), as the most up-to-date instrument in this area, and resulting in the automatic denunciation of Convention No. 63. **The Committee reminds the Government of the availability of ILO technical assistance in this regard.**

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

## Dominican Republic

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

#### Previous comment

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), received in 2018. It also notes the observations of the Ibero-American Confederation of Labour Inspectors (CIIT), received in 2019 and 5 June 2023. **The Committee requests the Government to provide its comments in this respect.**

*Articles 10 and 16 of the Convention.* Number of labour inspection staff for the effective discharge of labour inspection duties. Further to its previous comments, the Committee notes the Government's indication in its report that: (i) the competition held in 2014 to fill 60 labour inspector posts was cancelled since no budget was allocated; (ii) the Ministry of Labour recruited six new labour inspectors through the competition held in 2018; and (iii) there are 174 labour inspectors in the inspection system

(compared with 159 inspectors in 2016) distributed among 40 local labour offices in the country. The Committee also notes the observations of the CNUS, CASC and CNTD, claiming that: (i) the number of labour inspectors is insufficient to address the workers' demands; (ii) the number of inspection visits carried out is insufficient to ensure compliance with the labour legislation, particularly the provisions relating to occupational safety and health, working hours, wages and social security; and (iii) the quality of inspection reports is deficient. The Committee also notes that the CIIT claims in its allegations that: (i) the number of labour inspectors is low in relation to the population of the respective provinces (for example, there are five inspectors in the province of Santiago de los Caballeros, with over 1.5 million inhabitants); and (ii) in the province of Samaná, with a population of 139,707 inhabitants, there are no labour inspectors. **While noting the increase in the number of inspectors between 2016 and 2018, and the difficulties involved in appointing new inspectors, the Committee requests the Government to ensure that the number of labour inspectors is sufficient to enable the effective discharge of labour inspection duties in all regions of the country.**

*Article 12(1)(a) and (b). Right of labour inspectors to enter workplaces freely.* Further to its previous comments, the Committee notes the Government's indication that it submitted a proposal for reform of the Labour Code to the Committee on Tripartite Dialogue. **The Committee requests the Government to take the necessary measures, including in the context of the aforementioned reform proposal, to give legal effect to the right of labour inspectors 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 when they may have reasonable cause to believe that they are liable to inspection, in accordance with Article 12(1)(a) and (b) of the Convention. The Committee also requests the Government to provide information on the measures taken in this respect.**

*Articles 19, 20 and 21. Publication and communication of an annual report on the work of the labour inspection services.* The Committee notes that no annual labour inspection reports have been received since 2018. It notes that the last annual report from 2018 contains information on: (i) the legislation relating to the functions of the labour inspectorate; (ii) the total number of labour inspectors; (iii) the number of workplaces liable to inspection; (iv) the number of inspections conducted and the number of workplaces inspected; and (v) the number of warning notices issued to workplaces, with a view to securing compliance with the labour legislation, and the number of infringement reports established. The Committee notes that the above-mentioned report does not contain any information on the number of occupational accidents and cases of occupational disease notified. **The Committee urges the Government to take the necessary steps to ensure that annual reports on the work of the inspection services are published and communicated regularly to the ILO, in accordance with Article 20 of the Convention, and that they contain information on all the subjects listed in Article 21(a)–(g).**

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

## El Salvador

**Labour Inspection Convention, 1947 (No. 81)** (ratification: 1995)

**Labour Inspection (Agriculture) Convention, 1969 (No. 129)** (ratification: 1995)

[Previous comments: Convention Nos 81 direct request and observation](#)

[Previous comment: Convention No. 129 direct request](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Articles 12(1)(a)–(b) and (2), and 17(2) of Convention No. 81 and Articles 16(1)(a)–(b) and (3), and 22(2) of Convention No. 129. Freedom of labour inspectors to enter workplaces, notification of presence and discretion to decide on the treatment of infringements.* The Committee recalls that for many years, it has

been requesting the Government to take measures to ensure that current legislation is in conformity with the *Articles* of the Conventions in question. The Committee notes that the Government does not refer in its report to the application of these *Articles*. The Committee also recalls that, in its previous comments, it noted certain legislative initiatives aimed at ensuring conformity of the Act on the Organization and Functions of the Labour and Social Security Sector with the provisions of the Convention, and that these initiatives were unsuccessful. ***In these circumstances, the Committee once again requests the Government to take the necessary measures, without delay, to ensure full conformity with the provisions of Articles 12(1)(a)–(b) and (2), and 17(2) of Convention No. 81 and Articles 16(1)(a)–(b) and (3), and 22(2) of Convention No. 129. The Committee reminds the Government that it may avail itself of technical assistance from the Office in this respect.***

## Estonia

Labour Inspection Convention, 1947 (No. 81) (ratification: 2005)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2005)

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. Additional functions entrusted to labour inspectors.* Following its previous comments, the Committee notes the Government's indication in its report that, during inspections, labour inspectors verify the working conditions of migrant workers and whether they are treated equally compared to other employees. The Government indicates, however, that the right for migrant workers to work in Estonia is regulated by the Aliens Act, which is enforced by the police and by the border guard, and not by labour inspectors. The Committee notes that, according to the Government, labour inspectors notify the police and the border guard upon finding migrant workers who are not legally entitled to remain in the country, and that they cooperate with the police, the border guard and the Tax and Customs Board in joint inspections. On this issue, the Committee once again refers the Government to its [2006 General Survey on labour inspection](#), paragraph 78, and emphasizes that the objective of labour inspection can only be met if workers are convinced that the primary task of the inspectorate is to enforce legal provisions relating to conditions of work and protection of workers. The Committee also observes that the Government does not provide information on the measures taken by labour inspectors to enforce employers' obligations regarding the rights of migrant workers in an irregular situation, such as the payment of wages and social security benefits, for the period of their effective employment relationship. ***The Committee once again requests the Government to indicate how it ensures that labour inspectors' participation in joint inspections does not interfere with the effective discharge of their primary duties under Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. In addition, the Committee urges the Government to indicate the specific role, if any, played by the labour inspectorate in: (i) enforcing employers' obligations arising from the rights of undocumented migrant workers, such as payment of wages or social security benefits for the period of their effective employment relationship, especially in cases where workers are liable to expulsion from the country; and (ii) regularizing the employment relationship of migrant workers found to be working in an irregular situation, including the numbers of undocumented migrant workers assisted in each of these areas.***

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

## Eswatini

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1981)

#### Previous comment

*Articles 10, 11 and 16 of the Convention. Functioning and resources of the labour inspection system.* Following its previous comment, the Committee notes the statistical information in the Government's report. In 2020, the General Inspectorate Unit carried out a total of 458 labour inspections, including 402 initial or routine inspections and 56 follow-up inspections, which according to the Government, marked a significant decrease from 2019 due to the COVID-19 pandemic. The Government indicates that material resources, including motor vehicles allocated to the Department of Labour, were recalled and diverted to provide the necessary response to the COVID-19 pandemic. The unavailability of motor vehicles to conduct field work negatively impacted on the conduct of physical labour inspections. Moreover, few field inspections were carried out in 2021 due to the lack of personal protective equipment (PPE) to protect labour inspectors against COVID-19 virus. Consequently, the Government initiated a procurement process for appropriation of PPE which was planned to be finalised before the end of the 2021–22 financial year.

The Government also indicates that the implementation of the Strategic Compliance Plan, with the technical assistance provided by the ILO, mitigates against the challenges posed by the continued lack of resources, by maximizing labour inspection efforts based on available resources. In addition, the Government states that it is expected that the number of enterprises will increase at a faster rate than the capacity of the labour inspectorate to inspect them. As a result, the Department of Labour is in the process of designing an Inspection and Enforcement Policy in order to facilitate and ensure more effective implementation of an integrated approach to labour inspection, including the introduction of a unitary, integrated labour inspection system to replace the various specialist inspection services that have operated in the past. ***The Committee requests the Government to take the necessary measures to ensure sufficient material means for the effective discharge of the duties of the inspectorate, including transport facilities and personal protective equipment as necessary. It also requests the Government to continue to provide information on the number of inspections carried out and the number of inspectors. In addition, the Committee requests the Government to continue to provide information on specific measures taken or envisaged to ensure that workplaces are inspected as often and as thoroughly as is necessary for the effective application of the relevant legal provisions, including through the implementation of the Strategic Compliance Plan and the Inspection and Enforcement Policy.***

*Articles 20 and 21. Annual labour inspection report.* The Committee notes that the Government report contains statistics on the number of inspection visits for the year 2020. It notes however that no information was provided with regard to the number of inspectors (*Article 21(b)*), 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 once again notes that no annual report of the Department of Labour has been received by the ILO since 2005, although such reports are required in accordance with *Article 20* of the Convention. ***The Committee requests the Government to take the necessary measures to ensure the preparation, publication and regular communication to the ILO of annual reports of the labour inspectorate, which contain the information listed in Article 21 of the Convention.***

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

## Haiti

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2023, and the observations of the Confederation of Haitian Workers (CTH) and the CTSP received on 2nd of November 2022. **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 2024, 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 Haitian Workers (CTH) and the Confederation of Public and Private Sector Workers (CTSP) received on 2nd of November 2022. **The Committee requests the Government to provide its comments in this respect.**

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) received on 1 September 2019, in which it reiterated its observations of 2016, 2017 and 2018 and adds that the situation has deteriorated.

*Articles 3, 12, 13, 15, 16, 17 and 18 of the Convention. Discharge of primary duties of the labour inspectorate. Appropriate sanctions.* In its previous comment, the Committee noted the Government's indications concerning the obstacles faced in applying the Convention in practice, particularly the inadequate numbers of labour inspectors, and requested the Government to supply detailed information together with statistics on the planning and implementation of systematic inspections throughout the country, including in the export processing zones, and also their results. The Committee notes the information provided by the Government concerning the planning and implementation of inspection visits in two of the ten departments in the country in several activity sectors, including: (i) in the western department: 64 inspections (32 initial inspections and 32 catch-up inspections) conducted in 2017; 16 inspections (11 of which in the textile industry), 31 unannounced inspection visits in enterprises and 24 investigations, conducted in 2018; and 42 visits planned and ten advice services carried out in 2019; and (ii) in the north-eastern department, ten initial inspections and ten follow-up inspections were conducted in 2018. The Government indicates that the main objective of labour inspection over this period has been redressing the inconformity identified, rather than imposing penalties. The Committee also notes that the CTSP in its observations indicates that inspectors do not provide technical advice to workers and employers, but limit themselves to calculating the statutory benefits due in disputes between employers and workers. The CTSP also indicates that there are no statistics on labour inspection in the country; to its knowledge, there is no planning or implementation of systematic inspections throughout the country; and, in practice, labour inspection was carried out only in the textile industry. **While duly noting the progress achieved since 2017 by the labour inspectorate in the country, particularly concerning the planning and implementation of visits in two of the ten departments in the country, the Committee requests the Government to strengthen its efforts to progressively expand the planning and conducting of inspection visits to all regions and all economic sectors of the country. The Committee also requests the Government to continue to provide information on the measures taken in this regard, including the statistics concerning the number of inspections planned and conducted, disaggregated by sector, along with details of the results of these visits, including the warnings issues, legal procedures brought or recommended, and penalties imposed and applied. The Committee also requests the Government to ensure that, during their inspection visits, the inspectors perform their primary functions in conformity with Article 3 of the Convention.**

*Articles 6, 10 and 11. Human and material resources available to the labour inspectorate.* The Committee notes the Government's indication in reply to its previous comments that: (i) between 2014 and 2017, thanks to the project to build the capacities of the Ministry of Social Affairs and Labour (ILO/MAST), piloted by the ILO, a team was established of 20 officials, 12 of whom are inspectors in the field and eight are trainers; (ii) in 2018, means of transport (six motorcycles and a car) were provided to certain regional MAST offices and that efforts are envisaged to equip all inspection services with the means necessary to guarantee labour



inspection in workplaces; and (iii) it planned to upwardly revise the salaries of labour inspectors in the same way as all other inspectors of the public administration. The Committee notes the CTSP's observations, according to which the Government has not made an effort to change the status of labour inspectors in order to provide them with better employment conditions, such as a decent salary, a guarantee of productive employment and social advantages, which could jeopardize the independence of inspectors. **The Committee requests the Government to pursue its efforts towards progressively increasing the number of inspectors and the material means placed at their disposal to enable them to effectively discharge the functions of the inspection services. The Committee also requests the Government to take the necessary measures to improve the conditions of service of the inspectors, including increasing their remuneration. In this regard, it requests the Government to provide information on the salary scales and labour inspectors' career prospects, compared with public servants who carry out similar functions within other government services, such as tax inspectors and the police.**

*Articles 6, 7(1) and Article 15(a). Recruitment of inspectors. Prohibition from having any direct or indirect interest in the undertakings.* In its previous comment, the Committee noted that, in its observations, the CTSP indicated that recruitment of labour inspectors was carried out on the basis of clientelism. The Committee notes the Government's indication that, to ensure full application of sections 47 to 75 of the Decree of 17 May 2005, revising the general public service regulations, which regulate the recruitment procedure of public service agents, including labour inspectors, an administrative structure has been established for this purpose, entitled the Office for Human Resources Management (OMRH). The Committee also notes that the CTSP reiterated in 2019 its previous observations on this matter and indicated the further deterioration of the labour inspectorate's independence vis-à-vis employers. **The Committee requests the Government to ensure that labour inspectors are recruited with sole regard to their qualifications for the performance of their duties and that their status and conditions of service are such that they are independent of changes of government and of improper external influences in conformity with Articles 6 and 7(1) of the Convention. The Committee also requests the Government to provide information on the composition of the OMRH as well as on its prerogatives.**

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

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

## Italy

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1981)**

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee notes the 2023 [conclusions](#) of the Conference Committee on the Application of Standards (CAS) on the application of Conventions Nos. 81 and 129 by Italy, in particular those related to: (i) improving the collection of disaggregated labour inspection data, including by establishing an integrated database in coordination with the different agencies and bodies performing labour inspection duties; (ii) extending the collection of statistical data regarding cases of failure to comply with contractual obligations to workers in an irregular situation, to ensure recovery of the credits for these workers, notably unpaid wages and social security contributions; (iii) providing the Labour Inspectorate with the necessary resources for effective labour inspection. The CAS also requested the Government to provide information on: (i) the number of migrant workers in an irregular situation detected by labour inspectors; (ii) the role of labour inspectors in informing migrant workers about their labour rights and

in enforcing those rights; and (iii) the number of “special case” residence permits granted and a result of cooperation by those individuals with inspection services.

The CAS invited the Government to avail itself of ILO technical assistance to effectively implement all of the Committee’s recommendations.

The Committee notes with **interest** the information provided by the Government in its report concerning the establishment of a tripartite technical roundtable mandated to analyse the issues raised by the CAS and identify the most appropriate solutions. The Government indicates that the first meeting took place on 19 July 2023, involving representatives of the National Labour Inspectorate (INL), the National Social Security Institute (INPS), the Ministry of the Interior and the Ministry of Foreign Affairs and International Cooperation (MAECI), as well as the Ministry of Labour and Social Policies, the Director of the ILO Office for Italy and San Marino, and the most representative organizations of workers and employers. **The Committee requests the Government to continue to provide information on the content and outcomes of the meetings of the tripartite technical roundtable and on the involvement of social partners in the process.**

*Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. 1. Additional functions entrusted to labour inspectors in relation to immigration. Data on migrant workers in an irregular situation and actions undertaken by labour inspectors.* Following its previous comment with regard to the number of irregular migrant workers detected by labour inspectors, the Committee notes the Government’s indication that during 2022, 1,206 non-EU workers without residence permit were identified by labour inspectors, representing an increase of 63 percent in comparison to the previous year, with the agricultural sector being the most affected. With regard to the role of labour inspectors in informing migrant workers of their rights and ensuring that those rights are respected, the Government indicates that several measures have already been adopted such as: (i) the translation into several languages (corresponding to the foreign communities most present in the Italian labour market) of the information form adopted by the decree of the Ministry of Interior, the Ministry of Labor and the Ministry of Economy and Finance, in application of the EU Directive 2009/52/EC introducing minimum standards on sanctions and measures against employers who employ third country nationals; (ii) the creation of multilingual brochures with the aim of assisting foreign workers in understanding the national legislative framework and in identifying and reporting possible exploitative situations; (iii) the online publication of the complaint form (so-called Request for Action), translated into ten languages; and (iv) the cooperation of the INL with the creation of inter-institutional help-desks in six local labour inspectorates which provide a multilingual service aimed at third-country nationals, victims or potential victims of labour exploitation, with the support of intercultural mediators and experts in the legal, social, labour and administrative fields. In addition, the Committee notes the detailed information provided by the Government with regard to the implementation of the project “A.L.T. Caporalato D.U.E.”, which continues to strengthen the role of the inspectorate in preventing abusive working conditions in targeted economic sectors, as well as the information concerning awareness-raising and prevention activities conducted by the labour inspectorate with regard to gang mastering and labour exploitation.

*2. Data on recovery of wages and social security credits for migrant workers in an irregular situation.* Concerning the data on the recovery of wages and social security credits specific to foreign workers without a residence permit, the Committee welcomes the detailed information provided by the Government on the unpaid social security contributions identified by INPS inspectors in 2022 and referring to non-EU workers without a valid residence permit, disaggregated by country of origin and gender of the workers. The Committee also notes the Government’s indication that the INL has started to redesign its procedures and implement an information system that will improve the collection of inspection data to allow the gathering of information on the amounts recovered and to be recovered in relation to the nationality and gender of the workers. The Government indicates that this process is ongoing and will require time to be completed. The Government also refers to the existing legal procedures for the recovery of wages and social contribution claims in case of employer’s insolvency

toward the worker, such as the procedure of monocratic conciliation and the certified notice of findings, regulated by sections 11 and 12 of Legislative Decree No. 124/2004. The Government indicates that these legal remedies also apply to migrant workers in an irregular situation.

3. *“Special cases” residence permits.* The Committee also notes the detailed information provided by the Government with regard to the number of “special cases” residence permits granted as a result of cooperation by foreign workers without a valid residence permit with the inspection services, disaggregated by region and country of origin. The Committee notes that the residence permits issued for social protection reasons (section 18(1) of Legislative Decree No. 286/1998) were 384 for 2021, 315 for 2022 and 163 for the year 2023 (updated to 28 July 2023) and those for serious labour exploitation (section 22 (12-quarter) of the same Decree) were 124 for 2021, 174 for 2022 and 117 for 2023 (updated to 28 July 2023).

***While taking note of the progress reported, the Committee requests the Government to continue to provide information on the number of irregular migrant workers detected by labour inspectors and on the actions undertaken by labour inspectors to ensure the enforcement of legal provisions relating to conditions of work and the protection of those workers, particularly with regard to the agricultural sector. The Committee also requests the Government to continue to provide information on the development of a system that will allow the collection of data on the recovery of wage and social security credits specific to foreign workers without a residence permit, and to provide information on those credits recovered through the existing legal procedure such as the monocratic conciliation and the certified notice of findings, if possible disaggregated by gender. It also requests the Government to provide information on the time and resources of the labour inspectorate that are allocated to the task of verifying the legality of the immigration status in practice as a proportion of inspectors’ overall time and resources.***

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

## Kazakhstan

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2001)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2001)

#### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Trade Union of Workers in the Fuel and Energy Complex (TUWFEC), as well as the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022, on the Conventions).

*Articles 12 and 16 of Convention No. 81 and Articles 16 and 21 of Convention No. 129. Limitations and restrictions of labour inspections. Powers of labour inspectors. 1. Moratorium on labour inspections.* Following its previous comment, the Committee notes with **deep concern** that the application period of the Presidential Decree No. 229 of 26 December 2019 “on the Introduction of a Moratorium on Inspections and Preventive Monitoring and Oversight with Visits in the Republic of Kazakhstan” has been extended to 1 January 2024 by Presidential Decree No. 44, of 7 December 2022. The moratorium, which has been in force since 1 January 2020, applies to labour inspections for private and state-owned enterprises belonging to the categories of small and micro-enterprises. The Committee notes that the exceptions to this moratorium are: (i) inspections aimed at the prevention or elimination of violations that potentially bear a major threat to human life and health, to the environment, to law and public order, or a direct or indirect threat to the constitutional order and national security; and (ii) inspections performed on the grounds specified by the Law of the Republic of Kazakhstan of 4 July 2003 on the

Governmental Regulation, Control and Oversight of Financial Market and Financial Organizations. The Committee notes that Presidential Decree No. 44 of December 2022 adds unscheduled inspections conducted in accordance with the Entrepreneur Code of the Republic of Kazakhstan (No. 375-V ZRK of 29 October 2015, hereafter the Entrepreneur Code) as possible exceptions to the moratorium. The Committee also notes that section 144(12) of the Entrepreneur Code, as amended by Law No. 95-VII of 20 December 2022, retains the provision stipulating the possibility to suspend with a Government decision the state control and supervision over private business entities for a certain period of time.

The Government indicates in its report that inspections are carried out based on a decision by the head of the central state body or local authority. For this purpose, a model algorithm has been approved, which establishes a uniform procedure for assigning inspections to small and micro enterprises for compliance by local authorities. The Government also states that unscheduled inspections are initiated in cases of collective complaints from (three or more) workers on issues of non-payment of wages and other entitlements, wholesale dismissals and staff cuts, as well as violation of labour rights in the area of occupational safety and health. From 2020 to 2022, state labour inspectors carried out 196 inspections in small and micro enterprises where serious violations were found. However, the Committee notes that according to the observations of the TUWFEC, in response to complaints about violations of labor rights received from employees of small businesses, the labor inspectorate could only help complainants in preparing statements of claim to the court and in sending letters to employers about the necessity to follow labour laws, without any legal consequences for violations. In addition, none of the complaints to the labour inspectorate about violations of labour rights in agriculture were inspected due to the moratorium. The trade union also indicates that the necessity of inspections is confirmed by reports of numerous rights violations and accidents in workplaces during the moratorium.

In this respect, the Committee once again recalls its [general observation of 2019 on the labour inspection Conventions](#), expressing concern at reforms that substantially undermine the inherent functioning of labour inspection systems, including moratoria on labour inspections, and urging governments to remove these restrictions, with a view to achieving conformity with the Conventions. **Recalling that a moratorium placed on labour inspection is a serious violation of the Conventions, the Committee expresses deep concern at the Government's decision to extend the moratorium, and urges in the strongest possible terms the Government to act promptly to eliminate the temporary ban on inspections and to ensure that labour inspectors are empowered to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in compliance with Article 16 of Convention No. 81 and Article 21 of Convention No. 129.**

2. *Other restrictions on inspection powers.* Following its previous comment on extensive restrictions on inspection and the frequency of inspection visits, the Committee notes the Government's indication that the proposal for labour inspectors to visit workplaces without prior notice was considered as part of the implementation of the Action Plan to Ensure Safe Work through to 2025. However, the Government indicates that this proposal was not supported by the State Enterprise Authority and employers' representatives.

The Committee notes that the Government does not provide information on whether Order No. 55-p of 16 February 2011 repeals Order No. 12 of 1 March 2004. On this matter, the Committee notes that Order No. 162 of 25 December 2020 on the implementation of section 146(2) of the Entrepreneur Code, provides for the prior registration of inspections with the Public Prosecutor's office, who has the power to refuse such registration. The Committee also notes the observation of the ITUC that applicable law requires provision of advance notice of all inspections to the organization being inspected, including written notice 30 days in advance for scheduled inspections and 24 hours' notice in advance for unscheduled inspections.

The Committee further notes with **concern** that the Entrepreneur Code, as amended by Law No. 95-VII of 30 December 2022, still contains limitations to inspection powers, including with regard to: (i) the ability of labour inspectors to undertake inspection visits without previous notice (sections 144(3) and (4) and 156 (2)); and (ii) the free initiative of labour inspectors (sections 144(13), 144-1, 144-2, 145, and 146). In addition, the Committee notes that, according to sections 143(3) and 151 of the Entrepreneur Code, only the requirements set out in the established inspection checklist are subject to verification and preventive control. **The Committee once again urges the Government to take the necessary legislative measures to ensure that labour inspectors are empowered to make visits to workplaces without previous notice, and to carry out any examination, test or enquiry which they may consider necessary, in conformity with Article 12(1)(a) and (c) of Convention No. 81 and Article 16(1)(a) and (c) of Convention No. 129. Noting that section 197 of the Labour Code and section 147(2) of the Entrepreneur Code have been repealed, the Committee also requests the Government to indicate whether inspectors are now empowered to undertake inspection visits at any time of the day and night, as provided for in Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129.**

3. *Frequency of labour inspections.* Following its previous comment, the Committee notes that section 141 of the Entrepreneur Code as amended in 2022, provides for the frequency and types of inspections permitted in accordance with the degree of risk determined by the risk assessment and management system, regulated by Joint Order of the Minister of Health and Social Development of the Republic of Kazakhstan dated December 25, 2015 No. 1022 and the Minister of National Economy of the Republic of Kazakhstan dated December 28, 2015 No. 801 (hereafter Joint Order of 2015). Accordingly, the frequency of inspection shall be no more than once a year for entities classified as high risk, no more than once every two years for those of medium risk and no more than once every three years for those of low risk. The Committee notes that according to ITUC, there is no minimum frequency of inspections established for low-risk employers, meaning that employers classified under such risk category are not covered with scheduled monitoring oversight activities.

**Referring to its [general observation of 2019 on the labour inspection Conventions](#), the Committee once again urges the Government to take the necessary measures to revise the Entrepreneur Code, to ensure that labour inspectors are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions. In addition, the Committee once again requests the Government to take the necessary measures to ensure that risk assessment criteria do not limit the powers of labour inspectors or the undertaking of labour inspections. The Committee also requests the Government to continue to provide information on inspections in practice, indicating the total number of workplaces liable to inspection, the number of scheduled and unscheduled inspections, specifying on-site inspection or inspection without a visit to the workplace, as well as the number of inspections conducted in response to a complaint, and the results of all such inspections.**

*Article 6 of Convention No. 81 and Article 8 of Convention No.129. Disciplinary sanctions.* The Committee notes that, according to section 50(12) of the Law on Civil Service, gross violations of the requirements for the organization and conduct of inspections in respect of business entities set forth in subparagraphs (1), (2), (3), (4) and (7) of section 151, and subparagraphs (2), (6) and (8) of section 156 of the Entrepreneur Code shall be considered as disciplinary offences. The Committee notes that section 151(1) provides that labour inspectors are not allowed to conduct inspections on elements that are not included in the inspection checklist. According to section 156(2) inspections are to be considered invalid in the absence of a prior notification to the subject of control or if the deadline for such notification is not respected. Therefore, the Committee notes that these provisions of national legislation involve restrictions on labour inspectors' power which are not in conformity with the Conventions. **The Committee requests the Government to take the necessary measures to revise sections 151 and 156 of the Entrepreneur Code, and to provide information on the number of disciplinary sanctions imposed on labour inspectors in accordance with section 50(12) of the Law on Civil Service.**

*Articles 13 and 17 of Convention No. 81 and Articles 18 and 22 of Convention No. 129. Powers of labour inspectors to ensure the effective application of legal provisions concerning conditions of work and the protection of workers. Prompt legal proceeding.* Following its previous comment, the Committee notes the Government's reference to section 193 of the Labour Code, which provides for the power of labour inspectors to impose suspension measures in case of OSH related legislation and to forward cases to relevant law enforcement agencies and courts. The Government adds that the suspension measures adopted by labour inspectors are for a period of no more than five working days.

The Committee notes that sections 144-1 and 144-2 of the Entrepreneur Code, indicate that in case of violations identified in the course of preventive inspections, the inspectors are obliged to issue a warning without the possibility of initiating proceedings. Moreover, section 136 of the same Code provides that rapid response measures, which can be adopted by inspectors if the activities or goods pose a direct threat to the constitutional rights, freedoms and legitimate interests of individuals and legal entities, human life and health, the environment, and national security, can only be adopted in cases identified by the law and for violations of items included in the inspection checklist.

The Committee recalls that in accordance with *Article 13* of Convention No. 81 and *Article 18* of Convention No. 129, labour inspectors shall be empowered to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers. The Committee also recalls once again that *Article 17* of Convention No. 81 and *Article 22* of Convention No. 129 provide that, with certain exceptions, persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning, and that it must be left to the discretion of labour inspectors to give a warning or provide advice instead of instituting or recommending proceedings. ***The Committee once again requests the Government to take the necessary measures, including the revision of the legislation, to ensure that labour inspectors are empowered to take measures with immediate executory force and are able to initiate legal proceedings without previous warning, where required, in conformity with Articles 13 and 17 of Convention No. 81 and Articles 18 and 22 of Convention No. 129. It requests the Government to provide information on any progress made in this regard.***

*Article 18 of Convention No. 81 and Article 24 of Convention No. 129. Adequate penalties.* Following its previous comment, the Committee notes the Government's reference to section 462 of the Administrative Offences Code which provides for penalties on acts impeding civil servants of the state inspections office and other bodies of state control and supervision in performing their official duties. It notes that, however, section 12 of the Entrepreneur Code still provides for the right of employers to deny the inspection by officials of state control and supervision bodies. ***The Committee requests the Government to take the necessary measures to ensure that labour inspectors do not encounter undue obstruction while performing their duties. It also requests the Government to provide information on the number of cases in which inspectors are denied access to workplaces by employers and the grounds of such denial, and on the number of cases in which penalties are imposed on employers who obstruct labour inspectors in performing their duties and the nature of such penalties.***

*Articles 20 and 21 of Convention No. 81 and Articles 26 and 27 of Convention No. 129. Annual report on the work of the labour inspection services.* The Committee notes that since the ratification of the Conventions in 2001, no annual report on the activities of the labour inspection services has been received by the Office. The Committee also notes that in its report the Government provides the following statistics for the year of 2021: 4,727 inspections were carried out, more than 10,000 breaches of labour law were identified, 3,300 orders were issued to remedy the violations identified and 1,323 fines were imposed in the amount of Kazakh Tenge (KZT) 324 million. Regarding agriculture, in 2021, 62 inspections were carried out, with 216 violations detected, 64 corrective orders and 23 administrative fines issued, amounting to KZT 4,562,180. In addition, the Committee notes that the Report on the review of the activities of labour inspectorates of the member States of the Euro-Asian Regional Alliance

of Labour Inspections for the year 2022, contains information on the number of inspection visits, violations detected and penalties imposed and statistics on industrial accidents. ***The Committee once again requests the Government to take the necessary measures to ensure the establishment and publication of an annual report on the work of the inspection services and to transmit it to the ILO, in accordance with Article 20 of Convention No. 81 and Article 26 of Convention No. 129, and to ensure that it contains all the subjects listed under Article 21 of Convention No. 81 and Article 27 of Convention No. 129.***

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

***[The Government is asked to reply in full to the present comments in 2024.]***

## Lesotho

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2001)

#### Previous comment

*Articles 4, 6, 10 and 11 of the Convention. Organization, human resources and material means of the labour inspection services.* Following its previous comment, the Committee notes the Government's indication in its report that in order to address the challenges faced by the labour inspection system, the inspectorate has continued to implement the ILO Strategic Compliance Planning (SCP) model, which has provided the inspectorate with a methodology to achieve compliance outcomes, even with limited resources. The Government further indicates that, during the reporting period, the labour inspectorate faced other major challenges that influenced its performance, including the impossibility of holding training for workers and employers due to limited resources and a lack of transport in seven of the ten districts. The Committee also notes the list of obstacles and constraints submitted by the Government, which highlights, inter alia, a lack of cooperation between ministries, deficiencies regarding the training of inspectors and a lack of measuring tools. The Committee notes the proposal of the Ministry of Public Service, Labour and Employment to provide for an increase in the number of labour inspectors and the establishment of a separate inspection unit at the Ministry, and the information that there are three district labour officers (DLOs) (all women), 27 labour and occupational safety and health (OSH) inspectors (20 women and seven men) and three labour officers (all women) who perform similar duties to those of labour inspectors in the ten districts of Lesotho. ***The Committee urges the Government to take concrete measures to allocate the financial resources necessary to meet the most urgent priorities for the improved functioning of the labour inspection system and to provide information on any progress made in this regard. The Committee requests the Government to continue to provide information on the number of labour and OSH inspectors, the number of sanctioned posts, and any recruitment of new inspectors. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in addressing the issues concerning the efficiency of the labour inspection system.***

*Articles 6, 7(1) and (2). Recruitment and conditions of service of labour inspectors.* Following its previous comment, the Committee notes the Government's indication that the DLOs are on grade G salary scale and report directly to the inspections manager, who is on grade I salary scale. The Government indicates that, during the April 2022 to March 2023 period, there were only three DLOs officially appointed to oversee and supervise district labour office activities. However, when there is no DLO officially appointed, the labour inspector with the highest educational qualification and experience performs the duties of a labour inspector, combined with duties of a DLO. The Government also provides information on the salary grades of other labour and OSH inspectors. The Committee notes the Government's indication that challenges include low staff morale and corrupt activities by labour inspectors. ***The Committee requests the Government to indicate the specific criteria and methods for selecting candidates for the profession and to indicate if the compulsory placement of labour inspectors still takes place. It also requests the Government to provide information on the conditions***

**of service of labour inspectors and, in particular, detailed information on wages and career prospects as compared to other types of public officials performing similar duties (for example, tax inspectors and the police). The Committee requests the Government to indicate any measures adopted in order to address the challenges identified, including with specific reference to the corrupt activities of labour inspectors.**

*Articles 20 and 21. Annual labour inspection report.* The Committee notes the statistical information included in the Government's report, including information on the number of inspectors, the number of labour and OSH inspections carried out in the 2022–23 period, and the number of accidents and dangerous occurrences during the same period. The Government refers to the inadequate reporting system on occupational accidents and to the limited number of occupational health practitioners to determine the link between exposure and occupational diseases. **The Committee therefore once again requests the Government to provide information on the progress made in the development of a computerized labour inspectorate, also in the framework of the implementation of the SCP model. It also requests the Government to provide information on the publication of the labour inspection annual report, in accordance with Article 20(1) of the Convention, and on the inclusion in such report of all the information required by Article 21, including 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)); and statistics on occupational diseases (Article 21(g)).**

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

## Malawi

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)**

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Articles 14, 20 and 21 of Convention No. 81 and Articles 19, 26 and 27 of Convention No. 129. Annual report on labour inspection activities. Notification of occupational accidents and diseases to the labour inspection services.* In reply to the Committee's previous request, the Government expresses its commitment to submit annual labour inspection reports as required by the Conventions and indicates that the Ministry is in the process of developing a Labour Market Information System which will assist in information management. While taking note of this information, the Committee notes that no annual labour inspection report has been received. The Committee notes that the Government provides statistics on the activities conducted by occupational safety and health inspectors such as number of inspection visits and number of occupational accidents. With regard to measures taken to improve the notification of cases of occupational diseases to the labour inspectorate, the Government indicates that it aims to continue to raise awareness through capacity building as well as during labour inspections with regard to the requirement of notification of cases of occupational diseases to the labour inspectorate. However, the Committee notes that the Government has not provided any information with regard to the number of occupational diseases reported. **The Committee requests the Government to take the necessary measures to ensure that the labour inspection report is published and transmitted to the ILO, in accordance with Article 20 of Convention No. 81 and Article 26 of Convention No. 129 and that such report contains information on all the subjects listed in Article 21 (a)–(g) of Convention No. 81 and Article 27 (a)–(g) of Convention No. 129. Noting the lack of information with regard to occupational diseases, the Committee requests the Government to continue taking measures to improve the notification of cases of occupational diseases to the labour inspectorate, in accordance**



**with Articles 14 of Convention No. 81 and 19 of Convention No. 129 and to provide the relevant statistics in the labour inspection report.**

Issues specifically concerning labour inspection in agriculture.

*Articles 3 and 21 of Convention No. 129. Labour inspection system in agriculture. Inspection visits.* In its previous comments, the Committee noted that although a significant proportion of workers are engaged in the agricultural sector, there are no reliable statistics on the number of inspections carried out in agriculture and that in the recent past, there had been no violations detected and no penalties imposed. The Committee notes that the Government does not provide updated information on the matter. The Committee also recalls that under its 2022 [comments](#) on the Occupational Safety and Health Convention, 1981 (No. 155), on the Safety and Health in Agriculture Convention, 2001 (No. 184) and on the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), it noted the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations, received in 2021 and 2022, according to which a number of women working in tea plantations and macadamia nuts orchards have been subjected to gender-based violence, including rape and sexual harassment. ***The Committee requests the Government to take measures to strengthen the labour inspection system in agriculture and ensure that inspections take place in the agricultural sector as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, and to report in detail on the results of such inspections including the number and nature of violations found and any sanctions imposed.***

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

## North Macedonia

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1991)**

[Previous comment](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Article 3(1)(a) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Labour inspection activities with regard to foreign workers and the protection of foreign workers in an irregular situation.* With reference to its previous comment, the Committee notes the Government's indication in its report that, due to the lack of a developed analytical data center of the State Labour Inspectorate, it is unable to provide information on the violation of labour rights of foreign workers. It also notes that the Government does not provide information on the measures taken to ensure that the functions assigned to labour inspectors do not interfere with the primary functions of labour inspectors as defined in *Article 3(1)* of Convention No. 81 and *Article 6(1)* of Convention No. 129. ***The Committee urges the Government to adopt the necessary measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors, which is to ensure the protection of workers in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It also once again requests the Government to provide information on the action taken by the State Labour Inspectorate to ensure: (i) the enforcement of the rights of foreign workers found in an irregular situation, such as the payment of outstanding wages, annual leave and social security benefits; and (ii) improved data on the recovery of wage and social security credits specific to foreign workers without a residence permit.***

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

## Pakistan

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

#### Previous comment

The Committee notes the observations of the All Pakistan Federation of Trade Unions (APFTU), received on 31 August 2023. The Committee also notes the Government's reply, received on 3 October 2023, in which it indicates that the points raised by the APFTU have been addressed in the Government's report.

*Articles 3, 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. Additional duties of the labour inspectorate.* In reply to the Committee's previous request, the Government provides in its report, the organizational charts of the labour inspection services in Punjab, Sindh and Balochistan. With regards to measures taken to strengthen the authorities responsible for labour inspection, the Committee takes note of a series of reported initiatives, aiming inter alia to increase staff. In Balochistan, the Department of Labour envisages developing a new strategy of setting targets for the labour inspectors in the field with specific functions, after the envisioned promulgation of new labour laws. In Khyber Pakhtunkhwa (KPK), the Department of Labour is working on the recruitment process to fill vacant posts, having already approved the creation of seven new offices for tribal districts with a total strength of 70 staff, and having sanctioned 63 posts of various cadres for the establishment of 4 new offices in the settled districts of the province. Furthermore, the Department of Labour is implementing a scheme aiming to ensure better service delivery. In this regard, the Committee notes that detailed information is provided in the annual labour inspection reports for 2019, 2020 and 2021 on notified posts for labour inspectors (both occupied and vacant) for all provincial Departments of Labour and Departments of Mines, as well as on the number of conducted inspections, and the update provided by the Government for the year 2022. The Committee notes that KPK and Balochistan provinces saw an overall increase in the number of occupied posts of labour inspectors (in KPK from 70 labour inspectors and 16 mine inspectors in 2019 to 78 labour inspectors and 17 mine inspectors in 2021 and in Balochistan from 59 labour inspectors and 25 mine inspectors in 2019 to 86 labour inspectors and 28 mine inspectors in 2022). Punjab province reported virtually no change during this period: from 225 labour inspectors and 13 mine inspectors in 2019 to 225 labour inspectors and 14 mine inspectors in 2021. In 2022, according to Government's indications, the number of inspectors remained stable for Punjab and KPK, while in Balochistan there has been a decrease to 75 labour inspectors and 38 vacant positions with recruitment process underway for 9 of them. In Sindh there has been a decrease from 118 labour inspectors and 26 mine inspectors in 2019 to 105 labour inspectors and 23 mine inspectors in 2021. The Government indicates that efforts are underway to fill 107 vacant positions in Sindh. The Committee notes that according to the 2021 labour inspection report, in the Islamabad Capital Territory there was no labour inspector, while the Government's report indicates that 9 inspectors' posts are notified without clarifying if these posts are occupied or vacant. The Committee notes that in its observations, the APFTU expresses concern over the dire shortage of labour inspectors in the country, with only 517 officials overseeing the safety and well-being of millions of workers engaged in various sectors, including industry, agriculture, and commerce. **The Committee requests the Government to provide an organizational chart of the labour inspection services in KPK and the Islamabad Capital Territory. The Committee also requests the Government to continue to provide information on measures taken to strengthen the authorities responsible for labour inspection in the Islamabad Capital Territory and all provinces, and to continue to provide information on the number of labour inspectors in each province (as well as vacant positions) and labour inspections performed in each province. Noting the serious challenges that confront the national system of labour inspection, the Committee urges the Government to continue to pursue its efforts to ensure that the number of labour inspectors is sufficient to secure the effective**

**discharge of the duties of the inspectorate, including by filling the vacant positions in each province, and to provide information on relevant measures taken or envisaged. Lastly, the Committee requests the Government to provide information on any additional duties performed by the provincial labour inspectorates (such as registration of trade unions and conciliation of labour disputes) and to indicate the amount of time spent on these tasks.**

*Article 12. Free access of labour inspectors to workplaces.* The Committee notes the Government's reiterated indication that labour inspectors may enter workplaces freely and without previous notice in all provinces. In this respect, the Committee has been noting for several years that section 19 of the 2017 Sindh Occupational Safety and Health (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). It also has noted that the 2019 Punjab OSH Act did not contain any provisions related to the power of labour inspectors to freely enter workplaces liable to inspection without prior notice. The Committee also noted that the provisions on the powers of inspectors in the Factories Act of 1934, the Sindh Factory Act of 2015 and the KPK Factories Act of 2013, although providing that inspectors may enter establishments as they think fit, do not specifically refer to entry without prior notice (section 11 of the Factories Act of 1934, section 12 of the KPK Factories Act and section 13 of Sindh Factories Act). The same applies for section 11 of the new Balochistan Factories Act, 2021. Observing these limitations or silences in a broad range of legislative provisions, the Committee once again recalls that according to *Article 12* of the Convention, labour inspectors shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. With regards to information on the application in practice, the Committee notes with **interest** the report from KPK that in 2022, 70,644 inspections were carried out and they were all unannounced. **The Committee once again requests 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. It requests the Government to provide information on any rules (or legislation) adopted that impact on the exercise of the powers of inspectors referred to in section 11 of the Factories Act of 1934, section 12 of the KPK Factories Act, section 13 of the Sindh Factories Act, and section 11 of the Balochistan Factories Act, 2021. It also requests the Government to provide information on the exercise of this right in practice in all provinces, indicating the number of inspections conducted with and without prior notice.**

*Article 14. Notification of industrial accidents and cases of occupational diseases.* The Committee notes the information in the 2019, 2020 and 2021 labour inspection reports concerning the number of accidents and diseases notified to the Departments of Labour and the Departments of Mines in all provinces. It notes that the total number of accidents notified in all provinces sharply increased from 351 in 2019 to 1303 in 2021. The Committee notes in particular that in the province of Punjab the number of reported accidents to the Department of Labour increased from 12 in 2019 to 981 in 2021. With regards to occupational diseases, according to the 2019 labour inspection report, no occupational disease was reported in the provinces of Punjab, KPK, Balochistan and the Islamabad Capital Territory, while the Department of Labour in Sindh reported 112 cases. According to the 2020 labour inspection report, no occupational disease was reported in the Provinces of Punjab, KPK, Balochistan, while the Department of Labour Sindh reported again 112 cases of occupational diseases. According to the 2021 labour inspection report, no occupational disease was reported in Punjab, Sindh, KPK and Balochistan. Concerning measures taken to improve the notification of occupational accidents in all provinces, the Committee notes that the online accident reporting mechanism linked with Punjab Employees' Social Security Institution has been established on a web portal where the statistics with regard to accidents are collected. Furthermore, the Labour Department of KPK aims to continue improving the reporting mechanism through intra and inter departmental cooperation which will allow for consolidation of the number of occupational accidents and diseases notified to all Departments. As far as formulation of

rules under relevant laws to improve reporting of fatal and non-fatal accidents is concerned, the Committee notes the Government's indication that the adoption of such laws is underway in KPK. In its observations, the APFTU emphasizes that workers employed in coal mines in Balochistan continue to face a high incidence of tragic accidents and that the country is among those with the highest rates of large accidents in the transport industry. **The Committee requests the Government to continue to provide statistical information on the number of industrial accidents and to provide information on the reason for the increase in the number of notified accidents. Noting that there is no available information on occupational diseases for all provinces, the Committee requests the Government to provide detailed statistical information on the number of occupational diseases notified in each province. The Committee requests the Government to provide information on the reason why no diseases were reported in most of the provinces. The Committee requests once again that the Government take measures to improve the notification of occupational accidents in all provinces, to ensure the notification of both fatal and non-fatal accidents, and to improve the detection and identification of cases of occupational diseases as well as their notification to the labour inspectorate. It requests the Government to continue to provide information on the measures taken in this respect, including on any rules or regulations adopted.**

*Article 18. Obstruction of labour inspectors in the performance of their duties.* Following the Committee's previous comment with regard to data on the obstruction of labour inspectors, the Government indicates that inspectors in Balochistan, Punjab, and the Islamabad Capital Territory are performing their duties freely, and no incidents of obstruction during inspections have been reported. In KPK, the Department of Labour aims to modify inspection reports to include an obstruction indicator in the future. **Noting the Government's indication that in Punjab, Balochistan and the Islamabad Capital Territory no cases have yet been reported related to any obstruction of labour inspectors in their duties, the Committee urges the Government to provide information on the possible reasons for this lack of reporting, including whether it is related to a lack of sufficiently detailed inquiry, or to inspectors' reluctance to initiate such reports. It requests the Government to provide information on any cases reported in all other provinces, including the outcome of the cases and the specific penalties applied (including the amount of fines imposed). The Committee requests the Government to provide information on the progress made by the Department of Labour of KPK with regards to its efforts to include obstruction prosecution data in monthly progress 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 2024.]**

## Paraguay

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

#### Previous comment

The Committee notes the observations of the Ibero-American Confederation of Labour Inspectors (CIIT), received on 31 August and 5 September 2023. **The Committee requests the Government to provide its comments in this respect.**

*Articles 6 and 7 of the Convention. Status, conditions of service and recruitment of labour inspectors.* Further to its previous comments, the Committee notes the information provided by the Government that: (i) pursuant to Act No. 5554 of 2016 approving the National General Budget for 2016, the Public Service Secretariat established a policy to improve job security for contract staff in the public service with a minimum of four years of uninterrupted service (section 51); and (ii) in December 2021, the Ministry of Labour, Employment and Social Security (MTESS) launched the job security improvement process whereby contract staff were appointed as MTESS officials.

It further notes the allegation by the CIIT in its observations that: (i) labour inspectors recruited in 2015 were recruited through a merit-based competition (a procedure laid down in section 8 of Decree No. 3857 of 2015) and not a competitive selection process for permanent positions; (ii) after passing the merit-based competition in 2015, labour inspectors were employed on annual service contracts and, therefore, have the status of self-employed workers providing civil or commercial services for the MTESS; (iii) the process to improve job security for labour inspection staff has not been completed; of the 19 inspectors still performing functions, only 8 have job stability, while the remaining 11 inspectors continue to work on annual contracts; and (iv) the salaries of inspectors have not been increased since 2015, which has caused a loss in their purchasing power and discouraged inspection staff from remaining in post. **The Committee requests the Government to continue to provide information on the measures taken to ensure that the status and conditions of service of labour inspectors secure them stability of employment, including the measures adopted to ensure that all labour inspectors are appointed on a permanent basis as public officials, in accordance with Article 6. In this respect, it requests the Government to indicate the contractual arrangements for currently employed labour inspectors. Furthermore, the Committee once again requests the Government to provide information on the salary and benefits structure applicable to labour inspectors in relation to the salary and benefits structure of public servants who perform similar functions, such as tax inspectors or the police.**

*Articles 10 and 11. Number of labour inspectors. Material conditions of work.* Further to its previous comments, the Committee notes the Government's indication in its report that the possibility of increasing the number of labour inspectors depends upon the budget allocated to the Ministry of Labour, Employment and Social Security (MTESS) under the overall national budget. The Government adds that increasing the number of inspectors entails not only the cost of their salaries, but also the associated costs of training, equipment and means of transport necessary for the performance of their duties.

The Committee also notes the allegation of the CIIT that: (i) of the 30 inspectors recruited in 2015 only 19 remain in post, of whom 13 are assigned to the capital, Asunción, three to the department of Alto Paraná, one each to the departments of Cordillera, Paraguarí and Ñeembucú and none to the remaining 12 departments; and (ii) the labour inspection services have no vehicles for the performance of their duties. **The Committee urges the Government to take the necessary measures to ensure that the number of serving labour inspectors is sufficient to ensure the efficient functioning of the inspection services, and to provide labour inspectors with suitably equipped offices and the means of transport necessary for the performance of their duties. It requests the Government to continue to provide information on the measures taken to this end, including the number of labour inspectors assigned to each of the departments, as well as the number of offices and means of transport available to inspectors for the performance of their duties.**

*Articles 12(1)(a), (c)(ii), 16 and 18. Restrictions on the initiative of labour inspectors freely to enter workplaces liable to inspection. Limitations on carrying out labour inspections.* The Committee notes with **concern** that the necessary steps have not been taken to amend MTESS Resolutions Nos 47 of 2016 and 56 of 2017, which restrict the powers of labour inspectors and the conduct of inspections, relating to inspection procedure to ensure compliance with labour, social security and safety and health standards.

The Committee also notes the information provided by the Government on: (i) the adoption of MTESS Resolution No. 217 of 2021 establishing the procedure for monitoring and administrative investigation in relation to reported occurrences of child labour; (ii) in accordance with clause 2 of the aforementioned Resolution, labour inspectors are empowered to enter freely and without prior notice at any hour of the day or night any workplace liable to inspection if they have a specific monitoring warrant; (iii) pursuant to sections 3 and 4 of MTESS Resolution No. 29 of 2023, inspection actions, including the requirement to present the mandatory labour-related documents and inspection visits, may only be undertaken if authorized by an inspection order issued by the highest MTESS authority.

**With reference to its [general observation of 2019](#) on the labour inspection Conventions, the Committee once again urges the Government to bring its national legislation into full conformity with the Convention. Specifically, it requests the Government to adopt without delay the necessary measures to ensure that labour inspectors with proper credentials may: (i) enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, without requiring prior authorization from a higher authority (Article 12(1)(a)); and (ii) undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions (Article 16).**

**In this respect, the Committee requests the Government to provide information on the progress of the draft amendment to Resolutions Nos 47 of 2016 and 56 of 2017, as well as the amendment to Resolutions Nos 217 of 2021 and 29 of 2023. It also requests the Government to provide statistics on the number of inspection visits undertaken without previous notice by labour inspectors, as well as statistics on the number of penalties actually applied.**

Lastly, the Committee notes that in its observations, the CIIT expresses its concern at the announcement made by the new Government, through MTESS Resolution No. 29 of 2023, that labour inspections would be suspended for an indefinite period. **The Committee requests the Government to provide its comments in this respect.**

**In light of the situation described above, the Committee notes with deep concern the failure of the Government to lift the limitations, established in the MTESS Resolutions Nos 47 of 2016 and 56 of 2017, to the powers of inspectors to enter freely and without prior notice any place liable to inspection and to the frequency and thoroughness of labour inspections. The Committee further notes with concern that, with the adoption of the MTESS Resolution No. 29 of 2023, inspection actions have been further restricted by the need to obtain an inspection order issued by the highest MTESS authority. In addition, the Committee notes with deep concern the persistent issues regarding the insufficient number of labour inspectors and material means assigned to the labour inspectorate. The Committee notes in particular the indications of the CIIT that inspectors are assigned only to four departments and to the capital district, while the remaining 12 departments have no assigned inspectors. The Committee therefore considers that this case meets the criteria set out in paragraph 109 of its General Report to be asked to come before the Conference.**

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

**[The Government is asked to supply full particulars to the Conference at its 112th Session and to reply in full to the present comments in 2024.]**

## Peru

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

#### [Previous comment](#)

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2023.

*Articles 6 and 15(a) of the Convention. Status and conditions of service of labour inspectors.* Regarding the process to transfer public bodies and servants to the civil service system, the Committee notes the Government's indication in its report that the National Labour Inspection Authority (SUNAFIL) is at the second stage, in which it has to draft a proposal for the reorganization of its human resources and that, therefore, inspectors are still under the private sector regime by virtue of Legislative Decree No. 728. In this regard, the Committee notes the CATP's indication in its report that: (i) the transition of labour inspectors to a different labour system, as stipulated by the Civil Service Act (No. 30057) would lead to a reduction of their entitlements; (ii) this new system only offers a veneer of job stability, as it makes job retention conditional on a series of evaluations; (iii) considering the work overload of inspection

personnel and their lack of training, the change of system would mean that they would be exposed to the risk of their assessments not being validated, which would serve as a reason for their dismissal; (iv) it was concerning that, in 2020, the public competition for around 100 auxiliary inspectors was declared unsuccessful due to negligence by SUNAFIL and that, since then, they have been working under a provisional status; and (v) if the positions of the inspectors were not confirmed and they were dismissed, issues may arise with regard to the legal certainty of SUNAFIL's decisions, given that the decisions taken by those inspectors are subject to appeal due to their status. ***The Committee requests the Government to provide its comments in this respect. Having noted concerns about the status and service conditions of inspectors over a number of years, the Committee urges the Government to take the necessary measures to: (i) swiftly complete the process to transfer labour inspectors to the civil service system; (ii) ensure that the process provides for conditions of service that guarantee stability of employment and are independent of changes of government and of improper external influences; (iii) provide information on the progress made in this regard. The Committee also requests the Government to provide information on the impact that the integration of the labour inspectorate into the new civil service system has on the conditions of service, salary scales, and career prospects of staff of regional governments with inspections functions, as well as specifically in comparison with categories of public servants who carry out similar functions in other government services, such as tax inspectors or police officers.***

*Articles 12(1)(a) and (c), and 15(c). Scope of the right of free entry of labour inspectors into workplaces liable to inspection.* Further to its previous comments, the Committee notes the Government's indication that, in accordance with section 10 of the General Labour Inspection Act, the activities of the labour inspectorate may also derive from an internal decision of the inspection system. In this respect, the Committee notes that the CATP regrets that, despite the amendments to the General Inspection Act, the general rule continues to be that labour inspectors may only act on the basis of an inspection order issued by the management bodies, and within the limits of that order, in a manner such that the possibility for labour inspectors to act on their own initiative is strictly limited to exceptional cases and is subject to formalities that prevent or discourage it. ***Noting with regret that no measures have been adopted to amend the General Labour Inspection Act, the Committee urges the Government to take the necessary steps to ensure, in law and practice, the right of labour inspectors to enter freely any workplace liable to inspection, and that inspections are not subject to an order issued by a higher authority.***

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

***[The Government is asked to reply in full to the present comments in 2024.]***

## Poland

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1995)**

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee takes note of the extensive observations from the Independent and Self-Governing Trade Union "Solidarność" (Solidarność) on Conventions Nos 81 and 129, received on 7 September 2023. The Committee also notes the response of the Government to those observations, received on 16 November 2023.

*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.* Following its previous comments regarding the restrictions on the powers of labour inspectors set out in the Entrepreneurs Law, the Committee notes the indication in the Government's report that, in accordance with the Constitution, ILO Conventions and *leges speciales* such as the Act on the State Labour Inspection, take precedence over the Entrepreneurs Law. As regards joint inspections with other control authorities, including the State Sanitary Inspection and Road Transport Inspectorate, the Committee notes the Government's indication that such inspections are not prohibited under the Entrepreneurs Law, and notes the statistics provided on such joint inspections with the National Labour Inspectorate (NLI). The Committee also notes section 45(1) of the Entrepreneurs Law, which provides that the economic activity of entrepreneurs is controlled in accordance with the principles specified in this Law, unless the principles and procedure for controls result from ratified international agreements.

The Committee nevertheless notes the observations of Solidarność, indicating that the *lex specialis* argument has not been accepted in national courts. In response, the Government reiterates its position that section 24 of the Act on the State Labour Inspection allows labour inspectors to carry out, without notice and at any time of day or night, inspections of compliance with the provisions of labour law. The Government further states that the court decision at issue simply limits the labour inspectorate's ability to conduct a second inspection on the same matter in a given period of time, which, in the Government's view, helps to strike a balance between the effectiveness of inspection authorities and ensuring minimum procedural guarantees for controlled entities. The Committee also notes the Government's indication that it has issued a negative opinion on the NLI's proposals to amend the Entrepreneurs Law and that it does not recognize an exclusion of NLI inspections from the regime of chapter 5 of the Entrepreneurs Law as justified. While taking due note of the Government's indications, the Committee observes that provisions in national legislation that contradict the requirements of ratified Conventions may pose difficulties for legal certainty, from the standpoint of specific entrepreneurs as well as workers seeking protection through fully authoritative labour inspection. **Therefore, the Committee once again requests the Government to take the necessary measures to amend sections 48 and 51 of the Entrepreneurs Law, 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.**

*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.* Following its previous comments on this issue, the Committee notes the Government's indication that all the district regional labour inspectorates have specialised sections in charge of performing duties related to the control of employment legality. The Government nevertheless indicates that the NLI is required to cooperate with other competent authorities when controlling the legality of employment, including with the Border Guard and the police. In particular, the Committee notes with **concern** the Government's statement that, when a migrant worker is unable to show their work permit, the NLI is obligated to report it immediately to the Border Guard, and that further control activities may be conducted together with Border Guard officers. In this respect, the Committee notes the Government's indication that such controls also focus on enforcing the migrant workers' rights, including in the field of wages and social security. The Committee nevertheless recalls that, as emphasized in its [2006 General Survey on labour inspection](#), paragraph 78, any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, and that this objective can only be met if the workers covered are convinced that the primary task of the inspectorate is to enforce the legal provisions relating to conditions of work and protection of workers. **Therefore, the Committee urges the Government to take the necessary measures to ensure that the additional 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. The Committee requests the Government to provide detailed statistics on cases in which migrant workers in an irregular situation have been granted their due rights (including the payment of outstanding wages and social security benefits and orders for establishing an employment contract) or have had their situation regularized following an inspection visit.**

Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12, 22 and 23 of Convention No. 129. Sanctions and effective enforcement. Cooperation between the inspection services and the judiciary. In response to its previous comments, the Committee notes the statistics provided by the Government regarding notifications to the prosecutor's office for suspected offences. The Government indicates that between 2020–22, the number of notifications increased from 507 in 2020 to 665 in 2022, the number of investigations opened rose from 133 in 2020 to 150 in 2022 and the number of indictments sent to courts also increased from 45 in 2020 to 88 in 2022. However, the statistics also indicate that the number of investigations refused rose from 47 in 2020 to 67 in 2022 and those discontinued rose from 124 in 2020 to 189 in 2022. The Committee notes the Government's indication that the most frequent causes for refusing an investigation remain the lack of statutory grounds and insufficient data or evidence. The Government further indicates that some situations where law enforcement agencies consider evidence to be insufficient, such as instances where it cannot be proven that the controlled entity received the labour inspectorate's summons, pose problems for labour inspectors in the performance of their duties. The Government also indicates that while 76 indictments were sent to court in 2021 and 88 indictments in 2022, there were a total of 3 custodial sentences imposed in those two years. Further, the Government reports that the amount of fines imposed in 2021 totalled 16,500 Polish zloty (US\$4,099) and in 2022 totalled 20,300 zloty (US\$5,043). The Committee also notes the observations of Solidarność, which take the view that legal measures and sanctions applied by labour inspectors are insufficient to ensure a lasting improvement in OSH in the construction and manufacturing sectors. **The Committee requests that the Government indicate the measures taken to further improve collaboration between the prosecutor's office and the NLI. In this regard, the Committee requests the Government to continue to provide statistics on the number of notifications made to the public prosecutor's office, the number of such notifications which resulted in proceedings, and the results of such proceedings. In addition, the Committee requests that the Government provide information on the apparently very low number of sentences and the small amount of fines imposed, and on measures taken or envisaged to increase sanctions for OSH 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 2024.]**

## Portugal

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1983)**

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the [decision](#) of the tripartite Committee set up to examine the representation submitted under article 24 of the ILO Constitution by the Trade Union of Labour Inspectors (SIT) alleging non-observance by Portugal of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155).

The Committee notes the observations of the General Confederation of Portuguese Workers – National Trade Unions (CGTP-IN) communicated with the Government's reports on the application of Conventions No. 81 and 129 and the reply of the Government.

*Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Status and conditions of service of labour inspectors.* With reference to its previous comment, the Committee notes that the Government indicates that Decree Law No. 112 of 2001 establishing the career prospects (sections 3, 4, 5 and 6) and salary structure of labour inspectors (section 3(2) and its annex) has not yet been amended to ensure that the remuneration levels and career prospects of labour inspectors correspond to those of other officials with similar functions. It also notes that the Government does not provide information on the employment stability of labour inspectors. **The Committee once again requests the Government to provide information on the employment stability of labour inspectors. Furthermore, it requests the Government to intensify its efforts to improve the conditions of service of labour inspectors, including any measures taken to ensure that their remuneration levels and career prospects correspond to those of other officials exercising similar functions. In addition, it requests the Government to provide detailed information on the salary and benefit structure of labour inspectors in comparison with those of other public officials performing similar functions (such as tax inspectors or police officers).**

*Article 16 of Convention No. 81 and Article 21 of Convention No. 129. Adequate frequency and thoroughness of inspections to secure compliance.* Further to its previous comment, the Committee notes the information provided by the Government on the labour inspection activities carried out from 2013 to 2021, including an increase in the number of labour inspection visits carried out and workers covered in 2021. It notes the number of violations identified, warnings issued and workplace suspensions ordered during this period. It also notes that the Government did not provide information on the number of inspections planned in relation to the number of inspections that are reactive to complaints or industrial accidents.

The Committee further recalls the previous observations of the General Workers' Union and Confederation of Trade and Services of Portugal, which alleged that the Working Conditions Authority (ACT) focuses on prevention to the detriment of inspections and the application of sanctions, and observes that the Government did not provide any comments in response to these observations.

Moreover, the Committee notes that the CGTP-IN alleges that, although there was an increase in inspection visits in 2021, the number of inspections carried out remains insufficient, resulting in serious consequences for workers. In this regard, the Government states that increasing the overall number of inspection visits, with a view to promoting improved working conditions, has been one of the strategic objectives defined for planning ACT's intervention, which is reflected in a greater number of inspections carried out. **The Committee requests the Government to continue to provide information on the number of labour inspections carried out and workers covered. It also once again requests the Government to provide information on the number of planned inspections and the number of inspections in response to complaints or accidents, as well as on the nature and number of violations identified and the measures and sanctions imposed.**

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

## Romania

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1975)

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

In order to provide a comprehensive view of the issues relating to the application of 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. 1. Additional duties entrusted to labour inspectors related to immigration.* The Committee previously noted that, in accordance with the Regulation on the organization and functioning of the labour inspectorate (approved by Government Decision No. 488/2017), labour inspectors are entrusted with supervising the employment of migrant workers (section 12(1)B(i)).

The Committee notes the Government's reference in its report to Ordinance No. 25/2014 which provides that on the employment and secondment of foreigners, employers who employ migrant workers without a work permit shall pay the overdue remuneration to the workers concerned, as well as all relevant taxes, fees and social security contributions as if the workers concerned had the appropriate permit, including to those who have returned to their home country (section 38(1) and (2)). Moreover, employers bear liability, including joint and several liability, to any subcontractors for overdue wages for the work performed by migrant workers in an irregular situation (section 38(4)). The Committee also notes that a migrant worker found to be carrying out work without a permit shall be informed in writing in both Romanian and English, by the General Inspectorate for Immigration or, as the case maybe, by labour inspectors of the territorial labour inspectorates, regarding their rights to the recovery of outstanding remuneration, before the execution of a possible obligation to return. The Committee further notes that, according to the information of the 2019 annual report on labour inspection activities (Annual Report), 1,302 controls were carried out regarding compliance with relevant provisions of Ordinance No. 25/2014, of which 667 were conducted jointly with the General Inspectorate for Immigration; 69 sanctions were applied, including 55 orders of fines worth 1,928,000 Romanian lei (RON) (US\$464,500) and 14 warnings; and 135 measures were ordered to remedy the non-conformities found.

The Committee observes that, although Ordinance No. 25/2014 provides for the reinstatement of the statutory rights of migrant workers in an irregular situation, the relevant information in the 2019 Annual Report does not indicate how these provisions are applied by the labour inspectors. ***The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as set forth in Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. Noting the information provided in the annual report on the application of Ordinance No. 25/2014, the Committee requests the Government to provide information on specific measures undertaken by the inspectorate to ensure the enforcement of the rights of migrant workers, including those in an irregular situation. In addition, the Committee requests the Government to provide information on the number of cases in which these workers have been granted their due rights, such as the payment of outstanding wages or social security benefits, disaggregated based on controls carried out by the labour inspectorate alone and controls conducted jointly with the General Inspectorate for Immigration. The Committee further requests the Government to provide information on the number of cases in which migrant workers were deported following the control activities of labour inspectors, again disaggregated based on controls carried out by the labour inspectorate alone and controls conducted jointly with the General Inspectorate for Immigration.***

*2. Control of undeclared work.* The Committee notes that, pursuant to section 12(1)B of the Regulation on the organization and functioning of the labour inspectorate, the labour inspectorate identifies cases of undeclared work, and notifies, as required, the criminal investigation bodies (clause b); ascertains whether the activity being performed constitutes a labour relationship but performed on the basis of another type of contract (clause d); and orders the conclusion of individual employment contracts and the registration of

workers concerned in the general register as employees (clause e). The Committee also notes that, according to the information in the 2019 Annual Report, 67,632 controls were performed in this regard and 8,551 persons were found engaged in undeclared work, including 5,942 persons performing work without an employment contract. Moreover, 4,793 measures were ordered to correct the non-conformities. **The Committee requests the Government to provide information on the definition of undeclared work in national legislation, as well as information on specific measures ordered to correct the non-conformities. It requests the Government to continue to provide information on the work of the labour inspectorate with respect to undeclared work, including the number of persons found engaged in undeclared work, the number of cases in which the labour inspectorate orders the conclusion of an employment contract, as well as the action taken by the inspectorate with respect to those workers where no employment contract is subsequently concluded.**

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.**

## Rwanda

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1980)

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

*Article 3(1) and (2) of the Convention. Additional functions entrusted to labour inspectors. Conciliation.* With reference to its previous comment, the Committee notes the Government's indication that it adopted Law No. 66/2018 of 30/08/2018 regulating labour in Rwanda (the Labour Code), which revises Law No. 13/2009 of 27 May 2009 (the 2009 Labour Code). The Committee notes in particular that sections 102 and 103 of the Labour Code provide that labour inspectors are responsible for mediating individual and collective labour disputes. In addition, the Government indicates that section 3 of the Ministerial Order No. 001/19.20 of 17/03/2020 relating to labour inspection sets out the responsibilities of the labour inspectorate as including the conciliation of labour disputes. In this regard, the Committee notes that sections 10 to 16 of the Order provide for the procedure to be followed for the settlement of labour disputes when mediated by labour inspectors. The Committee notes that the Government did not make use of the review of the Labour Code undertaken in 2018 to bring its legislation in line with the requirements of *Article 3(2)* of the Convention. The Committee recalls that the time spent by inspectors on conciliation may be detrimental to the performance of their primary duties, as defined in *Article 3(1)* of the Convention, particularly in a context where resources are limited. Further, the Committee draws the Government's attention in this regard to the guidance provided in Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), stating that the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes. **The Committee therefore asks the Government to: (i) take the necessary measures to discharge labour inspectors of any mediation functions regarding individual and collective labour disputes; (ii) amend the legal framework to this effect, in particular sections 102 and 103 of the Labour Code and sections 3 and 10 to 16 of the Ministerial Order No. 001/19.20 of 17/03/2020; and (iii) keep the Office informed of the progress made in this respect.**

*Article 12(1)(a). Powers of labour inspectors to enter freely at any hour of the day or night any workplace liable to inspection.* With reference to its previous comment, the Committee notes that section 6(2)(1) of the Ministerial Order No. 001/19.20 of 17/03/2020 relating to labour inspection provides that, upon presentation of identification, a labour inspector can enter an enterprise of his or her jurisdiction during working hours, without notice for inspection purpose. The Committee notes that the new Ministerial Order continues to limit the power of labour inspectors to conduct inspection visits to the working hours of the undertaking. The Committee notes that, for many years, it has been requesting the Government to bring the provisions of national legislation in line with *Article 12(1)(a)* of the Convention. It recalls once again that labour inspectors should be empowered to enter workplaces liable to inspection at any hours of the day and night. In this regard the Committee once again refers to paragraph 270 of its 2006 General Survey on labour inspection, which refers, for example, to the appropriate timing of visits necessary to carry out technical inspections when machinery or production processes are stopped, or to check for abusive night conditions in a

workplace officially operating during the daytime. **The Committee therefore urges the Government to bring its legislation in line with Article 12(1)(a) of the Convention so as to ensure that the powers of entry of labour inspectors are extended to any hour of the day or night regardless of the working hours of the workplaces liable to inspection.**

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

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

## Saint Vincent and the Grenadines

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2010)**

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

In order to provide a comprehensive view of issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Articles 3(2), 10, 16, 17 and 18 of Convention No. 81 and Articles 6(3), 14, 21, 22 and 24 of Convention No. 129. Functions assigned to labour inspectors. Number of inspectors, number of inspection visits and enforcement.* Following its previous comment, the Committee notes the Government's indication that there are currently six officers who act as labour inspectors (five in 2020), and that five positions for occupational safety and health (OSH) inspectors remain vacant. The Government indicates that 23 inspection visits have been conducted, including in the agricultural sector, and that five violations were detected. Accordingly, improvement notices were issued for underpaying workers, non-payments of overtime, and absence of fire extinguishers on the premises. With regard to functions carried out by labour inspectors, the Committee notes the Government's indication that 95 percent of labour inspectors' time is spent performing their main functions, which are to investigate individual complaints, ensure that labour laws are adhered to and inspect workplaces to ensure the workplace is conducive for work. The Committee also notes that according to the job descriptions provided by the Government, labour officers and senior labour officers are engaged in some conciliation function in relation to individual complaints and that approximately 50 percent of the activities performed by senior labour officers relate to employment and labour market research. **The Committee encourages the Government to continue to pursue its efforts to ensure that the labour inspection services have at their disposal an adequate number of labour inspectors, including OSH inspectors, to enable them to effectively carry out their duties and that workplaces are inspected as often and as thoroughly as is necessary. In this respect, it requests the Government to continue to provide information on: (i) the number of labour inspectors (including OSH inspectors), indicating the number of inspectors recruited as labour officers and as senior labour officers; (ii) the number of inspection visits undertaken each year, specifying the number of inspections in the agricultural sector; and (iii) the results of those inspections, such as the number of violations detected, and penalties imposed. The Committee requests the Government to indicate the measures taken to ensure the filling of the vacant positions of OSH inspectors, and to indicate whether the compensation and other terms and conditions of employment for OSH inspectors are equivalent or comparable to those for labour inspectors.**

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

## San Marino

### Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)

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

*Articles 7 and 8. Employment, underemployment and underemployment statistics. Statistics of the structure and distribution of the economically active population.* The Committee welcomes the information provided by the Government in response to its previous comments, initially made in 2012. It notes that the statistical data on the labour force (previously referred to as the "economically active" population), employment, unemployment and other indicators of labour underutilization have been communicated to ILOSTAT. The latest data available is from 2019 and the official estimates are provided by the San Marino Office of economic planning, data processing and statistics. The Committee nevertheless notes that the data provided is derived from administrative data and not from labour force surveys (LFS), as no LFS have to date been carried out in San Marino. In this context, the Committee recalls that pursuant to the latest standards, including the International Conference of Labour Statisticians (ICLS) Resolution concerning statistics of work, employment and labour underutilization (resolution I), adopted by the 19th ICLS in October 2013, such statistical data should be captured through household surveys. In relation to *Article 8*, the Government notes that the statistics on the labour force on administrative records of the Office of Active Labour Policies and the Office of Economic Activities are not derived from the population census. The data is collected by the Office of Statistics on a monthly basis. The Committee notes that the Government provides definitions of employment and unemployment, and information on the methodology used for compiling the data in accordance with *Articles 7 and 8*. **The Committee requests the Government to continue to provide updated statistical data to the Office related to the labour force, employment, unemployment and underemployment, and to provide information on measures taken to undertake a household survey, as contemplated under the Convention. In this respect, the Committee reminds the Government may avail itself of technical assistance from the Office, should it so wish. The Committee further requests the Government to provide information on any developments with regard to the implementation of the Resolution concerning statistics of work, employment and labour underutilization (resolution I), adopted by the 19th ICLS in October 2013.**

*Articles 9 and 10. Current statistics of average earnings and hours of work. Statistics of time rates of wages and normal hours of work. Statistics of wage structure and distribution.* The Committee notes the Government's indication that data under *Articles 9 and 10* are not currently compiled, with the exception of data under *Article 9(1)*. The Government adds that, while annual data on average earnings is available by economic activity, it is not yet broken down by sex. The Committee notes the information provided by the Government on the methodologies used to compile the statistics. The Government indicates that data on hours actually worked is not available but that, based on the availability of the administrative records, the Office of Statistics may be able to provide annual statistics of average earnings and hours actually worked, broken down by sex, in the near future. **Noting that the annual statistics of average earnings and hours actually worked are not yet disaggregated by sex, but that the Government may be in a position to provide this information in the near future, the Committee requests the Government to take the necessary steps to this end and keep the ILO informed of any future developments in this field. In addition, noting that the Government's report provides no information in response to its previous point concerning the application of Article 9(2), the Committee reiterates its request that the Government ensure that statistics covered by these provisions are regularly transmitted to the Committee and to keep it informed of any progress made in this regard. In addition, noting that the Government's report provides no information in response to its previous comment on the application of Article 10, the Committee once again requests the Government to take the necessary steps to give effect to this provision and to keep it informed of any developments in this field.**

*Article 11. Statistics of labour cost.* In response to the Committee's previous comments, the Government indicates that the Office of Statistics publishes the statistics of labour cost on an annual basis on its website. The Government points out that in relation to the manufacturing sector, the four main groups are currently included; however, it is not currently possible to provide these statistics for a greater number of groups. The methodologies established for producing the statistics on average cost and employee services are published on the National Summary Data Page. **The Committee invites the Government to continue to provide statistical data of labour cost to the Office, as well as other methodological information.**

*Article 12. Consumer price indices.* The Committee notes the information provided by the Government regarding the methodology utilized to collect information on consumer price indices (CPI), which are calculated taking families and workers as references. CPI data are collected monthly through the website of the Office for Economic Planning, Data Processing and Statistics. The latest CPI data available to the ILO is from 2017. **The Committee invites the Government to continue to provide updated statistical data and methodological information on consumer price indices to the Office.**

*Article 13. Statistics of household income and expenditures.* The Committee notes that detailed statistics on household expenditures are published regularly by the Office of Economic Planning, Data Processing and Statistics in the annual publication "Survey on consumption and San Marino family lifestyles". The Committee nevertheless notes that no information is available in the cited 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) consult the representative organizations of employers and workers on the concepts, definitions and methodology used (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. Statistics of occupational injuries.* The Government indicates that it collects data on occupational injuries on an administrative basis by the Institute for Social Security and relies on injured workers attending the emergency department of the state hospital. The Office of Statistics publishes data on occupational injuries in the Economic Statistics Report annually. The data come from the Health Authority and are taken from the records of the only emergency department in the country. The Committee notes that the official estimates of the Office of Economic Planning, Data Processing and Statistics, covering all branches of economic activity, last provided data on occupational injuries to the ILO in 2015. In addition, the methodological information available is incomplete, as the concepts and definitions used in the statistics have not been communicated to the ILO Department of Statistics. **The Committee reiterates its request that the Government provide more comprehensive information about the statistical system, with particular reference to the concepts and definitions used for statistics on occupational injuries. The Committee also requests the Government to provide information on more detailed statistics as these become available.**

*Article 15. Statistics of industrial disputes.* **As no data on strike and lockout (rates of days not worked by economic activity) were provided, the Committee once again invites the Government to communicate this data, in accordance with Article 5 of the Convention.**

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

## Senegal

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

#### Previous comment

*Article 12(1)(a) of the Convention. Powers of investigation of labour inspectors.* Further to the Committee's previous comment, the Government maintains that the provisions of section L.197 of the Labour Code, subsection 2 of which provides that labour and social security inspectors shall be empowered to enter premises at night in which it is clear that collective work is being undertaken, are not in contradiction with those of *Article 12(1)(a)* of the Convention. The Government reaffirms that labour inspectors are empowered to enter all establishments liable to inspection. The Committee recalls once again that, in accordance with *Article 12(1)(a)*, labour inspectors shall be empowered to enter freely at any hour of the day or night any workplace liable to inspection, and not only workplaces in which it is clear that collective work is being undertaken. **The Committee therefore urges the Government to take all the necessary measures to bring section L.197(2) of the Labour Code into conformity with Article 12(1)(a) of the Convention in order to ensure that labour inspectors are able to enter freely at any hour of the day or night any workplace liable to inspection, and not only establishments in which it is clear that collective work is being undertaken.**

*Article 13(2)(b). Measures with immediate executory force in regard to occupational safety and health.*

In reply to the Committee's previous comment, the Government indicates that: (i) it has always demonstrated the will to allow labour and social security inspectors to order such measures without first having to determine whether or not there is a violation of the provisions of the laws and regulations applicable in industrial or commercial workplaces; and (ii) that reforms in this respect are ongoing. **The Committee requests the Government to renew its efforts to bring the law and practice as soon as possible into full conformity with Article 13(2)(b) of the Convention, which allows inspectors to impose measures with immediate executory force in the event of imminent danger to the health or safety of the workers in all industrial and commercial establishments, without the prior obligation to determine the existence of a violation of the provisions of laws or regulations.**

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

## Sierra Leone

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1961)

#### Previous comment

*Labour law reform.* The Committee notes the Government's indication in its report that a new Employment Act No. 15 has been adopted in 2023 (Employment Act 2023), which inter alia provides details on the structure and responsible authority with regards to labour administration and labour law enforcement in Sierra Leone. The Committee notes that at the same time, pending the adoption of a new OSH Act, the Factories Act 1974 which provides for the duties and responsibilities of the Factory Inspectorate is still in force. Furthermore, the Government has provided a copy of the Draft Employment Regulations, which also include references to inspection functions and relevant processes. **Taking note of the new legislative developments, the Committee requests the Government to indicate the progress made towards the adoption of the new OSH Act and the Employment Regulations, and to provide copies once adopted.**

*Article 3(1) and (2) of the Convention. Additional duties entrusted to labour inspectors.* In its previous comments, the Committee noted that a number of labour inspectors are assigned duties that do not constitute their primary functions, including supervision of work permits, labour migration, employment services for jobseekers, and industrial relations and labour disputes. The Government indicates that the reform process and the restructuring of the Ministry of Employment, Labour and Social Security have been carried out to ensure that any functions assigned to labour inspectors do not interfere with their primary functions. The Government indicates that this is a work in progress and funding is required for more labour officers to be recruited and trained. While taking note of this information, the Committee notes that the Government does not clarify how the new structure ensures that any additional duties entrusted to labour inspectors do not interfere with the effective discharge of their primary duties to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. Furthermore, the Government does not provide information on the total number of labour inspectors and the duties assigned to them. **The Committee expresses its concerns that the Government take measures, including in the context of the ongoing restructuring of the Ministry, to ensure that any functions assigned to labour inspectors do not interfere with their primary duties, which are related to enforcement of the legal provisions relating to the conditions of work and the protection of workers while engaged in their work, in accordance with Article 3(1) and (2) of the Convention. The Committee requests the Government to provide detailed information on the adoption of such measures, on the total number of labour inspectors and the duties assigned to them.**

*Articles 6 and 7. Recruitment and independence of labour inspectors.* In reply to the Committee's previous comment, the Government indicates that the basic requirement for the recruitment of labour inspectors is a Diploma or Certificate and that the Ministry of Employment works in partnership with



the Human Resources Management Office of the Public Service Commission to put out notices advertising the need for recruitment for labour inspectors. While taking note of this information, the Committee notes with **regret** that the Government once again does not indicate how it ensures that political affiliation is not one of the factors considered in recruitment. **The Committee once again requests the Government to take the necessary measures as soon as possible 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.**

*Article 7. Training of labour inspectors.* The Committee notes that newly recruited inspectors are provided orientation and training on labour inspection, administration and management amongst others. However, it notes the Government's indication that, in general, the training is sporadic due to the lack of resources and that the Government is in the process of sourcing funds to ensure routine training and the development and progressive update of training manuals. **Taking due note of the limited resources available, the Committee hopes that the Government will be able to provide information on the content, frequency and duration of the training given to inspectors, as well as the number of participants.**

*Articles 10 and 11. Resources of the labour inspectorate.* The Committee notes once again with **concern** that the labour inspectorate continues to face severe constraints of human and material resources. The Government indicates that, although efforts have been made for the addition of labour inspectors, there have been no new recruitments since the last report due to lack of funding. The Government indicates that it envisages recruiting new labour inspectors through the Human Resource Management Office after the workforce hearing scheduled for September 2023. The Committee notes that there is no inspection equipment and tools for the conduct of OSH inspections in workplaces. Furthermore, it notes that the vehicles available at the Ministry are accessible only to different Heads of Unit and can be assigned to inspectors when the need arises to carry out their functions and that the Ministry has no vehicles for field services. As a result, the Ministry rarely carries out field services including labour inspections. **Taking due note of the continuous difficulties in obtaining sufficient funds, the Committee requests the Government to take the necessary measures to ensure that the labour inspection services have sufficient human resources necessary for their operation. In this respect, the Committee requests the Government to provide information on any developments with regard to the planned recruitment of new labour inspectors and detailed information on the number of labour inspectors, disaggregated by gender. The Committee requests that the Government provide detailed information and relevant data with regards to material resources allocated to the labour inspectorate (including the budget allocated to the labour inspection services, the number of computers and vehicles available, etc.). Noting that there is no vehicle available for field services, the Committee requests the Government to provide information on any measures adopted or envisaged to strengthen the transport facilities available to inspectors, particularly in regions where public transport facilities are scarce.**

*Articles 17 and 18. Adequate penalties imposed and effectively enforced.* The Committee notes the Government's indication that the new Employment Act 2023 incorporates adequate penalties for the breaches of the legal provisions enforceable by labour inspectors. At the same time, it notes that, pending the adoption of a new OSH Act, the Factories Act 1974, which established inadequate fines remains in force. **Noting this legislative overlap, the Committee requests the Government to clarify which penalties can be imposed by labour inspectors and on what legal basis and to ensure that the new OSH Act establishes adequate penalties for the legal provisions enforceable by inspectors. The Committee requests the Government to provide detailed information on the number of violations detected, the number of infringement reports issued, the number of cases brought to the courts, and the penalties subsequently imposed.**

*Articles 19, 20 and 21. Periodic reports and preparation, publication and transmission of an annual report on the work of the inspection services.* The Government indicates that under section 29 of the

Employment Act 2023, the Commissioner of Labour is obliged to publish an annual report after submitting it to the Minister of Labour within four months following the end of the financial year. The Committee takes note of the information provided by the Government on the number of workplaces that have been registered and inspected for 2018–23 but also notes that no annual inspection reports have been prepared or communicated to the ILO for many years. **The Committee requests the Government to take all the necessary measures to ensure that the labour inspection report is published and transmitted to the ILO, in accordance with Article 20 and that such report contains information on all the subjects listed in Article 21 (a)–(g).**

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

## Slovenia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1992)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1992)

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

In order to provide a comprehensive view of the issues relating to the application of 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 Government's report and the supplementary information provided in light of the decision adopted by the Governing Body at its 338th Session (June 2020).

*Legislation.* The Committee previously noted the legislative reforms regarding the Labour Inspection Act (LIA) of 2014 and requested the Government to indicate the extent to which labour inspectors are bound by the general principles established under the Inspections Act (IA) as well as how the overlapping or conflicting provisions under the IA and the LIA are applied in practice to the daily work of labour inspectors.

The Committee notes the Government's reference in its report to section 3 of the LIA providing that unless otherwise provided by the LIA, the performance of inspection and inspectors shall be subject to the provisions of the IA governing inspection, the provisions governing the general administrative procedure and the provisions of specific regulations governing the supervision of individual inspection services that operate within the inspectorate. The Government states in this respect that inspectors carry out their work pursuant to the LIA, but that for issues not regulated in the LIA, they carry out inspections pursuant to the IA. In this respect, the Committee notes that qualifications of inspectors, the initiation of inspections, additional powers including seizure of documents, inspection records, and entities liable to inspection are covered by the LIA (sections 9–11 and 13–15), while inspection procedures and access to workplaces are regulated by the IA. The Committee takes note of the information provided by the Government.

*Article 3(1)(a), (b) and (2) of Convention No. 81 and Article 6(1)(a), (b) and (3) of Convention No. 129. Functions entrusted to labour inspectors. Additional duties entrusted to labour inspectors related to immigration.* The Committee previously noted with concern that labour inspectors can impose fines on migrant workers for the performance of work that violates the Employment, Self-employment and Work of Aliens Act (ESWAA) (sections 51, 60, 61, 63, and 66), and are obliged to inform the police authority when its supervision activities lead to the suspicion of illegal residence of migrant workers (section 44(4)). It requested the Government to take the necessary measures to ensure that the control duties by the labour inspectorate under the ESWAA do not prejudice the exercise of its primary duty to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers. It also requested information on the manner in which the labour inspectorate ensure the enforcement of employers' obligations with regard to the rights of migrant workers.

The Committee notes the Government's indication that sanctions for violations of the ESWAA do not affect the protection of labour rights of migrant workers or their right to suitable working conditions. In accordance with section 19(1)-2 of the LIA, inspectors may prohibit the worker concerned from performing work until the correction of the irregularity, if during an inspection they find that the employer has enabled a foreigner or a person without citizenship to work contrary to regulations governing the employment of

foreigners. According to the 2019 annual report on inspection activities (Annual Report), the inspectors found 49 infringements in 2019, compared to 29 in 2018. The Government also states that the labour inspectorate imposed sanctions on migrant workers due to such violations in a few cases in 2018 and 2019. The Government further indicates that a migrant worker whose employment contract is determined to be null and void in accordance with section 23 of the Employment Relationship Act (ERA) only enjoys the protection of labour rights if they prove the existence of an employment relationship in court.

The Committee recalls that, in accordance with *Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129*, the function of the system of labour inspection is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and that any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. It also recalls that neither Convention No. 81 nor Convention No. 129 contain any provision suggesting that any worker be excluded from the protection afforded by labour inspection on account of their irregular employment status (paragraph 77, General Survey of 2006, *Labour inspection*). Referring to paragraph 452 of its General Survey of 2017, *Working together to promote a safe and healthy working environment*, the Committee further indicates that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country. **The Committee requests the Government to take measures to ensure that the duties entrusted to labour inspectors do not interfere with the fundamental objective of securing the protection of workers in accordance with the primary duties set out in Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. It requests the Government to provide further specific information on the number of cases in which sanctions were imposed on migrant workers, the violations concerned and the sanctions imposed. The Committee once again requests the Government to provide information on the manner in which the labour inspection services ensure the enforcement of employers' obligations with regard to the rights of migrant workers, in particular those in an irregular situation or without an employment contract, including specific information as to the payment of remunerations and any other benefits owed for the work they performed.**

*Articles 6 and 10 of Convention No. 81 and Articles 8 and 14 of Convention No. 129. Number of labour inspectors and their conditions of service. Stability and independence of labour inspectors.* The Committee previously noted the continuous decline in the number of labour inspectors and their heavy workload, as well as issues related to external pressure facing inspectors from both complainants and employers, as documented in the Annual Report for 2017. It requested the Government to take measures to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate, and to provide information on measures taken to address the pressure facing labour inspectors.

The Committee notes the Government's information that the number of approved posts at the labour inspectorate increased from 106 in 2017 to 121 in 2019, and that recruitment procedures are under way. According to the 2019 Annual Report, there are 120 employees at the labour inspectorate, including 91 inspectors (up from 81 in 2018) and the number of business entities increased from 215,354 in 2018 to 220,236 in 2019. The Annual Report further states that inspectors, in particular those in charge of monitoring working conditions and employment relationships and social affairs, still face difficulties to promptly process all requests. In 2019, the labour inspectorate received 7,215 complaints, of which about 80 per cent fall into the competence of inspectors monitoring working conditions and employment relationships. Information in the 2019 Annual Report also indicates that the number of these inspectors has increased in recent years in response to their heavy workload, but that there has been a decrease in the number of occupational safety and health (OSH) inspectors (from 41 in 2008 to 31 in 2019). In this regard, the Annual Report states that measures will be taken to reinforce OSH inspections.

The Committee also notes the Government's indication that a risk assessment undertaken of the work of the inspectorate indicated that nearly all employees of the labour inspectorate, and particularly inspectors, are exposed to the risk of third-party violence, due to the nature of their work. In order to address this, the labour inspectorate has taken measures to prevent unauthorized access to its offices, drafted instructions outlining measures to reduce such violence, and organized various lectures and workshops on stress management, communication in difficult situations and other relevant topics. Concerning protection against aggression, certain inspections are carried out by two inspectors or together with other supervisory authorities, and inspectors may also request that police officers be present at the inspection. The

Government also indicates that, in addition to the provisions on the independence of inspectors provided for by the IA and the LIA, certain inspections are carried out by inspectors from the head office instead of local units if it is assessed necessary to prevent the external influence from local stakeholders. The Committee also notes that, however, the 2019 Annual Report states that labour inspectors continue to be overwhelmed with the amount of assigned cases and face a significant level of external pressure from both complainants and employers in the form of insults, misconduct and aggressiveness concerning matters beyond their mandate. **While taking note of the increase in the number of inspectors from 2017 to 2019, the Committee requests the Government to reinforce its efforts to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate, regarding both inspectors monitoring working conditions and employment relationships and OSH inspectors. It also requests the Government to continue to provide information on the measures taken in this respect. In addition, the Committee urges the Government to strengthen its efforts to address the issues raised in the 2019 Annual Report related to violence, harassment and other external pressure facing labour inspectors, including with a view to ensuring their independence from improper external influences.**

*Article 12(1)(b) of Convention No. 81 and Article 16(1)(b) of Convention No. 129. Access to workplaces liable to inspection.* The Committee previously noted that pursuant to section 21 of the IA regarding business and other premises not belonging to the person liable, persons owning or possessing business premises, production premises or other premises or land can refuse inspectors' free access under certain conditions. The Committee notes the Government's explanation in response to its request that an inspection may only be denied in the exceptional cases provided for by section 21 of the IA. The Government also indicates that, if a person unjustifiably refuses to allow an inspection, they may be subject to the same measures as a witness who refuses to testify, and the inspection may be carried out against their will. With reference to its comments above on the LIA and the IA, the Committee notes that the LIA does not contain provisions relating to access to workplaces liable to inspection. The Committee recalls that, by virtue of *Article 12(1)(b) of Convention No. 81 and Article 16(1)(b) of Convention No. 129*, labour inspectors should be empowered to enter by day premises which they may have reasonable cause to believe to be liable to inspection in order to efficiently ensure workers' protection, and that these Articles do not allow for any restrictions. With reference to its General Survey of 2006, *Labour Inspection*, paragraph 266, 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 once again urges the Government to take measures to bring the national legislation into conformity with Article 12 of Convention No. 81 and Article 16 of Convention No. 129 to ensure that that labour inspectors are empowered to enter by day premises which they may have reasonable cause to believe to be liable to inspection. In the meantime, it requests the Government to provide detailed information on the implementation of section 21 of the IA in practice, indicating the number of times that inspectors have been denied access to workplaces under this section, the reasons given for each denial under one or more of the exceptions provided for in section 21, and the outcome of any proceedings reviewing each denial.**

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

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

## Solomon Islands

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1985)

#### Previous comment

*Articles 3, 7, 12 and 16 of the Convention. Functioning of the labour inspection system.* The Committee notes that in reply to its previous comments, reflecting the joint observations of the representative employers' and workers' organizations that there was a need for capacity building of the Labour Department, the Government indicates that it will in due time consider measures for the implementation of capacity building in the area of labour inspection. The Committee refers to the [discussion](#) held during the 110th Session of the International Labour Conference, by the Conference Committee on the Application of Standards in 2022 concerning the implementation of the Worst Forms

of Child Labour Convention, 1999 (No. 182), by the Solomon Islands. Among its conclusions, the Conference Committee on the Application of Standards urged the Government, in consultation with the social partners, to strengthen the capacity of law enforcement agencies and the labour inspectorate to address the worst forms of child labour and to promote their effective cooperation. **The Committee therefore urges the Government to take the necessary measures to build the capacities of the labour inspection system, in light of the previous joint observations made by the social partners and the 2022 conclusions of the Conference Committee on the Application of Standards. The Committee recalls that the Government can 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 Government is asked to reply in full to the present comments in 2024.]**

## Sudan

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1970)

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 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.

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

## Tajikistan

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2009)

#### Previous comment

The Committee notes that, following the conclusions of the Conference Committee on the Application of Standards adopted in June 2021, an ILO Technical Advisory Mission (TAM) was undertaken to Dushanbe from 15–21 May 2022 in order to assess technical assistance needs and identify ways forward to meet the country's international obligations under Convention No. 81.

*Articles 3, 4, 5(b), 17 and 18 of the Convention. Operation of the labour inspection system under the supervision and control of a central authority. Duality of inspection functions assumed by state and trade union labour inspectors.* Following its previous comment, the Committee notes the Government's indication in its report that the Council for the Coordination of the Activities of Inspection Bodies suspended its meetings due to a number of reasons, including the COVID-19 pandemic and that technical assistance from the Office would be welcome in strengthening the work of the Council. The Committee notes that, in the context of the ILO TAM, the State Inspection Service for Labour Migration and Employment (SILME) pointed to the cooperation with trade union inspectors, including through attendance at one another's meetings, and trade union notifications of industrial accidents and complaints received. The representatives of the Federation of Independent Trade Unions of Tajikistan informed the ILO TAM that they did not see a contradiction between their mandate and the one of the SILME and that, while trade union inspectors could not impose sanctions, they could pursue enforcement through other means, such as appeals to courts. **Recalling that labour inspection is a public function that should be performed by public officials, the Committee requests the Government to: (i) provide information on the manner in which the trade union inspectorate operates in a way that complements the activities of the SILME, including examples of how the trade union inspectorate coordinates its activities with those of the SILME; and (ii) provide information on the manner in which the activities of the SILME are supervised and controlled, including on the setting and review of priorities by the Council for the Coordination of the Activities of Inspection Bodies once its activities are resumed, and the role of the Prosecutor General's Office.**

*Articles 6, 10 and 11. Status and conditions of service of labour inspectors. Number of labour inspectors and material means at their disposal.* Following its previous comment, the Committee notes that, in the context of the ILO Technical Advisory Mission, the Federation of Independent Trade Unions of Tajikistan indicated that, since 2015, the trade union inspectorate has been funded through each trade union's

own budget, while positive trends were seen in the number of inspectors. **Noting the absence of information on the matter, the Committee once again requests the Government to indicate how the independence of SILME inspectors is ensured in practice, in particular with regard to the requirement established in section 37(1) of Law No. 1269 on Inspections of Economic Entities, which provides that the performance of an inspection body official should be assessed based on criteria including feedback from the inspected economic entities. In addition, the Committee once again requests the Government to provide further information on the material means at the disposal of trade union labour inspectorate in practice.**

*Articles 12 and 16. Powers of labour inspectors. Moratorium on inspections.* The Committee previously noted that the moratorium on inspection in the area of manufacturing had expired on 1 January 2021. The Committee notes with **deep concern** that a moratorium on all types of inspections of the activities of business entities has been reintroduced by Presidential Decree of 16 March 2022, with a general scope of application to all sectors and without limit of time. In the context of the ILO TAM, the Deputy Minister of Labour emphasizes that labour inspectors could still conduct inspections under the moratorium: (i) where there are signs of non-compliance in private entities; and (ii) in public entities. In this respect, the Committee recalls its [general observation of 2019 on the labour inspection Conventions](#), expressing concern at reforms that substantially undermine the inherent functioning of labour inspection systems, including moratoria on labour inspections, and urging governments to remove these restrictions, with a view to achieving conformity with Convention No. 81. **Recalling that any moratorium placed on labour inspection is a serious violation of the Convention, the Committee urges the Government to take all necessary measures to ensure that the current moratorium is lifted and that no other restrictions of this nature are placed on labour inspection in the future. It also requests the Government to provide information on developments in this regard, and to provide information on the number of inspection visits undertaken by the SILME, disaggregated by type of inspections and by sectors, including specifically inspections in private entities where there are no signs of non-compliance.**

*Other restrictions on the powers of labour inspectors.* Following its previous comment, the Committee notes with **deep concern** that the restrictions imposed by the Law No. 1269 on inspections of economic entities, including with regard to: (i) frequency of inspections (section 22); (ii) duration of inspections (section 26); (iii) the ability of labour inspectors to undertake inspection visits without previous notice (sections 16, 19, 21 and 24); and (iv) the scope of inspections (section 25), are still in force after the 2023 amendment. It also notes that the Government does not provide any further information regarding the due diligence checklist for inspections compiled by SILME specialists. **With reference to its general observation of 2019 on the labour inspection Conventions, the Committee once again urges the Government to pursue its efforts and continue to take all necessary measures to bring its national legislation into full conformity with Articles 12 and 16 of the Convention. It requests the Government to provide information on the measures taken and the developments in this regard, and to communicate a copy of the due diligence checklist established by the SILME for inspections. In addition, the Committee once again requests that the Government provide statistics regarding the number of inspection visits undertaken by labour inspectors of the SILME without previous notice, as compared to inspection visits undertaken with prior notice, and similar statistics regarding inspections undertaken with and without previous notice by trade union labour inspectors. The Committee also requests detailed information on the number and nature of violations detected with respect to each category of inspection by each set of inspectors.**

*Articles 17 and 18. Powers of labour inspectors to ensure the effective application of legal provisions concerning conditions of work and the protection of workers.* In response to its previous comments on the application of labour inspectors' right to institute legal proceedings, the Committee notes the statistics provided by the Government regarding violations detected and the measures taken by labour inspectors during the reporting period. The Committee also notes the Government's reference to

section 22(7) of Law No. 1269 which provides that sanctions on an economic entity in the first two years of its activity may only be applied in exceptional cases, if the activity of the entity in question, in accordance with the legislation of the Republic of Tajikistan, cannot be secured by other means, and only if it is necessary and unavoidable to prevent harm to the life and health of the public or the environment, when such harm poses a serious threat. **The Committee requests the Government to take the necessary measures, including lifting the restriction imposed by section 22(7) of Law No. 1269, to ensure 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 adequate penalties are imposed. It also requests the Government to clarify if trade union labour inspectors have the power to initiate prompt legal proceedings without previous warning.**

Lastly, the Committee notes the request of technical assistance formulated by the Government with regard to the strengthening of the Council for the Coordination of the Activities of Inspection Bodies. **The Committee hopes that this technical assistance will be provided in the near future and that it will cover the functioning of the Council as well as all other issues raised in the Committee's comment.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Togo

**Labour Inspection Convention, 1947 (No. 81) (ratification: 2012)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2012)**

### [Previous comment](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Article 12(2) of Convention No. 81 and Article 16(3) of Convention No. 129. Powers and prerogatives of labour inspectors.* In its previous comment, the Committee noted that, under section 188(1) of the Labour Code, inspectors are required to notify the head or deputy head of the enterprise or establishment at the start of the inspection, and that the latter may accompany them during the inspection. The Committee recalled that, in accordance with the above-mentioned *Articles* of Conventions Nos 81 and 129, labour inspectors are dispensed from this requirement if they consider that such notification may be prejudicial to the effectiveness of the inspection. The Committee notes with **regret** that section 239 of the Labour Code of 2021 essentially reproduces the same wording, stipulating that inspectors shall notify the head or deputy head of the enterprise or establishment at the start of the inspection, and that the latter may accompany them during the inspection. **The Committee requests the Government to take the necessary measures to ensure that its national legislation is in conformity with the above-mentioned Articles of Conventions Nos 81 and 129 and to provide information on any progress achieved in this regard.**

*Article 17 of Convention No. 81 and Article 22 of Convention No. 129. Action to be taken in the event of violations.* The Committee notes with **regret** that section 238 of the Labour Code of 2021 reproduces the wording of the Code of 2006, stipulating that the social legislation and labour inspector must give the head of the establishment warning before issuing a report. This section also stipulates that the inspector may issue a report without previous warning in cases of extreme emergency. The inspector may also order measures with immediate executory force to put an end to any serious and imminent danger. The Government specifies that cases of extreme emergency relate to situations presenting dangers to the safety and health of workers. The Committee recalls that *Article 17* of Convention No. 81 and *Article 22* of Convention No. 129 provide that, with certain exceptions, 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 once again requests the Government to take the necessary measures to ensure that persons who violate the legal provisions enforceable by labour inspectors are liable to prompt legal proceedings, without previous warning, and that it must be left to the discretion of labour inspectors to give warning or advice instead of instituting or recommending proceedings.***

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

## Uganda

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

#### Previous comment

*Article 4 of the Convention. Supervision and control by a central authority.* The Committee notes with **concern** the information provided by the Government in its report that the labour inspectorate is still not placed under a central authority, with local governments directly supervising the labour inspectors within their respective jurisdictions. ***The Committee once again urges the Government to strengthen its efforts to place the labour inspection system under a central authority with a view to ensuring coherence in the functioning of the system. It requests the Government to provide information on the legislative and practical steps taken, including the consultations held in that respect.***

*Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits.* The Committee notes the Government's indication that funds have been allocated for all types of inspections, albeit unevenly distributed, with a certain emphasis on workplaces with the highest risk, and that the total number of labour inspectors in the country remains 231. However, the Government does not provide information regarding the approved but unfilled positions. The Committee also notes the information from the Government that (i) labour inspectors are provided with local offices which are fairly equipped; and (ii) labour inspectors are reimbursed for the travel and incidental expenses related to the performance of their duties. The Committee also notes the Government's further indication that: (i) the financial and human resources allocated to the labour inspectorate are insufficient, given that district labour inspectors have inadequate space and shared offices, which affects the performance of their duties; and (ii) the lack of transportation facilities for labour inspections hampers effective monitoring of compliance with labour standards, leading to a reduction in the number of inspections, particularly within the informal sector. ***The Committee once again urges the Government to take further measures to ensure that there are a sufficient number of labour inspectors and they are provided with adequate resources, in conformity with Articles 10 and 11 of the Convention. It also urges the Government to take immediate measures to ensure that workplaces are inspected as often as is necessary for the effective application of the relevant legal provisions, as required by Article 16 of the Convention. In this respect, it requests the Government to take measures to ensure the filling of the vacant positions, and to address the lack of necessary transport facilities for inspectors. Finally, the Committee requests the Government to continue to report on the measures taken and provide information on the total number of inspector positions, the number of filled positions, and the number of inspection visits carried out.***

*Articles 19, 20 and 21. Reports from local inspection offices and publication and communication of an annual report on labour inspection.* Following its previous comments, the Committee notes the information provided by the Government that it is in the process of compiling data for the report and that it plans to publish it upon the availability of funds. The Committee also notes the Government's indication that under the decentralized structures, labour inspectors report directly to the districts, which leads to irregularities of reporting to the central inspection authority. ***In line with the requirements of Articles 20 and 21 of the Convention and recalling that section 20 of the Uganda Employment Act of 2006 also provides for the annual publication of a report, the Committee once again***

**urges the Government to take the necessary measures to ensure that annual reports on labour inspection are published and communicated regularly to the ILO, encompassing the information specified in Article 21(a)–(g).**

**[The Government is asked to reply in full to the present comments in 2025.]**

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

## Ukraine

**Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2004)**

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Confederation of Free Trade Unions of Ukraine (KVPU), received on 31 August 2023.

The Committee notes the extremely difficult situation in the country since 24 February 2022.

*Articles 1 and 4 of Convention No. 81 and Articles 3 and 7 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.* Further to its previous comment, the Committee notes the Resolution of the Cabinet of Ministers of Ukraine of January 12, 2022, No. 14 “Some Issues of Territorial Bodies of the State Labor Service” (Resolution No. 14) which provides for the liquidation of the territorial bodies of the State Labour Service (SLS) and the establishment of new interregional territorial bodies of the SLS. The Resolution indicates that the territorial bodies of the SLS which are liquidated continue to exercise the powers and functions assigned to them, until the completion of the implementation of measures related to the formation of interregional territorial bodies and the adoption of a decision ensuring the exercise by such bodies of the powers and functions previously exercised by the territorial bodies. **Noting the absence of information on this matter, the Committee reiterates its request that the Government indicate the nature and scope of the power of inspection envisaged under section 17 of the Local Government Act, which refers to local self-government bodies’ ability to control compliance with labour and employment legislation and to carry out certain inspections, and that the Government provide information, including examples, of how this power of compliance and inspection is implemented in practice, indicating as well the effects of this power on the activities of SLS in monitoring compliance and issuing fines. The Committee requests the Government to keep it informed regarding the progress made on the formation of interregional territorial bodies of the SLS and measures ensuring the exercise of the functions previously attributed to the now liquidated territorial bodies.**

*Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129. Material means and human resources to achieve an adequate coverage of workplaces by labour inspection.* The Committee notes the Government’s indication that: (i) a new maximum number of employees of the central office and the territorial authorities of the SLS was approved through Resolution No. 14; (ii) there has been a decrease in the number of labour inspectors of the SLS, from 1,119 officers for 1,800 existing posts in 2022, to 885 for 2,086 existing posts in 2023; (iii) with regards to the territorial authorities of the SLS, employees decreased from 2,537 for 3,478 existing posts in 2021, to 2,402 for 3,478 existing posts in 2022 and to 2017 for 3,463 existing posts in 2023. The Committee notes that the Government does not indicate how many of these officers are labour inspectors; and (iv) the budget allocations of the SLS decreased by approximately 20 per cent from 490,306.3 thousand Ukrainian hryvnias (UAH) in 2022 to 397,148.1 thousand UAH in 2023. The Committee notes that, apart from the budget allocations, the

Government does not provide other information on measures taken to provide sufficient material resources to labour inspectors. **The Committee requests the Government to continue to provide information on the number of labour inspectors employed by the SLS and the number of available posts. In this respect, it requests the Government to indicate the number of employees of the territorial authorities of the SLS that are labour inspectors or conduct labour inspection activities, including in agriculture. The Committee requests the Government to pursue its efforts to fill the vacant posts, noting that over half the labour inspector posts are now unfilled. The Committee once again requests the Government to provide detailed information on the measures taken to provide sufficient material resources to labour inspectors, including offices, office equipment and supplies, transport facilities and reimbursement of travel expenses, at the central and local levels of the SLS.**

Articles 12(1), 16, and 17 of Convention No. 81 and Articles 16(1), 21, and 22 of Convention No. 129. *Restrictions and limitations on labour inspection. 1. Moratorium on Labour Inspection.* The Committee notes that the moratorium on labour inspection which was imposed in the context of the COVID-19 pandemic is no longer applicable. The Government indicates that pursuant to paragraph 1 of Resolution of the Cabinet of Ministers of Ukraine of March 13, 2022 No. 303 “On Termination of Measures of State Supervision (Control) and State Market Supervision in the Conditions of Martial Law” (Resolution No. 303), it decided to suspend scheduled and unscheduled state supervision (control) and state market supervision for the period of martial law imposed by Decree of the President of Ukraine of February 24, 2022 No. 64 “On the Introduction of Martial Law in Ukraine”. In this respect, the Committee notes that paragraph 2 of Resolution No. 303 exceptionally allows the implementation of unscheduled measures of state supervision on the basis of decisions of central executive bodies in the presence of a threat that has a negative impact on the rights, legitimate interests, life and health of a person, protection of the environment and ensuring the security of the state, as well as for the fulfilment of Ukraine’s international obligations during the period of martial law regime. Furthermore, the Government indicates that the Law of Ukraine “On the Organization of Labor Relations under Martial Law” of March 15, 2022 No. 2136-IX (Law No. 2136-IX) stipulates that during the period of martial law, the SLS and its territorial bodies may, at the request of an employee or trade union, carry out unscheduled measures of state supervision over compliance with labor legislation by legal entities, regardless of ownership, type of activity, business, and individuals using hired labor, in terms of compliance with the requirements of this Law, as well as to identify unregistered labor. In its observations, the KVPU, indicates that according to the Law “On Amendments to Certain Legislative Acts of Ukraine Regarding the Optimization of Labor Relations” of 1 July 2022 No. 2352-IX, the SLS was indeed allowed to carry out unscheduled inspections, however exclusively on a limited range of issues regarding: the legality of the termination of employment contracts; compliance with the requirements of Law No. 2136-IX; and detection of informal labour relations. While recognizing the extraordinary nature of, and particular challenges linked to the current situation, the Committee refers to its [2019 general observation on the labour inspection Conventions](#) and recalls that a moratorium placed on labour inspection substantially undermines the inherent functioning of the labour inspection system and is contrary to the Conventions. **The Committee requests the Government to provide its comments with respect to the observations of the KVPU. The Committee urges the Government to eliminate the current restrictions imposed on labour inspections and to ensure that labour inspectors, including in agriculture, are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in compliance with Article 16 of Convention No. 81 and Article 21 of Convention No. 129. The Committee requests the Government to ensure that no moratorium on labour inspections be placed in the future. The Committee also requests the Government to provide detailed statistics on the number of inspection visits carried out by the SLS during the period of the martial law, if possible disaggregated by type of inspection, region and sector.**

2. *Other restrictions.* The Committee once again notes with **deep concern** that previously observed restrictions imposed by Act No. 877-V of 2007 on Fundamental Principles of State Supervision and

Monitoring of Economic Activity (Act No. 877-V) on the powers of labour inspectors with regard to the time, scope and duration of inspections visits, their ability to undertake inspection without previous notice, and the measures they can take against violations, are still in place. It notes in this regard that the Law No. 2352-IX indicates that unscheduled measures of state supervision allowed under the Martial Law should be carried out in accordance with the procedure established by the Act No. 877-V. In this respect, in its observations, the KVPU reiterates its concerns regarding the limitations on labour inspection activities imposed by the Act No. 877-V, and in particular the requirement that labour inspectors provide previous notice (of time and their presence) of their visit; the requirement that the inspection must be carried out in the presence of the manager or his deputy, or an authorized person of the business entity; and the requirement that the inspection must be carried out during working hours of the business entity, established by the rules of the internal labour regulations. According to the KVPU, these limitations hinder the proper and timely inspections, disregarding the relevant principles of the Convention. In this respect, it highlights the need to exclude labour inspection from the scope of the Act No. 877-V. The Committee recalls once again that restrictions on labour inspectors' ability to conduct inspection visits without previous notice, at any hour of the day or night, in workplaces liable to inspection; and on inspectors' ability to ensure that workplaces are inspected as often and as thoroughly as necessary to ensure effective application of legal provisions, violate the Conventions. ***With reference to its general observation of 2019 on the labour inspection Conventions, the Committee once again strongly urges the Government to promptly take all necessary measures to bring its national legislation into conformity with the provisions of Conventions Nos 81 and 129. In particular, the Committee once again strongly urges the Government to ensure that any future legislative amendments and laws with an impact on labour inspection are in full conformity with Articles 12, 16, 17 of Convention No. 81 and Articles 16, 21, 22 of Convention No. 129. It requests the Government to keep it informed of any legislative developments in this respect.***

*Article 18 of Convention No. 81 and Article 24 of Convention No. 129. Adequate penalties imposed and effectively enforced.* In its previous comments, the Committee noted the Government's indication that legislative amendments to the Labour Code reduced the size of fines provided for labour law violations in the Labour Code. The Government indicates that section 16 of Law No. 2136-IX stipulates that during the period of martial law, the fines set under section 265 of the Labor Code shall not apply, provided that the employer fully complies with the orders to eliminate violations identified during unscheduled state supervision measures, within the established timeframe. The Committee recalls that, under *Article 18* of Convention No. 81 and *Article 24* of Convention No. 129, adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties shall be provided by national laws or regulations and effectively enforced. ***The Committee requests the Government to indicate how section 16 of Law No. 2136-IX is applied in practice. It requests the Government to provide information on the measures taken or envisaged to ensure that the level of fines and other penalties for labour law violations are sufficiently dissuasive. While noting the extremely difficult situation in the country, the Committee requests the Government to provide detailed information on the number of violations detected, the number of infringement reports issued, the number of cases brought to the courts, and the penalties subsequently imposed, during the period of the martial law regime.***

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

***[The Government is asked to reply in full to the present comments in 2025.]***

## Bolivarian Republic of Venezuela

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

#### Previous comment

The Committee notes the observations made jointly by the Confederation of Autonomous Trade Unions (CODESA), the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the Independent Trade Union Alliance Confederation of Workers (CTASI), the National Union of Workers of Venezuela (UNETE), the United Federation of Workers of Venezuela (CUTV) and the General Confederation of Labour (CGT) received on 30 August 2023.

*Articles 3(1)(a) and (b), 13 and 16 of the Convention. Labour inspection in the field of occupational safety and health (OSH).* The Committee notes that, in response to its previous request concerning reasons why there have been no orders with immediate executory force issued in the event of imminent danger to the health and safety of workers, the Government indicates that: (i) in accordance with section 135 of the Basic Act on prevention, working conditions and the working environment, the procedure for reporting conditions of serious or imminent danger to the health and safety of workers is still the full or partial suspension of the activity or production until the official certifies that the situation of serious or imminent danger has passed; (ii) in practice, the situation may be rectified during the inspection, with the inspector present, and not warrant the continued application of the suspension measure. **Noting the absence of information in this respect, the Committee requests the Government to provide information on the number of orders with immediate executory force issued in the event of imminent danger to the health and safety of workers issued by labour inspectors with regard to the next reporting period.**

The Committee also notes that, according to the Government's information: (i) the National Institute of Prevention and Health and Safety at Work (INPSASEL) conducted 5,144 inspections in 2020, 948 in 2021 and 1,826 in 2022; and (ii) in 2020 and 2021, labour inspection focused on the prevention of biological risks and, in particular, in 2021 INPSASEL conducted 99,758 inspections to evaluate biosecurity measures during COVID-19 and carried out 34,629 follow-up visits. The Committee notes that CODESA, the CTV, FAPUV, CTASI, UNETE, the CUTV and the CGT, in their joint observations, state that in practice, inspections are not conducted in accordance with the procedures, as there are no voluntary inspections (inspecciones voluntarias), and complaints filed by workers are not duly dealt with because of the lack of material and human resources in the labour inspection system and the lack of training for inspectors. **The Committee once again requests the Government to make every effort to ensure that OSH inspections are conducted as often and as thoroughly as is necessary and to continue to provide detailed information on the labour inspection activities related to OSH.**

*Articles 6, 7(1) and 15(a). Independence and competence of labour inspectors. Legal status and conditions of service of personnel performing inspection duties. Selection of inspectors.* The Committee notes that, in reply to its previous comment on the selection criteria for inspectors, the Government indicates that it is against the law and practice relating to incorporation into the public Service to select labour inspection staff based on political ideology. The Government also indicates that a dismissal of a public servant is only carried out on the grounds specifically established by law, following due process and with the possibility of implementing the corresponding legal remedies. In this regard, the Committee notes that CODESA, the CTV, FAPUV, CTASI, UNETE, the CUTV and the CGT allege that there is a lack of independence among labour inspectors in the performance of their duties due to political interference. The organizations add that the Government restricts the autonomy of inspectors in their decisions, by designating "special ad-hoc officials or inspectors" who never make themselves known, do not deal with workers' cases and do not publicize the location of their office. The Committee recalls that, under the terms of *Article 6* of the Convention, the 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 improper external influences. *Article 7* also provides that labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties and that the means of checking such qualifications shall be determined by the competent authority. ***The Committee requests the Government to provide its comments on the observations, and to take the necessary measures to ensure the stability and independence of labour inspectors, as required by the Convention.***

*Articles 10 and 11. Number of inspectors and material resources.* The Committee notes the Government's indication, in reply to its previous request, that in 2023 the labour inspectorate had 181 labour inspectors assigned to the inspection units of the People's Ministry for the Social Process of Labour (MPPPST), compared with 184 in 2020. The Government adds that it has encouraged and promoted the incorporation of labour inspection staff who meet the profile required throughout the national territory aimed at increasing staff numbers with new officials. With regard to the material resources available to labour inspectors, the Government indicates that the supervision units in 18 states have working vehicles that are used to transport officials to areas that are difficult to access, and that it continues to cooperate with other public administration institutions to facilitate inspections, as the availability of petrol and spare parts, as well as office equipment and other supplies, are affected by the unilateral coercive measures. In this respect, the Committee notes that CODESA, the CTV, FAPUV, CTASI, UNETE, the CUTV and the CGT state that the inspection system lacks adequate and trained inspection staff with the necessary material and technical resources, as the institutions do not have their own vehicles to carry out inspection tasks. With regard to substitutes for posts, these organizations indicate that inspectors have not been trained to perform the relevant functions and are not sufficient in number. ***The Committee requests the Government to send its comments in this respect. While once again observing a slight decrease in the number of labour inspectors, the Committee requests the Government to take all necessary measures to ensure the effective discharge of the functions of the labour inspection services. The Committee requests that the Government continue to provide information on the number of labour inspectors, and particularly on the material resources available to inspectors for the performance of their duties (including vehicles and premises).***

*Articles 12(1) and (2) and 15(c). Notification of the presence of inspectors on the occasion of an inspection. Timing of inspections. Requirement of confidentiality.* In its previous comment, the Committee noted that section 514(1) of the Basic Act concerning labour and men and women workers (LOTTT) maintains the requirement for inspectors to show identification upon their arrival and to specify the reason for the visit, and that it only allows visits during working hours, which limits the free access of inspectors to workplaces. The Committee previously raised concerns that the requirement to notify the reason for the inspection under section 514(1) might jeopardize the confidentiality of the existence of a complaint, as well as the identity of the complainant. In this respect, the Committee notes the Government's indication that this provision will be referred to the country's competent authorities for revision. The Committee also notes that CODESA, the CTV, FAPUV, CTASI, UNETE, the CUTV and the CGT welcome the fact that the Government is considering the possibility of revising the legislation to give legal recognition to confidentiality and the need for inspectors to abstain from notifying their presence where this may undermine the success of their task. ***Noting the Government's intention, the Committee requests the Government to provide information on any progress made towards amending the provision referred to above to: (i) ensure recognition in the national legislation of the principle of confidentiality and the power of inspectors provided with proper credentials not to notify their presence if they consider that such notification may be prejudicial to the performance of their duties, as required by Articles 12(2) and 15(c) of the Convention; and (ii) give effect to Article 12(1)(a) of the Convention by empowering inspectors (provided with proper credentials) to enter freely at any hour of the day or night any workplace liable to inspection.***

*Article 16. Supervision by labour inspectors, frequency and thoroughness of inspections.* The Committee notes that, in response to its previous request concerning the significant decrease in the

total number of inspections in 2019 in comparison with previous years, the Government indicates that: (i) variations in the number of inspections are due to external factors, such as restrictions on movement because of the impact of unilateral coercive measures and the pandemic, as well as internal factors, such as difficulties in replacing inspection staff; and (ii) the labour inspectorate continued to fulfil its functions, with a decrease in numbers in proportion to the decrease in economic activity and movement of persons, but the inspection system's usual schedule and procedures have been resumed, noting that the System of Protection of Children and Adolescents continued its services during this period. The Government also indicates that in 2020, 2021 and 2022, the MPPPST conducted 2,647, 6,640 and 12,713 inspections, respectively. The Committee also notes the nature of the violations reported and the number of penalties imposed during these years, namely 2,092, 2,165 and 2,714 fines, respectively. In this respect, the Committee notes that CODESA, the CTV, FAPUV, CTASI, UNETE, the CUTV and the CGT indicate that: (i) penalties imposed by the labour inspectorate are not dissuasive, as it is more convenient for the employer to pay the fine than to rectify the reason for the penalty, and often the competent authority does not give effect to the legal penalties; and (ii) there are serious problems with supervision of child labour. **The Committee requests the Government to send its comments on the observations and to continue providing statistical data on the number of inspections and violations of labour laws, with an indication of the provisions breached and the penalties imposed. In regard to its pending comments on the Minimum Age Convention, 1973 (No. 138), the Committee once again requests the Government to provide detailed information on the inspection activities carried out in relation to child labour.**

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

## Yemen

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

#### Previous comment

The Committee notes that the Government's overdue report on Convention No. 81 has not been received. In light of its urgent appeal launched to the Government in 2022, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

The Committee also notes the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict.

*Labour law reform.* The Committee previously noted the Government's indication that it will provide a copy of the Labour Code, which includes amendments to the powers of inspectors and concerning the protection of inspectors, once it has been promulgated. **While acknowledging the complexity of the situation in the country, the Committee urges the Government to take the necessary steps to amend the Labour Code and indicate any developments in this regard.**

*Articles 4, 5(a) 6, 8, 9, 10 and 11 of the Convention. Effective organization and functioning of the labour inspection system under the supervision and control of a central authority, including the provision of sufficient human resources and material means to the labour inspection services and adequate conditions of service to labour inspectors.* The Committee previously noted the Government's indication that instruments of coordination shall be put in place between the General Administration of Occupational Safety and Health (GAOSH) and the General Administration of Labour Inspection (GALI), and that there shall be coordination with Government bodies providing similar services. The Government also indicated that financial resources are limited due to the impact of the conflict and the difficult economic situation, and once stability returns, funding will be allocated to support inspection and enable it to carry out its task of monitoring the application of labour legislation. In addition, the Committee previously noted the Government's indication that as part of the project of restructuring of the Ministry of Social Affairs and Labour (MOSAL), internet and computer services have been extended to all general departments, but these are still extremely limited. **The Committee requests the Government to take the necessary**

*measures to: (i) ensure coordination between the GAOSH and the GALI, and other public or private institutions and bodies engaged in work similar to labour inspection; (ii) increase the number of labour inspectors; and (iii) ensure that the conditions of service of labour inspections, including the system of remuneration and wage levels, are such that labour inspectors are independent of improper external influences, and that they enjoy the required neutrality for the proper discharge of their duties, in conformity with the principles laid down in Article 6.*

*In this regard, while welcoming the provision of internet and computer services in all general departments, the Committee encourages the Government to intensify its efforts to provide labour inspection services with the necessary financial and material resources to operate effectively. It once again requests the Government to provide up-to-date information on the budget of the MOSAL allocated for this purpose, also specifying the proportion of the national budget.*

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 63** South Africa, Syrian Arab Republic **Convention No. 81** Albania, Antigua and Barbuda, Argentina, Armenia, Australia, Azerbaijan, Bahamas, Bangladesh, Barbados, Belarus, Belize, Bolivia (Plurinational State of), Central African Republic, Colombia, Comoros, Croatia, Cuba, Czechia, Dominican Republic, Egypt, El Salvador, Estonia, Eswatini, Fiji, France, France (French Polynesia), France (New Caledonia), Gabon, Haiti, Italy, Kazakhstan, Kuwait, Lesotho, Malawi, North Macedonia, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Romania, Rwanda, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Singapore, Slovenia, Solomon Islands, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Togo, Trinidad and Tobago, Uganda, Ukraine, Uruguay, Venezuela (Bolivarian Republic of), Yemen, Zambia **Convention No. 85** United Kingdom of Great Britain and Northern Ireland (Anguilla), United Kingdom of Great Britain and Northern Ireland (British Virgin Islands), United Kingdom of Great Britain and Northern Ireland (Montserrat), United Kingdom of Great Britain and Northern Ireland (St. Helena) **Convention No. 129** Albania, Argentina, Azerbaijan, Bolivia (Plurinational State of), Colombia, Croatia, Czechia, Egypt, El Salvador, Estonia, Fiji, France, France (French Polynesia), France (New Caledonia), Italy, Kazakhstan, Malawi, North Macedonia, Poland, Portugal, Romania, Saint Vincent and the Grenadines, Slovenia, Sweden, Syrian Arab Republic, Togo, Ukraine, Uruguay, Zambia **Convention No. 150** Cambodia, Central African Republic, Cuba, Dominican Republic, Egypt, El Salvador, Malawi, North Macedonia, Portugal, Romania, Rwanda, Sierra Leone, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland (St. Helena), Zambia **Convention No. 160** Canada, Colombia, Costa Rica, Czechia, Côte d'Ivoire.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 150** Czechia.



## Employment policy and promotion

### Armenia

#### Employment Policy Convention, 1964 (No. 122) (ratification: 1994)

##### [Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 27 September 2023, and the observations of the International Organisation of Employers (IOE), received on 1 September 2023. **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, 111th Session, June 2023)

The Committee recalls the [discussion](#) that took place at the Conference Committee on the Application of Standards (CAS), at its 111th Session in 5–16 June 2023, concerning the application of the Convention. The Committee observes that the CAS, while acknowledging the steps taken by the Government to reduce informality and promote employment among women and young persons, persons with disabilities and other marginalized groups, noted that further steps needed to be undertaken in these areas as well as on vocational education and training and activities of private employment agencies. The Committee notes that, in its conclusions, the CAS requested the Government, in consultation with the social partners, to: (i) continue to develop an employment policy to address both in law and practice the remaining issues, notably the existing barriers to employment for disadvantaged groups, including women, young persons, persons with disabilities and persons vulnerable to intersectional discrimination; (ii) take steps to improve the employability of young persons, notably through vocational education and training programmes; (iii) take steps towards establishing control mechanisms under the national legislation to monitor the activities of private employment agencies, including considering the possibility of ratifying the Private Employment Agencies Convention, 1997 (No. 181); and (iv) ensure cooperation with the social partners on existing labour market issues, annual employment programs as well as on their implementation and provide concrete examples of the manner in which social partners are included in the development, implementation and review of employment policies and programmes and their views duly considered. The Committee also notes that the CAS requested the Government to provide the Committee with detailed updated information, by 1 September 2023, on: (i) measures taken to promote full productive employment, including those adopted in the framework of the Decent Work Country Programme (DWCP) 2019–23; (ii) the development and adoption of the National Employment Strategy (NES) and to provide a copy once adopted; (iii) statistical data disaggregated by sex and age on employment trends in the country, particularly on employment, unemployment and underemployment; (iv) statistical data disaggregated by sex, age and region, on the nature, scope and impact of the measures and programmes implemented to promote the employment of groups vulnerable to decent work deficits, including women, young persons, persons with disabilities and persons vulnerable to intersectional discrimination; and (v) the impact of the measures taken to reduce the number of undeclared workers and facilitate their integration into the formal economy.

*Article 1 of the Convention. Employment trends and implementation of an active employment policy. Groups vulnerable to decent work deficit.* The Committee welcomes the supplementary information provided by the Government in light of the above-mentioned conclusions adopted by the CAS. With respect to the measures taken to promote full and productive employment, including those adopted in the framework of the DWCP, the Government states that the Seasonal employment promotion programme provides opportunities for jobseekers including women, young people, and people with

disabilities, to engage in temporary agricultural work. The Government also indicates that it adopted in June 2023 a decree No 968-L which expanded the scope of the State employment programmes to persons who participated in military operations in Azerbaijan in 2022, as well as to individuals who were demobilized after 2020. The Government further states that various employment programs, such as the Programme for ensuring the employment of the unemployed and the Employment promotion programme (a pilot programme launched in February 2023), provide financial benefits to employers who employ jobseekers. Moreover, in 2021, specific measures were adopted to promote the employment of citizens of the Artsakh Republic who had been displaced to Armenia as a result of the war with Azerbaijan. Also, the Armenia Impact AIM Venture Accelerator programme has led to initiatives like the National platform for women's economic empowerment which supports women entrepreneurs and finance their trainings. The Government indicates that it is also in the process of developing a new pilot programme for the training and employment of women. In addition, several amendments to the Labour Code were adopted in May and July 2023 to facilitate the entry of young people and persons with disabilities into the labour market, including: the creation of an internship institute to help recent graduates gain work experience, the consecration of the right of workers with children up to 2 years old to work reduced hours and of the right for women who are breastfeeding to take additional breaks, the creation of a priority right to keep their job for former servicemen with disability pensions in case of staff reduction, and the regulation of voluntary work which contributes to young people gaining professional experience. The Government also states that Armenia is considering ratifying the Violence and Harassment Convention, 2019 (No. 190).

Regarding the steps taken to improve the employability of young persons through vocational education and training programmes, the Government indicates that Armenia's national career guidance programme in high schools is included in the Organisation for Economic Co-operation and Development (OECD) list alongside countries like Canada, Finland, Germany, United Kingdom of Great Britain and Northern Ireland, and the United States of America. The Government also indicates that the Vocational training programme adopted in 2021, benefited to 487 persons, of which 77 per cent were women, and 12 per cent were persons with disabilities. The Programme of arrangement of vocational training for mothers without a profession benefited to 106 persons, of which 32 per cent were young mothers. In addition, in the period 2021–22, the Work experience acquisition programme has supported 353 unemployed persons, of which 91 per cent were young people. The Committee nevertheless notes that the Government does not provide information on measures taken in the area of vocational education and training aimed specifically at promoting employment among young persons.

With regard to the development and adoption of the NES, the Government indicates that a draft is being discussed in consultation with the social partners. The main objective of the draft NES is the promotion of employment through the promotion of a competitive workforce. The government's strategy is to reduce the discrepancy between labour supply and demand by strengthening the correspondence between education programmes and the labour market. The NES will address topics such as labour rights, inclusion and equal opportunities for various specific groups of vulnerable workers, including persons with disabilities, women, migrants, displaced persons and national minorities. The Government further indicates that it contemplates the possibility of introducing an unemployment insurance system.

In respect of the impact of the measures and programmes implemented in Armenia, the Committee notes that, in 2021, 3,958 people were registered in State employment programmes (versus 5,675 persons in 2020), of which 65 per cent were women, 30 per cent were young people, and 8 per cent were persons with disabilities. The Committee also notes that, in 2022, only 1,800 persons were registered in these programmes, of which 33 per cent were women, 20 per cent were young people, and 11 per cent were persons with disabilities. The Government further provides detailed statistical data for the period 2020–22, according to which, in 2022, of the 70,544 jobseekers who were registered with the United social service (the former State Employment Agency), 14.7 per cent found employment. The

Committee also notes the information provided by the Government regarding the impact of the programmes specifically aimed at promoting the employment of groups vulnerable to decent work deficits. The Government indicates that the measures adopted to promote the employment of citizens of the Artsakh Republic enabled 703 citizens of the Artsakh Republic to find employment while 93 citizens were temporarily employed for public works. The Government also indicates that the National platform for women's economic empowerment supported over 200 women entrepreneurs in launching their business and trained 1,400 women in the field of digital marketing, who then found stable employment. As for the Seasonal employment promotion programme, the Government reports that 1,178 persons benefited from it.

Turning to the statistical data on employment trends in the country, the Government reports that, for the first quarter of 2023, the unemployment rate is at 13.7 per cent, the employment rate at 50.9 per cent, and the underemployment rate at 2.3 per cent. The Government further reports that, as of July 2023, 44,678 jobseekers were registered in the regional centres of the United social service, of which 63 per cent were women and 4.4 per cent were persons with disabilities. The Government also provides statistical data for the period 2018–21, which had in essence already been provided in its previous report.

***The Committee requests the Government to continue to provide detailed updated information on the measures taken to promote full productive employment and to address, both in law and in practice, the existing barriers to employment for disadvantaged groups, including women, young persons, persons with disabilities and persons vulnerable to intersectional discrimination. With regard to the measures directed at young persons, the Committee also requests the Government to provide information on the measures taken to improve the employability of young persons through vocational education and training. The Committee further requests the Government to continue to provide detailed updated information on progress made in respect of the development and adoption of the National Employment Strategy (NES), and to provide a copy once it is adopted. Furthermore, the Committee requests the Government to continue to provide detailed updated information, including statistical data disaggregated by sex, age and region, on the impact of the measures and programmes implemented to promote the employment of groups vulnerable to decent work deficits, including women, young persons, persons with disabilities and persons vulnerable to intersectional discrimination. The Committee also requests the Government to indicate the proportion of persons who benefited from employment services prior to finding employment out of the total number of persons who accessed employment during the reporting period. With respect to financial benefits granted to employers, the Government is specifically requested to indicate the amount of this financial assistance; whether these monetary transfers to employers increase in case of employment of women, young people or people with disabilities; and whether the payments made involve an obligation of minimum duration of employment. In addition, the Committee requests the Government to continue to provide detailed updated information, including statistical data disaggregated by sex and age, on employment trends in the country, particularly on employment, unemployment and underemployment. The Committee also requests the Government to indicate the manner in which the regulation of voluntary work has contributed to young people gaining professional experience. In addition, noting with interest that the Government is considering the ratification of the Violence and Harassment Convention, 2019 (No. 190), the Committee requests the Government to provide updated information in this respect with its next report.***

***Article 2. Implementation of active labour market measures.*** In its previous comment, the Committee noted the Government's indication that no control mechanisms are established under the national legislation to monitor the activities of private employment agencies. The Government did not provide updated information in that regard. ***The Committee thus reiterates its request to the Government to provide information on the measures taken or envisaged to establish control mechanisms under the national legislation to monitor the activities of private employment agencies. The Committee refers in***

**this respect to the guidance provided by the Private Employment Agencies Convention, 1997 (No. 181), and its accompanying Recommendation No. 188.**

*Undeclared work.* The Government indicates that, in 2021, there were 389,100 undeclared workers in Armenia, marking a 12 per cent decrease from 2018. The Government also indicates that it is working towards adopting a measure relieving unemployed persons of their credit burden, with the hope of facilitating their transition from the informal to the formal economy. Additionally, the Government plans to implement a digital system for recording labour contracts in Armenia, with the aim of improving the detection of undeclared workers. **The Committee takes note of this information with interest and requests the Government to continue to provide updated information on the impact of the measures taken to reduce the number of undeclared workers by facilitating their integration into the formal economy.**

*Article 3. Consultation of the social partners.* **Noting that the Government does not provide information in that regard, the Committee reiterates its request to the Government to provide concrete examples of the manner in which the social partners are included in the development, implementation and review of employment policies and programmes, and their views duly considered. The Committee also requests the Government to transmit its comments on the concerns expressed by the IOE regarding social concertation and on its observations that the Republican Union of Employers of Armenia (RUEA) has not been consulted in the framework of the elaboration of the draft NES.**

## Australia

### Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

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

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) received on 30 August 2021. **The Committee requests the Government to provide its comments in this regard.**

*Articles 1 and 2 of the Convention. Employment trends and active labour market measures.* The Committee notes that in October 2022, the seasonally adjusted total labour force participation rate stood at 66.6 per cent, the unemployment rate at 3.5 per cent (3.5 per cent for men and 3.4 per cent for women) and the underemployment rate at 6 per cent, down from 8.5 per cent in July 2017 and 7.9 per cent in 2021. In regard to long-term unemployment, the Government indicates that on 30 June 2021, there were 742,456 who were long-term unemployed persons on the Jobactive program, that is, namely persons registered with Employment Services for 12 months or longer. It further states that between 1 July 2017 to 30 June 2021, 738,237 long-term unemployed were placed in jobs. The Committee notes that, as of July 2022, the New Employment Services Model, equipped with a funding of AUD5.9 billion, replaced Jobactive as main employment service programme. With its increased investment for disadvantaged workers, the Model is comprised of a personalized digital platform containing a range of tools, including online learning and job matching for the different needs of jobseekers - with job seekers needing extra support receiving intensive case management through an employment services provider. The Government states that the Australian labour market is diverse and flexible and provides various forms of working arrangements to meet a variety of needs from businesses and workers as well as greater opportunities for work to facilitate trends such as greater participation of women in the labour market, increase in the number of persons in education and supporting older workers transitioning into retirement. It states that in June 2021, the part-time share of employment stood at 31.5 per cent of whom 51.6 per cent are casual, that is, employees without either paid sick or holiday leave entitlement. In May 2021, 23.7 per cent of all employees were casual employees, which is equal to 2.6 million people. In August 2020, 4 per cent of all employees were on fixed-term contracts, 18.3 per cent of which without leave entitlements. In August 2020, around 1 million workers, or 8.2 per cent of the workforce, were independent contractors operating their own business, contracting to perform services for others.

In its observations received on 30 August 2021, the Australian Council of Trade Unions (ACTU) considers insecure work as one of the most pressing issues faced by workers in Australia and that the country had one of the highest rates of non-standard work arrangements in the Organisation for Economic Cooperation and Development (OECD), with nearly 24 per cent of all employees working on a casual basis. The ACTU recognizes that while some of these forms of employment had a legitimate purpose, they are increasingly used by employers so as to avoid the responsibilities associated with a permanent ongoing employment relationship, with the existing legal framework fostering the use of various types of employment to shift the employment risks and costs to the worker. It concludes that there were currently no pathways for workers in insecure work to access more secure, better-quality jobs.

The Committee recalls that active policies designed to promote full, productive and freely chosen employment also need to be attentive to the extent to which economic growth translates into decent work creation in the economy. They also participate to better labour market outcomes and to poverty reduction. ***In this context, the Committee hopes that in its next report the Government will respond to the concerns raised by the ACTU by indicating how the issues raised related, inter alia, to long-term unemployment, underemployment and insecure work, have been discussed in policymaking and implementation fora in view of the employment promotion objective of the Convention that plays a critical role in combating poverty and social exclusion.***

*Youth employment.* The Committee notes the Government's statement that despite improvements, for example in regard to the unemployment rate which fell from 12.8 per cent in July 2017 to 10.2 per cent in June 2021 and a decrease of the underemployment rate by 1.4 percentage points over the period to 16.2 per cent, young people continue to face disadvantages in the labour market. The youth unemployment and underemployment rates for men and women decreased during this time frame. For men, the unemployment rate has decreased by 1.5 percentage points reaching 12.1 per cent. For women, it has decreased by 3.9 percentage points and stands at 8 per cent. As regards the youth underemployment rate, it decreased by 0.1 percentage points for men resulting in 15.4 per cent underemployment in June 2021, whereas for women it decreased by 2.7 percentage points to reach 17.1 per cent. During the same time, the number of jobseekers under 25 years of age participating in Jobactive amounted to a total of 319,660 (177,630 men and 142,030 women). In addition, the Committee notes that during the same period, the Transition to Work (TtW) service, which provides intensive, pre-employment assistance to improve the work readiness of young people who have disengaged from work and study, resulted in 64,932 job placements (36,604 men and 28,328 women) and 135,848 activity placements (72,907 men and 62,941 women). The ParentsNext programme, which prepares young parents under the age of 25 years for employment has registered a total of 73,827 participants (1,458 men and 72,369 women). In addition, 37,742 men and 24,312 women were placed under the Youth Bonus Wage Subsidy, which provides up to AUD10,000 to employers over a six-month period to hire eligible young job seekers between 15–24 years of age. The Committee notes that further to targeted programmes at the territory level such as in Western Australia, as of 31 May 2021, 85,634 young people participated in the JobTrainer Fund established through a cooperation between the federal and territory levels to provide free or low fee training for job seekers and young people, including school leavers, to upskill or reskill in areas of identified skills needs. It also notes the National Work Experience Program (NWEPE), which gives job seekers an opportunity to participate in real-life unpaid work experience, gain confidence and demonstrate their skills to potential employers (304 men and 226 women under the age of 25 accessed the programme). The Committee notes the Job Ready Fund in Tasmania, which is aimed at removing barriers to employment for young first-time jobseekers through up to AUD500 for the purchase of essential equipment, such as White Card accreditation, work boots, protective clothing or tools. Furthermore, the federal Government also continued implementing the Youth Jobs PaTH (Prepare, Trial, Hire) programme, providing (employability skills) training to 73,488 men and 48,812 women and work experience placement through internships and wage subsidies to 7,432 men and

6,609 women. Reiterating its previous concerns, the ACTU remains adamant that the PaTH was not effective in moving young people into work as it would result in displacing wage-paying jobs, fell short of the aim to achieve meaningful qualifications and excluded participants from the protection of OSH legislation. ***While duly noting the measures taken to promote youth employment prospects, the Committee notes the important concerns put forward by the ACTU on the effects of measures taken on not only the quantity but also the quality of youth employment and asks the Government to respond to these observations in its next report.***

*Women.* The Committee notes that most of the targeted programmes on the federal and territory levels, such as Jobactive and TtW have a women's component. During the implementation period of Jobactive and TtW and up until 30 June 2021, 847,949 (41.7 per cent of all), respectively 32,920 (43 per cent of all) women could be placed in jobs. The Child Care Subsidy forms the center piece of the Child Care Package targeting financial assistance to low-and middle-income families to help cover the cost of childcare, thereby encouraging workforce participation of women. Furthermore, the wage subsidies paid under Jobactive, which are being increased from AUD6,500 to AUD10,000 to incentivize employers to hire, train and retain disadvantaged job seekers benefited 100,608 women until June 2021. The Government further reports in regard to Victoria that the Gender Equality Act will improve gender equality across Government and public sector organizations and complement the work of the Victoria Equal Workplaces Advisory Council to guide and advocate to the Victorian Government and to Victorian industry and employers, practical and tangible ways to achieve gender pay equity in Victorian workplaces. The ACTU observes that women were over-represented among workers in insecure and low-paid jobs and were shouldering the majority of unpaid domestic and care labour before the Covid-19-pandemic, following which 21 per cent of the female workforce (1.3 million) lost their work or is experiencing pressures on their capacity to retain paid work. It further brings forward that before the pandemic, only 43 per cent of employed Australian women worked in a full-time permanent job with entitlements such as paid sick leave. Inadequate support for working parents and a lack of affordable quality early childhood education and care and adequate paid parental leave meant that many women rather held part-time jobs. The ACTU concludes that Aboriginal and Torres Strait Islander women and migrant workers face a double burden of discrimination and inequity, with less access to secure work and fair pay because of both their race and their gender. ***The Committee notes the recognition of the importance to coordinate employment and social protection policies, notably in order to contribute to the promotion of gender-sensitive outcomes. The Committee notes that the Government has not responded to the observations brought forward by the ACTU and hopes that in its next report the Government will provide information on the concerns raised regarding the over-representation of women in insecure and low-paid jobs. The Government is asked to continue providing information on policy and technical measures aimed at increasing both the employment quality and levels of women at the national level.***

*Indigenous peoples.* The Committee notes that in 2018–19, the employment rate of indigenous peoples in remote and non-remote areas of the country was 36 per cent and 52 per cent, respectively, being highest in the Australian Capital Territory (61 per cent), followed by Tasmania (54 per cent) and New South Wales (54 per cent), and lowest in the Northern Territory (37 per cent) with men reporting a higher overall employment rate (54 per cent) than women (45 per cent) – these rates have remained stable since 2008. The Committee notes the Government's updated information on the implementation of targeted programmes on the federal and territory levels, such as Jobactive and TtW, with a particular focus on the needs of indigenous populations. The Committee notes that in 2020, all Australian governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organizations adopted the National Agreement on Closing the Gap committing to achieve by 2031 four key reform priorities and 16 socioeconomic closing the gap targets, including to increase the proportion of Aboriginal and Torres Strait Islander youth (15–24 years) in employment, education or training to 67 per cent; and of people aged 25–64 who are employed, to 62 per cent. Finally, the Government refers to the Community

Development Programmes (CDP) offered by 46 CDP providers contracted by the Australian Government to deliver a range of employment services to remote job seekers, 83 per cent of which identified as Indigenous Australians, across 60 CDP regions. During the period 1 July 2015 to 31 July 2021, the programme resulted in placing 48,608 persons, of which 14,926 have resulted in the job seeker staying in the job for at least 26 weeks. The ACTU criticizes that CDP workers were not classified as workers, receiving well below the minimum wage and are not covered by the Fair Work Act, are deprived of OSH protections, worker compensation and annual, sick or carer's or cultural ("Sorry Business") leave. Furthermore, while the accrual of welfare entitlements is disadvantageous and penalties for infringements are prohibitive, the programme had failed to produce significant employment outcomes and was deemed to be replaced. **The Committee requests the Government to respond to the ACTU's observations regarding the low quality of the CDP jobs, indicating also whether the 2031 objectives are on track and informing about any new initiatives taken to increase sustainable employment opportunities for indigenous peoples in all regions of the country but particularly in the regions where vulnerabilities among the indigenous people are the highest. In addition, the Committee refers to its direct request in which it addresses further categories of workers vulnerable to decent work deficits and exclusion.**

*Article 3. Participation of the social partners in the formulation and implementation of employment policies.* The Government states that all the specific targeted programmes on the federal and territory levels included consultations of the respective stakeholders with the New Employment Services Model. Consultations take place within an Expert Advisory Panel comprised of employer, provider, and welfare group representatives, as well as a labour market economist and an expert in business transformation. Its adoption was preceded by extensive consultations held across Australia with more than 1,400 employers, providers, job seekers, community organizations, unions, think tanks/academia, industry and state and local governments. The ACTU contends that the Government failed to consult it, as the representative of workers, concerning employment policies. While it takes due note of the information provided by the Government as regards consultative processes with the respective stakeholders related to specific targeted measures at the federal and territory levels, the Committee wishes to stress that, pursuant to Article 3 of the Convention, the representatives of employers and workers, need to be consulted concerning the design and implementation of employment policies, with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies. At the same time, it recalls that having built-in comprehensive, participative and transparent monitoring and evaluation mechanisms into the national employment policy enables all the parties concerned to identify achievements and challenges in meeting the established policy objectives. **The Committee therefore requests the Government to provide further information as regards the manner in which the Government associates the social partners to crafting, implementing and monitoring the employment policies at the federal and territory levels.**

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

## Colombia

### Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1989)

#### [Previous comment](#)

The Committee notes the observations of the National Employers Association of Colombia (ANDI), received on 31 August 2021. The Committee also notes the observations of the Confederation of Workers of Colombia (CTC), the General Confederation of Labour (CGT) and the Single Confederation of Workers of Colombia (CUT), received on 1 September 2021. **Noting that the Government has so far not responded to these observations, the Committee has decided to examine them in view of the relevant provisions of the Convention, and requests the Government to provide its comments thereon.**

*Article 2 the Convention. National policy on the vocational rehabilitation of persons with disabilities.*

The Committee observes that, since it last examined the application of the Convention by Colombia, the Government has taken various measures to promote the employment of persons with disabilities, including in the period immediately preceding the examination. The Government refers to the adoption of: (i) Decree No. 2011 of 30 November 2017, establishing the percentage of employment of persons with disabilities in public sector entities depending on the size of the personnel (between 3 and 1 per cent by 31 December 2023), and (ii) Decree No. 392 of 26 February 2018, establishing an incentive of 1 per cent in public tenders and merit-based selection processes to enterprises that employ a certain number of persons with disabilities based on the total number of workers. In this regard, the Government indicates that, as of 31 March 2020, 5,026 persons with disabilities were employed in 834 public entities, and in 2020, 4,290 certifications were issued in public procurement processes to employers having engaged persons with disabilities. In 2018, 466 employers benefited from tax incentives granted for engaging persons with disabilities, an increase of 25 per cent compared with the previous four years. On 19 May 2023, the National Development Plan (PND) 2022–2026 was also adopted, establishing measures to ensure inclusive education and work for persons with disabilities, including broadening the range of institutional training programmes for inclusive and accessible work, initiatives to facilitate access to work for persons with disabilities in the public sector and strengthening the strategies of providers of the Public Employment Service (SPE) to promote the employment of persons with disabilities. The Government also indicates that funding has been provided for entrepreneurial initiatives undertaken by persons with disabilities, outreach activities have been conducted targeting employers and representatives of various national bodies, and enterprises have been advised on employment inclusion mechanisms and labour intermediation services for persons with disabilities. In addition, a new Disability and Inclusion Policy is under development, including measures to provide opportunities for the advancement of persons with disabilities in the spheres of education and production. Finally, the Committee notes the ANDI's indication of the implementation, in collaboration with various public and private entities and organizations of persons with disabilities, of the model Productivity Pact of the Enterprise Programme for the Promotion of Employment for Persons with Disabilities in 1,700 enterprises, around 30 per cent of which have engaged persons with disabilities. The Government indicates that the programme aims to develop a replicable and sustainable model to make the recruitment of persons with disabilities effective and productive for individuals and enterprises. The ANDI also refers to the introduction of the Seal of Inclusion to endorse an employer's corporate responsibility as an inclusive organization and indicates that, through a partnership with the National Learning Service (SENA), 1,116 persons with disabilities have participated in vocational training.

However, the Committee notes, based on data from the National Department of Statistics (DANE), that while 52.3 per cent of persons with disabilities are of working age, only 15.5 per cent are engaged in work and only 2.5 per cent are in formal employment or have an income equivalent to a minimum wage. The Committee also notes that, in their observations, the CTC, the CGT and the CUT maintain that the legislative measures adopted have not had an impact on the creation of employment opportunities for persons with disabilities in the open labour market due to barriers in academic training and misperceptions among employers regarding the strengthened employment stability guaranteed to persons with disabilities. They also note that unemployment figures for persons with disabilities are under-reported, thus impeding an assessment of the real impact of the measures taken. ***In light of the above, the Committee requests the Government to continue its efforts in both the political and legal fields, including in relation to the monitoring and allocation of the necessary funding for the implementation of the measures adopted to secure, retain and promote opportunities for persons with disabilities to find employment in the open labour market, both in the public and private sectors, including measures targeting small and medium-sized enterprises. It also requests the Government to send detailed information on the measures taken in this regard, including information on the impact of Decree No. 2011 of 30 November 2017 and Decree No. 392 of 26 February 2018 on employment***



**generation for persons with disabilities. It further requests the Government to provide information on the adoption of the new Disability and Inclusion Policy, and to provide a copy thereof once it has been adopted. The Committee lastly requests the Government to respond to the above-mentioned concerns raised by the trade union confederations.**

*Article 3. Vocational rehabilitation measures.* The Committee notes the Government's indication that the public employment and vocational guidance services have specialized units providing assistance to persons with disabilities, including remote assistance using new technologies. The Government reports on the implementation by the SPE of the inclusive employment model with a focus on bridging gaps, including programmes, methodologies and instruments tailored to the jobseeker's profile, with a view to producing effective and targeted interventions in relation to population groups facing the greatest labour market integration difficulties, including persons with disabilities. In this framework, since 2019, the SPE implements the Labour Inclusion Strategy for persons with disabilities with the objective of promoting the employment of persons with disabilities in the public and private sectors. The Committee observes that, according to the Public Employment Service Information System (SISE) and the SENA, between 2018 and February 2020, 12,255 persons with disabilities were registered with the SPE, 4,852 of whom were placed in employment. In April 2021, the SPE singled out 23 employment centres for their inclusiveness. **While taking due note of the information provided by the Government concerning the measures taken to promote employment opportunities for persons with disabilities in the open labour market, the Committee requests the Government to provide more detailed information on how it ensures, both in law and in practice, that appropriate vocational rehabilitation measures are made available to all persons with disabilities. The Committee also requests the Government to provide updated information on the nature, scope and impact of the measures taken, in terms of the creation of employment opportunities for such persons in the open labour market.**

*Article 5. Consultations.* The Committee notes the adoption of Decree No. 2177 of 22 December 2017, establishing the Disability Inclusion Council (CID), with the objective of coordinating training initiatives for the work and employment of persons with disabilities in the private sector. The CID includes among its members representatives of workers' confederations, employers' organizations and organizations of persons with various types of disabilities. The CID is responsible for, among other functions, coordinating initiatives for the social, labour market and productive inclusion of persons with disabilities; promoting and disseminating the effective exercise of the rights to social, labour market and productive inclusion of persons with disabilities through various initiatives, such as campaigns, strategies and participation mechanisms; and promoting the establishment of a national network of inclusive enterprises. The Government indicates that, in this framework, subcommittees for social, labour market and productive inclusion have been established in the disability committees of nine cities. The Government adds that the policies and programmes of the National Council on Disability (CND) are regularly reviewed in Sectoral Liaison Groups (GES), comprising representatives from various government ministries and agencies. The CTC, CGT and CUT maintain, for their part, that no opportunities for consultation with workers' organizations have been provided to discuss policies affecting workers with disabilities. **The Committee requests the Government to provide detailed information on the manner in which representative organizations of employers and workers and representative organizations of persons with disabilities are consulted on the implementation and periodic review of the national policy for the vocational rehabilitation of persons with disabilities, including in the framework of the Disability Inclusion Council (CID).**

*Article 7. Vocational training for persons with disabilities.* The Committee notes the Government's indication that the SENA does not provide any specific training for persons with disabilities, but rather makes reasonable accommodations to the various training programmes in accordance with labour market demand, and the interests of persons with disabilities. The Committee also notes that the PND provides for the establishment of the national equal opportunities programme for higher education access, retention and graduation of persons with disabilities, together with the implementation of

initiatives to phase out the segregated provision of education for persons with disabilities. The Government also indicates the adoption of Decree No. 1421 of 2017, which regulates, within the framework of inclusive education, the provision of education for persons with disabilities. The Decree provides for measures to encourage the participation of young persons with disabilities in training processes. The Government also refers to the implementation of entrepreneurship programmes by the SENA for persons with disabilities. The Government indicates that between 2017 and 2019, 81,243 persons with disabilities were trained as apprentices.

The Committee observes, however, the alarming number of young persons with disabilities who lack access to formal education. The Government indicates that, according to statistical information from the DANE, less than 10 per cent of persons with disabilities have access to the formal education system. Trade union confederations further note the low levels of education of persons with disabilities. By way of example, they indicate that, according to statistical information of the United Nations Educational, Scientific and Cultural Organization (UNESCO), only 56 out of every 100 young persons with disabilities (between 15 and 24 years of age) can read and write, while among the general population the proportion is 98 out of every 100. The Committee wishes to underline in this respect that the lack of access to quality education seriously compromises the future of young persons with disabilities by depriving them of the possibility to participate fully in the labour market, at a time when the market is undergoing rapid transformations, including digital transformations, which offer great potential for the integration of persons with disabilities into the open labour market. ***The Committee therefore requests the Government to intensify its efforts, in collaboration with the social partners, with a view to improving the extremely low levels of participation of young persons with disabilities in the education system and to ensure inclusive education. The Committee further requests the Government to provide detailed information on the concrete measures taken in this respect, including information on the impact of such measures on the ability of persons with disabilities to secure, remain and advance in employment.***

*Article 8. Services in rural areas and remote communities.* The Committee notes the Government's indication that the SPE provides specific assistance to persons with disabilities through mobile units in the country's remotest regions and municipalities involved in the peace process. The Government further indicates that a virtual course is planned in a number of remote municipalities with a view to strengthening employment channels for persons with disabilities in such areas. ***The Committee requests the Government to continue to provide updated information on the nature, scope and impact of the measures taken to promote non-discrimination, accessibility, and the establishment and development of vocational rehabilitation and employment services for persons with disabilities, both in rural areas and remote communities.***

*Article 9. Training of qualified staff.* The Committee notes the Government's indication that the SPE providers receive training on the physical and technological adaptations necessary to ensure appropriate assistance to persons with disabilities. In addition, in 2020, the Guide on Adjustments to the Employability Road Map with a Focus on Persons with Disabilities was presented to 198 civil servants, 63 SPE providers and labour sector entities. The SPE also has a virtual course for civil servants to strengthen competences for the inclusion of persons with disabilities in the labour market. ***The Committee requests the Government to provide information on the results achieved through the measures taken with regard to the training of rehabilitation officers and other qualified staff involved in vocational guidance, vocational training, placement, and employment of persons with disabilities in the open labour market. It also requests the Government to provide statistical information on the number of civil servants who have received training on the inclusion of persons with disabilities, as well as on the availability of qualified staff for vocational rehabilitation.***

## Comoros

### 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 2024, 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 made by the Workers Confederation of Comoros (CTC), received on 1 August 2017. **It requests the Government to provide its comments on the matter.**

*Article 1 of the Convention. Implementation of an active employment policy. Youth employment.* In its previous comments, the Committee requested the Government to indicate in its next report whether the Act issuing the national employment policy had been adopted and to indicate whether specific difficulties had been encountered in achieving the objectives set out in the national Poverty Reduction and Growth Strategy Paper (PRGSP). The Committee notes with **interest** that the national employment policy act (PNE) was adopted through the promulgation on 3 July 2014 of Decree No. 14-11/PR enacting Framework Act No. 14-020/AU of 21 May 2014 issuing the national employment policy. The Government indicates that this Act aims to provide a common and coherent vision of the strategic approaches for taking national action on employment, by increasing opportunities for low-income population groups to access decent work and a stable and sustainable income. The Government adds that in November 2014, with ILO support, it developed and adopted the Emergency Plan for Youth Employment (PUREJ), which is part of the process to implement the PNE. The PUREJ involves the adoption of programmes to promote youth employment which result from priority measures identified in the strategic framework of the PNE and integrated in the Strategy for Accelerated Growth and Sustainable Development (SCA2D). The Government adds that the overall objective of the PUREJ is to ensure strong employment growth in the short and medium term. In this context, the PUREJ focuses mainly on the promotion of youth employment in job-creating sectors for a period of two years, in order to contribute to the diversification of the economy, the production of goods and services and the building of social peace. The Government points out that the objective was to create 5,000 new decent and productive jobs for young persons and women by the end of 2016, through the development of skills in line with the needs of priority sectors of the Comorian economy and support for the promotion of employment and vocational integration. The Committee notes that in May 2015 the Government signed, together with the constituents and the ILO, the second generation Decent Work Country Programme (DWCP), of which the main priority is to ensure the promotion and governance of employment. The Committee notes the observations of the CTC which indicate that the implementation of the PNE is not effective. It points out that the vocational training component, which is being conducted through a project with the European Union, is the only one being applied. In this regard, the provisions and mechanisms of the PNE have not been implemented and the text has not been disseminated to the public. The CTC also reports the dismissal of over 5,000 young persons without compensation. **The Committee once again requests the Government to indicate whether specific difficulties have been encountered in achieving the objectives set out in the PRGSP. It requests the Government to provide more detailed information on the measures taken with a view to achieving the employment priorities established in the framework of the DWCP 2015–19, and on the impact of measures and programmes such as the PUREJ, which are aimed at increasing access to decent work for young persons. In this regard, the Committee requests the Government to indicate the number of young persons who have benefited from these programmes.**

*Article 2. Collection and use of employment data.* **The Committee once again requests the Government to provide detailed information on the progress made with the collection of data on the labour market, and on the manner in which this data is taken into consideration during the formulation and implementation of the employment policy. It reminds the Government that it may avail itself of ILO technical assistance if it so wishes.**

*Article 3. Participation of the social partners.* **The Committee once again requests the Government to include full information on the consultations envisaged in Article 3 of the Convention, which requires the participation of all of the persons affected, and particularly employers' and workers' representatives, in the**

***formulation and implementation of employment policies. The Committee hopes that the Government will make every effort to take the necessary measures without delay.***

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

## Costa Rica

### Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

#### Previous comment

The Committee notes the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP), transmitted by the Government with its report. It also notes the observations of the Rerum Novarum Workers' Confederation (CTRN), the Costa Rican Confederation of Democratic Workers (CCTD), the Costa Rican Workers' Movement Confederation (CMTC), the General Confederation of Workers (CGT), and the United Confederation of Workers (CUT), as well as the observations of the International Trade Union Confederation (ITUC), received on 1 September 2023. ***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, 111th Session, June 2023)

The Committee notes the discussion which took place in the Conference Committee on the Application of Standards (CAS) in June 2023 regarding the application of the Convention. In its conclusions, the Committee regretted that the Government had failed to establish and implement a comprehensive national policy designed to promote full, productive and freely chosen employment in full consultation with the social partners.

Taking into account the discussion of the case, the CAS urged the Government, in consultation with the social partners, to take the following measures: (i) adopt a comprehensive national employment policy to promote the creation of full, productive and freely chosen employment opportunities in line with the Convention; (ii) intensify efforts to strengthen social dialogue and include the social partners on the initiatives already developed as well as those that may be implemented in the future, notably on employment policies and programmes, incorporation of young people in the labour market as well as promotion of gender equality and equal opportunities in access to employment; (iii) provide information on the impact of the measures adopted to achieve the objectives of the Convention, including those adopted under the National Strategy for Employment and Productive Development (ENDEP) and the Bicentennial National Development and Public Investment Plan (PNDIP) 2019–22; (iv) take measures to ensure that the Act on strengthening public finances fully complies with the Convention and does not infringe on fundamental principles and rights at work; (v) indicate the manner in which representatives of workers' and employers' organizations have been consulted, as well as representatives of the parties involved in the design, development, implementation, monitoring and revision of the active labour market measures adopted, including the Act on strengthening public finances; and (vi) ensure tripartite consultation on the development of employment policies and programmes by creating a national tripartite council. The CAS asked the Government to provide the Committee of Experts with full and complete information on the above issues before 1 September 2023.

*Article 1 of the Convention. Adoption and implementation of an active employment policy.* The Committee notes the detailed information provided by the Government in its report on the policies, programmes and actions implemented to promote the creation of employment, in particular to promote the employability of the population. Among the measures taken, the Government highlights the launch on 26 July 2023 of the National Strategy on Employability and Human Talent (ENETH-CR) 2023–27, which was drawn up with the technical assistance of the ILO Regional Office for Central America and the Caribbean. The aim of the ENETH-CR is to improve the employability of active

jobseekers, especially women, young persons and individuals living in conditions of poverty, with a view to promoting more inclusive and sustainable economic growth. The Government also indicates that, thanks to the creation of the National Employment System (SNE) in 2019, public employment services now carry out more focused work, and access to these services is guaranteed in all parts of the country through a network of employment units. The Government adds that the SNE is also responsible for ensuring that the services offered respond not only to the dynamics of the labour market but also to the needs of individuals, especially those living in situations of vulnerability. Furthermore, the Government indicates that various reports on the State of the Nation Programme (PEN), conducted independently by universities in the country, have underlined the inequalities that exist in territorial development and have highlighted the need to tackle territorial gaps to avoid any worsening of problems which are preventing significant progress in productivity and social equity in the country. In this regard, the Government indicates that, thanks to the implementation of the Act on strengthening territorial competitiveness to attract investment outside the Greater Metropolitan Area (GAM) (Act No. 10234 of 2022), a greater number of jobs outside the GAM has been created. The Government indicates that free zone enterprises have created 159,331 direct jobs (88,555 occupied by men and 69,775 by women). The Committee also notes the information provided by the Government on the results of the National Development and Public Investment Plan (PNDIP) 2019–22. The Government indicates that although many of the targets set in the PNDIP were achieved, some were not achieved with respect to reducing open unemployment and increasing formal employment in 2022, partly because the labour market is still recovering from the impact of the COVID-19 pandemic. The Committee also notes the adoption of the new National Development and Public Investment Plan (PNDIP) 2023–26, which provides for the adoption of, inter alia, public policy measures aimed at promoting an appropriate ecosystem for facilitating the entry into the job market of persons in situations of vulnerability (such as women, young people and persons with disabilities). The PNDIP 2023–26 also provides for the implementation of public actions aimed at ensuring a better match between occupational demand and the technical and vocational training of workers. As regards labour market trends, the Committee notes that, according to the ongoing survey of employment of the National Statistics and Census Institute (INEC), in the first quarter of 2023 the net participation rate and the occupation rate were 56.8 per cent and 50.7 per cent, respectively, while the unemployment rate was 10.6 per cent. The Government also indicates that the proportion of persons occupied in the informal economy was 41.8 per cent. The Committee also notes that, on the basis of available INEC information on the PNDIP 2023–26, the income poverty index (level of income below the minimum needed to cover the price of the basic food basket (CBA)) was 21 per cent in 2021.

The Committee also notes that the ITUC claims in its observations that the number of men and women who have stopped looking for work has increased. The confederation claims that over a million women are outside the labour market, which is twice the number of men. The ITUC also highlights the alarming levels of poverty and unemployment and denounces the worrying lack of action by the Government. The Confederation also emphasizes that unstable and insecure forms of employment are omnipresent and there is an alarming number of persons who lack legal protection and social security benefits. In this regard, the ITUC highlights the lack of robust government initiatives to provide incentives to make the transition from the informal to the formal economy. The CTRN, CMTC, CGT, CCTD and CUT point out that even though, in the context of a tripartite formalization committee, a national strategy was designed with ILO assistance in 2018 and various action plans were formulated to implement it in 2020, these measures were not implemented because of lack of action by the Government. The unions add that there is no linkage between employment policies and policies aimed at formalizing the informal economy. Lastly, the CTRN, CMTC, CGT, CCTD and CUT reiterate that the Government has not established or implemented a comprehensive national policy designed to promote full, productive and freely chosen employment in full consultation with the social partners. They

underline the need to formulate and implement a comprehensive employment policy as a matter of urgency.

In this context, the Committee notes the approval of the road map for the formulation of a national employment policy by the Higher Labour Council (CST) on 5 October 2023. The road map was proposed by ILO experts at the CST meeting of 21 September 2023. The Committee also notes that the Government is requesting ILO technical and financial assistance to formulate a national employment policy based on tripartite social dialogue. ***The Committee welcomes the first steps taken by the Government aimed at formulating, with the participation of the social partners, a comprehensive national employment policy to promote opportunities for full, productive and freely chosen employment. The Committee hopes that any new policy framework established will make it possible to give effect to the conclusions adopted in June 2023 by the International Labour Conference Committee on the Application of Standards and to hold effective consultations with the social partners on all concerns raised by them in their observations. The Committee requests the Government to send information on progress achieved in this respect. The Committee also requests the Government to continue sending detailed information, disaggregated by age, sex and region of the country, on the results achieved in terms of the creation of employment as a result of the implementation of government programmes. In addition, given the high rate of informality, the Committee requests the Government to send detailed information on the scope of the informal economy and on the measures taken, in coordination with its national employment policy, to facilitate the transition to the formal economy. In this regard, the Committee draws the Government's attention to the guidance provided by the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).***

*Article 3. Participation of the social partners.* The Committee notes the Government's indication that both the regulatory reforms and the most relevant national labour market active policy initiatives have been the result of participatory social dialogue processes. The Government also indicates that tripartite consultations on the development of SNE employment policies and programmes take place in the Employment Council. Under section 7 of Decree No. 41776-MTSS establishing the SNE, the functions of the Employment Council include: (i) issuing SNE policies and monitoring compliance with them; (ii) laying down guidelines and actions to govern employment services in line with changes in the labour market; (iii) establishing target groups for the SNE; (iv) promoting training programmes; and (v) approving the use of research results and instruments to provide guidance for employment services. In this regard, the Government indicates that the ENETH-CR was unanimously approved in the Employment Council. The Government also refers to other ongoing forums for tripartite consultations, such as the CST and the board of the National Training Institute (INA). The Committee also notes that the UCCAEP maintains that most actions implemented regarding employment and employability have tripartite involvement. In this regard, the UCCAEP refers, inter alia, to the drawing up of the Dual Education and Technical Training Act in a tripartite dialogue committee and also to the approval of various actions aimed at preserving jobs in the context of the COVID-19 pandemic.

The Committee also notes that the CTRN, CMTC, CGT, CCTD and CUT state that although there has been a relative improvement in the Ministry of Labour's efforts to engage in social dialogue regarding the ENETH-CR, this has been the only initiative discussed to date by the Employment Council. In this regard, the CTRN, CMTC, CGT and CCTD attach the minutes of the relevant meeting of the Council, in which they state that the theoretical formulation of the ENETH-CR is interesting but add that their participation in the design of it was only partial, since there was insufficient feedback and tripartite discussion. They assert that the ENETH-CR document of some 150 pages was sent to them only a day and a half before it was submitted to the Employment Council for approval. The CTRN, CMTC, CGT, CCTD and CUT also indicate that there has been no intensification of the tripartite dialogue on employment policies and programmes, such as those adopted in relation to the integration of young people in the labour market and the promotion of gender equality. By way of example, the CTRN, CMTC, CGT, CCTD and CUT point out that the social partners do not participate in the monitoring of the results of

employment programmes such as *Empléate*, *Mi Primer Empleo* and *Chamba Vivís Mejor*, and assert that there is no information available on their contribution to securing employment. Lastly, the CTRN, CMTC, CGT, CCTD and CUT maintain that tripartite consultations should not be exclusively limited to employment policy measures but should also include all aspect of economic policy which affect employment. They emphasize that there is a need to hold consultations with the social partners not only on labour market and vocational training programmes but also on the design of more general economic policies which are related to the promotion of employment. In this regard, the Committee recalls that employment policy must take due account of the interrelationship between employment objectives and other economic and social objectives and, in particular, should seek to stimulate economic growth and development, while increasing the standard of living and addressing the issue of unemployment and underemployment. ***In light of the above, the Committee requests the Government to provide specific examples of how consultation is ensured with representatives of workers' and employers' organizations and with representatives of persons affected by the measures to be taken as regards the design, development, implementation, monitoring and revision of the active labour market measures adopted, with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies, in accordance with Article 3 of the Convention.***

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

## Djibouti

### Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 25 August 2022. It also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022. The Committee notes that both observations raise issues in relation to the application of the Convention.

*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)

#### Previous comment

*Articles 3 and 9 of the Convention. Legal status and conditions governing the operation of private employment agencies (PEA). Prohibition of child labour.* The Committee notes the Government's report indicating the amendment of Proclamation No. 923/2016, after the consultation of the Ministries of Foreign Affairs, Employment and Health, immigration authorities, the Federal Technical and Vocational Education and Training Institute, the regional state labour offices, the general attorney, and PEA associations (referred to as stakeholders), through Proclamation No. 1246/2021, which is applicable to overseas employment relations. With this amendment, the Government indicates that it aimed at facilitating the mediation of skilled and semi-skilled workers abroad, which has commenced with the implementation of Proclamation No. 923/2016 as of May 2017, resulting in the lifting of the ban on PEAs. The Government states that the 621 PEAs operating in the country since are engaged in mediating workers to Jordan, Qatar, Saudi Arabia, and the United Arab Emirates. The Government further indicates that PEAs cannot provide placement services to persons below 18 years age of and that violations result in the revocation of the license and that no violations have been recorded. **The Committee requests the Government to provide detailed information on the legal status of all PEAs, operating domestically or in a cross-border context, following the entry into force of Proclamation No. 1246/2021, as well as on the conditions governing their operation (Article 3 of the Convention). It also requests the Government to indicate the consultations held with the most representative organizations of employers and workers with a view to defining the legal status of PEAs. Should PEAs not be regulated by appropriate national law and practice, the Government is requested to indicate whether a system of licensing or certification has been put in place. Finally, the Government is requested to supply copies of abstracts of annual reports of labour inspection services or other bodies responsible for monitoring compliance with the labour law framework indicating how the prohibition for PEAs to place persons under 18 years of age in employed is enforced in practice. The Government is also requested to indicate the specific and concrete measures taken or envisaged to ensure that child labour is not used or supplied by PEAs in a cross-border and domestic context, in accordance with Article 9 of the Convention.**

*Article 7(2). Fees and costs.* The Committee notes the Government's indication that according to Proclamation No. 923/2016, employers and migrant workers are to cover their own expenses and that the stakeholders were consulted as regards the authorized exceptions to Article 7(1) of the Convention. The Committee notes that section 4 of Proclamation No. 1246/2021, which introduces a new subparagraph 5 to section 10 of Proclamation No. 923/2016, stipulates that any worker employed overseas through an employment agency, except in domestic work, is required to remit an amount



equivalent to up to one month's salary to the employment agency, distributed over four payment periods. It also notes that the other payment obligations for workers in section 10 of Proclamation No. 923/2016 remain in effect. The Committee recalls once again that the competent authority may authorize fees or costs to be charged to workers only for services provided in their interest, and after consulting the most representative organizations of employers and workers. **The Committee requests the Government to supply information on the conditions under which the above fees may be charged and the types of services provided by PEAs in exchange of such fees.**

*Article 8(1) and (2). Protection and prevention of abuses of migrant workers placed abroad.* The Government reports that four bilateral labour agreements/memoranda of understanding were concluded with Arab Gulf countries and that it exchanges information with governments of destination countries in addition to collaborating with PEA in Ethiopia and their counterparts overseas, Ethiopian missions and communities. The Committee notes that according to section 5 of Proclamation No. 1246/2021, which replaces section 12 of Proclamation No. 923/2016, the mediation of labour abroad prerequisites a bilateral agreement or memorandum of understanding, respectively, for the mediation of skilled labour, as well as a government permission ensuring the rights and safety of the workers. Furthermore, section 6 of Proclamation No. 1246/2021 foresees the establishment of the Ethiopian Overseas Employment Board to coordinate relevant stakeholders and to ensure the strengthening of the implementation of overseas employment and the protection of Ethiopians employed overseas. **The Committee requests the Government to provide updates on the development and implementation of bilateral labour agreements concluded with countries receiving migrant workers from Ethiopia with the objective to prevent abuses and fraudulent practices in the recruitment, placement, and employment of Ethiopian migrant workers abroad. Additionally, the Committee asks the Government to supply copies of these agreements and information on the advancements in establishing the Ethiopian Overseas Employment Board.**

*Articles 11, 12 and 13. Adequate protection and allocation of responsibilities. Cooperation between the public employment service and private employment agencies.* **In the absence of specific information regarding the manner in which effect is given to these Articles 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. It also requests the Government to supply information on 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. It further requests the Government to provide detailed updated information on the manner in which effect is given to Article 13 of the Convention and to provide extracts of the reports submitted by private employment agencies to the public employment service as well as to specify the information that is made publicly available.**

*Articles 10 and 14. Adequate machinery and procedures for the investigation of complaints. Supervision, remedies and penalties.* The Government reports that most complaints pertain to delays in the payment of monthly salaries, workloads, and sickness, and that PEAs are encouraged to solve these with their counterparts, partly involving Ethiopian missions. For 2021, 55 to 60 complaints were registered for the more than 16.000 workers abroad. The Government also states that PEAs refusing to solve a complaint are suspended from their activity until the complaint is settled. **The Committee requests the Government to 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.**

## Japan

### Employment Service Convention, 1948 (No. 88) (ratification: 1953)

#### Previous comment

The Committee notes the observations of the Japanese Trade Union Confederation (JTUC-RENGO) as well as of National Confederation of Trade Unions (ZENROREN) communicated with the Government's report. **The Committee requests the Government to provide its comments in this regard.**

*Articles 1, 2, 3 and 11 of the Convention. Contribution of the employment service to employment promotion.* The Committee notes the Government's update on legislative and other initiatives implemented during the reporting period and on the number of the entities forming the public employment service (PES) in May 2023. Public Employment Security Offices were present in 436 locations, two of which are dedicated to day laborers; Public Employment Security Branch Offices were present in 95 locations, four of which are dedicated to day laborers, and Public Employment Security Branch Stations were present in 13 locations. The Government reports that in 2022, this nationwide network of PES offices and the independently implemented employment measures of local governments, which also offer free employment placement services, assisted 2,819,752 jobseekers and mediated 652,431 into employment; in January 2023, 262,643 received assistance, resulting in 42,931 employment placements. The Committee notes the observations of JTUC-RENGO, emphasizing the need to improve the cooperation of the Public Employment Security Office and local governments, as well as other organizations to enable foreigners in Japan and abroad to find employment and improve their integration into the community. The Committee also notes that in reply to its questions, the Government, while describing the relationship between the PES and private placement businesses as non-exclusive, indicated that as part of the Hello Work programme, PES widely provides information to its private partners and also directs jobseekers to those partners. **The Committee requests the Government to provide information on the legislative measures and initiatives implemented and the impact and effectiveness of those. It requests the Government to provide more detailed information on the manner in which the synergies between the PES and the private employment agencies are ensured. It also requests the Government to continue to provide information on the number of: public employment offices established, employment applications received, vacancies notified and persons placed in employment by the PES, disaggregated by central and local levels. Lastly, in light of the observations made by JTUC-RENGO, the Committee requests the Government to provide information with respect to the type and scope of employment services provided to migrant workers.**

*Articles 4 and 5. Participation of the social partners.* The Government indicates that the deliberations of the Employment Security Division of the Labour Policy Council, composed of workers and employers from the public sector addresses, inter alia, job placement and vocational guidance, promoting reemployment particularly for older persons, regional employment development, and labour and demand systems in the private sector. **The Committee requests the Government to continue to provide information on the contributions made by the social partners within the Labour Policy Council or any other tripartite body, including at the local government level, in the organization and operation of the PES and the development of employment service policies.**

*Article 7(b). Measures to meet the needs of particular categories of applicants for employment.* The Committee notes that in reply to its previous request, the Government describes measures targeting former nursing and care workers, as well as mothers. It also elaborates on the proposed legislative measures considered by the Subcommittee on Employment of Persons with Disabilities of the Labour Policy Council and the measures focusing on persons with disabilities, including workers with mental disabilities. **The Committee requests the Government to provide detailed information concerning the arrangements made to give effect to this Article, including the occupations, industries and special categories of jobseekers for which special arrangements have been made.**

*Article 9. Staff of the PES.* The Committee notes the observations of ZENROREN, deploring lay-offs of permanent employees and their replacement with non-permanent workers. In April 2023, there were 20,123 non-permanent employees, while there was a decrease in permanent workers from 1968 to 2023, falling from 14,606 to 10,219 officials in April 2023 – a level significantly lower than in other industrialized countries. According to ZENROREN, the fluctuation of non-permanent staff, who are employed for between one and three years, negatively affects their training and therefore reduces institutional memory and the quality of services they provide. ZENROREN claims that negotiations in this respect with the Government were unsuccessful, and calls for more permanent employment in the PES. **The Committee requests the Government to provide detailed information concerning the status and conditions of service of the employment services staff, and general information concerning the methods of recruitment and selection of this staff. Furthermore, it requests the Government to indicate the arrangements made to ensure the training of employment service staff for the performance of their duties, including: (a) arrangements for their initial training at the time of appointment to the service; and (b) arrangements for subsequent training.**

## Employment Policy Convention, 1964 (No. 122) (ratification: 1986)

### [Previous comment](#)

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC-RENGO) and those made by the International Organisation of Employers (IOE), transmitted by the Government together with its 2023 report. The Committee also notes the observations made by 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 in September 2022 and the Government's comments thereon from November 2022.

*Articles 1 and 2 of the Convention. Employment trends and active labour market measures.* The Committee notes that in response to its previous observations, the Government provides an overview of various employment measures and initiatives undertaken across different sectors, including in the areas of skill development, work-life balance, support for specific groups such as women, youth, the elderly, and persons with disabilities, and the integration of foreign human resources. The Government emphasizes the need for collaboration between the public and private sectors to enhance labour productivity, upgrade workers' skills, and promote social participation. More particularly, the report informs that the Japan Revitalization Strategy has been succeeded by the "Grand Design and Action Plan for a New Form of Capitalism", approved by the Cabinet on June 7, 2022. The new plan emphasizes the strengthening of investment in human capital, recognizing the importance of people in the context of major changes like digital transformation and energy transformation. A 400 billion Japanese yen package of measures over three years will be implemented to support skill development, re-employment, and advancement for workers, including non-regular employees. Initiatives from the "Long-term Vision for Overcoming Population Decline and Vitalizing the Local Economy in Japan" are being implemented to encourage active participation in society for women, youth, the elderly, and people with disabilities. Efforts for women include mandatory action plans, disclosure of information, certification of excellency for employers, and support for work-life balance, with subsidies provided to SME employers. The Government further indicates that youth employment initiatives continue under the Act on the Promotion of Employment for Young People and that support for the elderly includes lifelong participation support counters, Silver Human Resource Centers, and the "Lifelong Participation Community Development Environmental Improvement Project." Moreover, the "Basic Principle for Labour Policies" emphasizes the reform of work styles and outlines the significance of preparing an environment for accepting foreign human resources. In this respect, the "Guidelines for Employment Management of Foreign Nationals" guide the Labour Bureaus and Hello Work in conducting seminars for employers employing foreign nationals, aiming to improve employment management. The

Government also mentions the existence of procedures for determining and reviewing employment measures, including amendments to labour laws, and involve inquiries and reporting by the Labour Policy Council, which has a tripartite composition and includes representatives of the public sector, labour, and management. ***Referring to the specific comments it is also formulating in respect of the specific occupational groups referred to above, the Committee takes due note of this information and requests the Government to provide detailed updated information on the impact of these measures on the employment situation in the country. It also requests the Government to continue to provide updated detailed information, including statistics on employment trends, disaggregated by age, sex and economic sector, as well as data on labour productivity and the share of disposable income held by the poorest sections of the population. The Committee also again reiterates its request to the Government to provide detailed updated information on the procedures for deciding on and reviewing employment measures implemented within the framework of an overall economic and social policy.***

*Employment of women.* With reference to its previous comments in relation to women's employment, the Committee notes the information provided by the Government in its report in respect of: (i) the revision of the Act on Promotion of Female Participation and Career Advancement in the Workplace to require employers with more than 100 regularly employed workers to assess the status of and analyse issues related to women's active participation in their enterprises; and also require employers to develop an action plan including numerical targets to promote women's participation; (ii) the revision of the Child Care and Family Care Leave Act to establish a flexible childcare leave framework for men and require employers to create a workplace environment that makes it easier for them to take childcare leave; (iii) raising awareness of labour laws by preparing comic-style learning materials on labour laws and distributing them to schools and universities; the Government also dispatches officials from the Labour Bureau to schools to give lectures on labour-related laws and regulations; (iv) the provision of guidance on career-tracking systems – the Government refers to the guidelines on important considerations for employers which provide examples of cases that immediately conflict with the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment, as well as examples of matters that should be considered for more appropriate and smooth operation of the systems; and (v) the enforcement of the law – strict measures being taken against employers who use career-tracking systems for de facto gender-segregated employment management. Pursuant to the report, these steps have led to some progress in promoting gender equality in the workplace. For example, the employment rate of women in Japan has increased from 51.3 per cent in 2018 to 53.0 per cent in 2022. However, more work needs to be done, with the percentage of women in management positions still at a relatively low level. The Government indicates it is committed to continue taking steps to promote gender equality in the workplace.

The Committee notes that, pursuant to the observations made by JTUC-RENGO, while 53.4 per cent of employed women work in non-regular forms of work, this is the case for only 22.2 per cent of employed men – less than half of the rate of women for the same category. The assessment of women's active engagement should not rely solely on increased employment numbers but also consider the quality of their employment. Japan's low ranking of 125th out of 146 nations in the Gender Gap Index (GGI) is attributed to delayed gender equality efforts in politics and economics. The Government's "Priority Policy for Women's Active Engagement and Gender Equality 2023" targets a 30 per cent ratio of women in prime listed companies by 2030, but urgent issues persist, particularly for non-regular female workers. Deeply rooted gender roles contribute to many women working as non-regular employees, with men's limited involvement in housework and childcare exacerbating the issue. Efforts to disclose information through the Act on Promotion of Women's Engagement are deemed insufficient by JTUC-RENGO, emphasizing the need for comprehensive analysis and corrective measures. Despite the 2023 revision of the Childcare and Family Leave Act, men's parental leave rates remain low, requiring the government to incentivize and foster a culture valuing work-life balance during childcare. While recognizing the Government's steps against gender discrimination in career-tracking, JTUC-RENGO calls

for more to ensure employer compliance and investigation into potential covert use of diverse regular employee systems to circumvent the Equal Employment Opportunity Act.

Taking into account the above information, the Committee considers that, in the context of a labour market impacted by a diminishing and ageing population, increasing the employment of women by reducing disincentives to work in the tax and social security system and by further expanding childcare and breaking down labour market dualism, would result in positive employment outcomes and would also help lower income inequality and boost productivity by potentially also encouraging firm-based training. ***The Committee therefore requests the Government to continue to provide detailed updated information, including statistical data disaggregated by sex, age and type of employment contract, on all measures taken or envisaged to promote women's access to decent and lasting employment, including in managerial and decision-making positions, and prevent gender-based discrimination. Taking into account the observations formulated by the JTUC-RENGO, the Committee requests the Government to continue providing information on measures aimed at promoting equitable sharing of family responsibilities that enable both women and men to exercise their right to better reconcile their professional and family responsibilities and ensure equality of opportunity and treatment in workplaces on the basis of both sex and family responsibilities. It also requests the Government to continue providing information on the restrictions related to the gender-based career-tracking system to ensure that women and men enjoy freedom of choice in employment and occupation, as contemplated in Article 1(2)(c) of the Convention.***

***Older workers.*** In reply to the Committee's previous requests, the Government outlines initiatives addressing the challenges and opportunities linked to increasing life expectancy, with the goal of establishing a lifelong active society allowing elderly individuals desiring to work to continue doing so regardless of age. Measures include actions to ensure stable employment, such as the Act on Stabilization of Employment of Elderly Persons, requiring enterprises to secure employment until age 65 and granting subsidies to those extending employment for workers aged 66 or older. Recognizing that needs are diverse, the Government encourages, on a non-binding basis, enterprises to adopt measures for work until age 70. As of June 2022, almost all enterprises with 21 or more employees have implemented such measures. The Government plans ongoing guidance for smaller enterprises. Support for Re-Employment includes increasing lifelong participation support counters, a career agency project for retirees, and subsidies for enterprises hiring middle-aged and elderly workers. Diversified local employment opportunities are promoted through the "Lifelong Participation Community Development Environmental Improvement Project" and Silver Human Resource Centers. The Committee takes due note of the above measures and wishes to stress that promoting the labour force participation of older workers is of utmost important and requires a multifaceted strategy that addresses demographic challenges, enhances economic productivity, ensures the sustainability of social security systems, and fosters the well-being of individuals and society as a whole. ***The Committee requests the Government to continue to provide detailed updated information on the impact of the measures taken to promote productive employment of older workers, indicating in particular: (i) assessments of how older workers' workforce participation can contribute to sustained economic growth and of what is the impact of continued employment of older workers on the entry in the labour market of women and young persons; (ii) how measures taken to promote labour force participation of older workers have contributed to addressing the demographic challenges and imbalances and mitigate the economic impact of a shrinking labour force; (iii) the expected effects of the continued participation of older workers to the labour force on overall economic productivity and social security sustainability, taking into account that Japan assumes obligations under Part V of the Social Security (Minimum Standards) Convention, 1952 (No. 102); (iv) whether encouraging continued employment is accompanied in any way by a reduction in retirement options or incentives for older workers; and (v) whether and how older workers' workforce participation has helped address skilled labour shortages and maintain the competitiveness of certain industries but also contributed to knowledge transfer to younger***

**generations and active ageing fostering a sense of purpose and social connection, reducing the risk of social isolation.**

*Article 3. Consultations.* In reply to the Committee's previous comments, the Government reiterates that important matters relating to the enactment, revision and enforcement of laws and regulations on employment policies are deliberated at the Labour Policy Council. This council, operating under the tripartite principle with representatives from the public interest, workers, and employers, serves as a platform for deliberations. Meanwhile, the Government has had consultations with the representatives of employers and employees affected by employment policies. Discussions held and opinions submitted at related councils are reflected in the designing and planning of employment policies. Since June 2016, the Labour Policy Council has held approximately 850 sessions (including Subcommittees and Working Groups) to discuss reviews of the Employment Security Act and the Vocational Abilities Development Promotion Act. As to the manner in which representatives of those affected by the measures concerned are consulted, the Government refers to the example of how employment policies taking into account the needs of persons with disabilities are developed, stating that tripartite participants, together with representatives of persons with disabilities broadly express their opinions at the Subcommittee for the Employment of Persons with Disabilities under the jurisdiction of the Labour Policy Council. In its observations received with the 2023 Government report, the JTUC-RENGO, referring to the "Grand Design and Action Plan for a New Form of Capitalism", considers that it is important that matters pertaining to employment and labour, which are of significant importance, undergo thorough discussions within the Labour Policy Council which operates under the tripartite principle involving the government, workers, and employers, and the outcomes of these discussions should be incorporated into government policies. The translation of these discussions into concrete policies and measures is forthcoming, and it is therefore imperative that these decisions are made through careful deliberations. In this respect, it is essential to consider the perspectives of workers and employers, who possess a deep understanding of workplace dynamics, in the Labour Policy Council. **The Committee requests the Government to continue to provide information on the activities of the tripartite Labour Policy Council with respect to the development, implementation and review of employment policy measures and programmes, and the manner in which they are coordinated with other economic and social policies.**

Moreover, the Committee also notes that in their observations from September 2022, 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) refer to serious issues arising from the 2017 revision of the Local Public Service Act. The trade unions assert that the principle of tripartite consultation in the revision of labour laws, specifically for the Public Service Act, has been neglected. This lack of consultation contradicts the process observed for the revision of general labour laws. The unions assert that this situation goes against the purpose of *Article 3* of the Convention. This revision has not only impacted basic labour rights but has also impacted employment policy in the public sector by creating a new category of public employees with renewable contracts of up to one year. This category now constitutes 30 per cent of the local government workforce, 76.6 per cent of which are women. According to the unions-, a main concern relates to the annual renewal of these contracts, leading to arbitrary personnel evaluations and terminations for reasons such as maternity, childcare, sickness, union activities, or expressing concerns to the administration. In its response to these observations, the Government considers them to be factually incorrect and indicates that the Local Public Service Act does not establish the principle of life term employment and that the establishment of the non-permanent employee's system is intended to optimize the appointment and treatment of temporary and part-time staff. Non-permanent staff appointed for a fiscal year can be reappointed to a position with the same job duty after their term ends, indicating a new appointment to a different position without extending the term or guaranteeing reappointment to the same position. Finally, the Government stresses that the introduction of the non-permanent staff system was intended to encourage the appointment and treatment of temporary and

part-time staff. In addition, before adopting this reform, the Government organized a study group which included experts, as well as the Japanese Trade Union Confederation (RENGO), the Japan Business Federation (Keidanren), and local governments. The study group held hearings, both with representatives of workers and of employers, to discuss the best way to appoint non-permanent staff. **The Committee notes this information and requests the Government to indicate whether, after 5 years of implementing this new system, it is intended to carry out an assessment with a view to identifying potential insufficiencies and improving employment policy in the public sector, in consultation with the social partners, and all other interested parties, in line with Articles 2 and 3 of the Convention which require that measures taken to achieve the objectives of the Convention be kept under review and that representatives of the persons affected be consulted with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies.**

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

## Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1992)

### Previous comment

The Committee notes the observations of the National Union of Welfare and Childcare Workers (NUWCW) received on 27 August 2018 as well as the response of the Government in that regard, transmitted with its report.

The Committee also notes the additional observations of the NUWCW received on 26 October 2023 and the observations of the Japanese Trade Union Confederation (JTUC-RENGO) communicated with the Government's report received on 29 August 2023. **The Committee requests the Government to provide its comments on these observations.**

*Articles 1, 2 and 3 of the Convention. Employment promotion for persons with disabilities.* In reply to the Committee's previous comments on the nature and impact of measures taken to achieve the statutory employment quota for persons with disabilities, the Government reiterates that guidance is provided to companies in the elaboration of employment plans and that non-compliant employers are publicly named and required to pay a levy of 50'000 Japanese yen per month, per person under the quota. The Government adds that, in the fiscal year (FY) 2021, 27,553 employers were required to pay the levy and that, in the period FY2018-FY2021, the names of seven non-compliant companies were disclosed. The Government further indicates that, starting from FY2024, additional support will be provided to persons with disabilities regarding the interviews and the development of professional skills throughout their careers. The Committee also notes that, in its 2023 observations, the JTUC-RENGO states that the Government is planning to increase the statutory employment quota for persons with disabilities to 2.7 per cent in 2024. The Committee however notes that the Government does not provide comments on the observations submitted in 2016 by the NUWCW (and reiterated in 2018) according to which the levy system in place to sanction non-compliant employers is not effective, as it is less costly to pay the levy than to employ persons with disabilities.

Regarding the impact of the measures implemented, the Committee notes the Government's indication that 613,958 persons with disabilities were employed in the private sector as of June 2022, representing a 2.7 per cent increase (16,172 persons) compared with June 2021. The Committee also notes the Government's indication that the employment rate of persons with disabilities has been steadily increasing over the last decade, reaching 2.25 per cent in 2022 (against notably 2.20 per cent in 2020 and 1.92 per cent in 2016). The Committee further notes that, based on the statistics provided by the government, among the persons with a disabilities in employment in private companies, 58.1 per cent have a physical disability (357,767 persons), 23.8 per cent have an intellectual disability (146,426 persons), and 17 per cent have a mental disability (109,764 persons). Among the persons with physical

disabilities, the Government indicates that 3.83 per cent are visually impaired (13,697 persons), 8.96 per cent are hearing or equilibrium impaired (32,059 persons), 31.41 per cent are orthopedically impaired (112,241 persons), and 22.64 per cent are internally impaired (81,011 persons). The Committee however notes that the Government does not address the observations submitted in 2016 by the NUWCW, according to which the statistics provided do not reflect the actual employment situation of persons with disabilities, neither in terms of number nor quality. In terms of number, the NUWCW observes that the Government conducts a survey on the employment of persons with disabilities once every five years, whereas it carries out a Monthly Labour Force Survey on the employment of workers in general. In terms of quality, the NUWCW observes that the increased employment rate of persons with disabilities has been accompanied by declining wages, an increase in non-regular employment and deteriorating working conditions. The Committee further notes that the Government does not provide updated information on the number of companies that meet the statutory employment quota for persons with disabilities. In that regard, the Committee notes that, in its 2023 submission, the JTUC-RENGO observes that less than half of companies (48.3 per cent) meet the statutory employment quota. This represents a decrease in compliance of one per cent, compared with the data provided by the JTUC-RENGO in 2017 (48.8 per cent). The JTUC-RENGO also observes that 58.1 per cent of companies do not employ any person with disabilities. Observing that a large majority of these companies are small and medium enterprises (SMEs), the JTUC-RENGO suggests providing SMEs with financial support to hire persons with disabilities.

Recalling the objective of the Convention to have in place effective and periodically reviewed policies and measures in place to ensure effective access to the open labour market to all categories of persons with disabilities, based on the principle of equality of treatment between workers with disabilities and workers generally, the Committee notes with **concern** that, in spite of the measures indicated by the Government in its report, only less than half of enterprises comply with the legal quotas for the employment of persons with disabilities and that no decisive corrective measures seem to have been taken, in consultation with the social partners and representatives of persons with disabilities, to address this persisting situation. **The Committee therefore requests the Government to provide updated information on any amendment to the Act on the Promotion of the Elimination of Discrimination against Persons with Disabilities, including with regard to the statutory employment quota for persons with disabilities. Moreover, noting that imposing sanctions is a necessary component to ensure compliance, the Committee recalls that, in order to be effective and reach its objectives, these sanctions also need to be sufficiently dissuasive and requests the Government to indicate any measures taken or envisaged with a view to assessing and, if necessary, reviewing the currently applicable regime of sanctions so as to achieve better compliance with the primary objective of the laws on employment of persons with disabilities. In this respect, the Committee requests the Government to continue to provide updated information on the impact of the measures taken to achieve the statutory employment quota for persons with disabilities, including information on the number of companies which meet the quota, information on the impact of the financial and reputational sanctions imposed on non-compliant companies, and information on the employment of persons with disabilities in the open labour market. Noting that only seven non-compliant companies have had their names disclosed to the public, the committee asks the government to provide detailed information on the process for identifying companies whose names are disclosed. The Committee also requests that the Government continue to provide updated information on the nature of other measures taken to achieve the statutory employment quota for persons with disabilities, including measures to raise awareness of the capacities of persons with disabilities, overcome prejudice unfavourable to the employment of persons with disabilities and encourage their employment in SMEs. In that regard, the Government is requested to supply statistics disaggregated by sex, age and nature of the disability, to the extent possible. The Committee also requests the Government to provide its**



**comments on the observations mentioned above from the NUWCW and from the JTUC-RENGO to which it has not yet replied.**

*Article 5. Consultations with the social partners.* The Government reiterates that the Labour Policy Council's Subcommittee on the Employment of Persons with Disabilities, which includes representatives of the Government, representatives of employers, representatives of workers and representatives of persons with disabilities, sets the objectives of the employment policies for persons with disabilities, implements these policies and evaluates their outcomes. As an example, the Government points to the 2022 revision of the Act on the Promotion of the Elimination of Discrimination against Persons, and the subsequent amendment of the Basic Policy on Employment Measures for Persons with Disabilities. The Government indicates that the revised texts were adopted following a discussion within the Labour Policy Council's Subcommittee. The Government adds that the texts reflect the opinion expressed by the members of the Subcommittee. The Government further indicates that discussions regarding the social welfare of persons with disabilities take place in another forum, namely the Social Security Council's Subcommittee on Persons with Disabilities, composed of representatives of persons with disabilities, representatives of the Government, representatives of the employers, and experts. The Committee notes, however, that the Government does not address the concerns raised by the NUWCW in 2016 (and clarified in its 2018 observations) regarding the absence of the Japan Council on Disability and of other relevant organizations when the revision of the Comprehensive Support Act for Persons with Disabilities was being discussed in 2016 before the Social Security Council's Subcommittee on Persons with Disabilities. **The Committee therefore requests the Government to respond to these observations and to provide concrete examples of the manner in which the views and concerns of the social partners and representatives of organizations of and for persons with disabilities are systematically taken into account in the formulation, implementation and evaluation of the policy on vocational rehabilitation and guidance and the employment of persons with disabilities.**

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

*Articles 1(3) and 3. National policy aimed at ensuring appropriate vocational rehabilitation for all categories of persons with disabilities. (a) Criteria used to determine whether a person with disabilities is considered to be able to "work under an employment relationship" (paragraph 73 of the tripartite committee report, GB.304/14/6).* The Committee recalls the recommendations of the tripartite committee established by the Governing Body to examine a representation alleging non-observance by Japan of the Convention (304th Session, March 2009). The Committee also recalls that it has been entrusted with following up on implementation of the recommendations of the tripartite committee. In this context, the Government has provided updated information in its report on the implementation and results of measures taken to promote employment for persons with disabilities. Regarding the measures taken to increase employment and income-generating opportunities for persons with severe disabilities, the Government reports that, as of November 2022, approximately 36,000 persons with disabilities were participating in employment-related activities under the Employment Transfer Support Programme (ETSP). The Committee notes that this represents a 16 per cent increase since 2015 (31,000 persons). The Government adds that, as of November 2022, 320,000 persons were participating in Type-B programmes (designed for persons facing difficulties working under an employment relationship, while nevertheless offering them productive activities). The Committee notes that this represents a 39 per cent increase in users compared with 2015 (230,000 persons). The Government also indicates that, in 2021, approximately 21,000 persons transitioned from Employment Transfer Support Programme to employment in the open labour market. The Government points out that this reflects an 800 per cent increase over the last 15 years. The Government further indicates that, in 2021, 2,027 persons transitioned from the Type-B to the Type-A programme (designed for persons with disabilities considered able to work under an employment relationship). The Committee notes that this amounts to a significant decline in comparison with 2016 (2,646 persons). With regard to measures taken by

public employment service offices, the Government refers again to the continued implementation of the “team support” model, which provides support to persons with disabilities from employment through to workplace adaptation. The Government adds that in FY2021, 36,024 persons were eligible to receive employment support through “team support”, resulting in 19,661 individuals finding employment, representing an employment rate of 54.6 per cent. The Government also indicates that, as of November 2022, 2,991 establishments were providing employment transition support and 1,534 establishments were offering “employment retention” support. The Government further indicates that, since FY2011, the transition to employment on the open labour market has been facilitated through the deployment of employment support coordinators at “Labour Bureaus” with specialized knowledge in the employment of persons with disabilities. ***The Committee requests the Government to continue providing detailed updated information on the measures taken or envisaged to increase employment and income-generating opportunities for persons with severe disabilities that have difficulties entering into an employment relationship and accessing the open labour market. The Committee also requests the Government to continue providing updated information on the number of persons transferring from Type-B programmes to Type-A programmes and into regular employment, as well as on the impact of measures implemented by the Public Employment Security Office to assist persons with disabilities in transitioning from welfare to employment on the open labour market.***

(b) *Bringing work performed by persons with disabilities in sheltered workshops within the scope of the labour legislation (paragraph 75 of the tripartite committee report).* In response to the concerns raised by the NUWCW in its 2018 observations regarding the dismissal of persons with disabilities in Type-A workplaces, the Government indicates that, between 2017 and 2018, several companies operating Type-A workplaces used the public subsidies to develop other, non-welfare related businesses, resulting in the closure of the Type-A workplaces. The Government indicates that, in response, the criteria for allowing a company to run a Type-A workplace were reassessed and it was decided that the wages of the persons with disabilities should be paid from the earning of their activities. The Government adds that non-compliant employers are required to submit a management improvement plan and are provided with assistance in that regard. The Government reports that, as a result, compliance with the rules on the payment of wages in Type-A workplaces improved by 70 per cent in 2017 and by 60 per cent in 2022. In response to the NUWCW’s allegations that some providers of Type A programmes use article 7 of the [Minimum Wage Act](#) (which allows for applying a reduction rate to the minimum wage) in an abusive manner, the Government indicates that article 7 aims at avoiding potential loss of employment opportunities for persons with disabilities. The Government adds that employment with a reduction rate is carefully regulated as it needs to be approved by the relevant prefectural labour bureau, after an on-site investigation has been conducted. Regarding Type-B programmes, in response to the NUWCW’s allegations that persons with disabilities are not provided with the same legal protections as other workers, the Government indicates that persons with disabilities engaging in production activities in Type-B workplaces are typically not considered to be “workers” as they do not sign employment contracts, are free to choose their work hours and workload, and may engage in work without being supervised. The Government adds that if an employment-subordinate relationship exists between a person with disabilities and a Type-B workplace, that person is considered a worker and falls within the scope of labour legislation. The Government does not address the observations made by the NUWCW’s in 2016, according to which the employment support services provided do not take into consideration the vocational needs of persons with disabilities.

In view of the above, the Committee also recalls that, considering the Convention’s objective to fully integrate persons with disabilities into society and of to fully recognize their contribution to society, bringing the work they perform in sheltered workshops within the scope of labour legislation, to the extent appropriate, appears to be crucial (Tripartite committee report, [GB.304/14/6](#), paragraphs 74–75). The Committee also recalls that *Article 4* of the Convention establishes the principle of equal opportunity between workers with disabilities and workers generally. Moreover, Paragraph 10 of [Vocational](#)

Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), accompanying the Convention indicates that measures should be taken to promote employment opportunities for workers with disabilities which conform to the employment and salary standards applicable to workers generally (General Survey 2020 on *Promoting employment and decent work in a changing landscape*, paragraph 764). The Committee also wishes to stress that, in accordance with paragraphs 25 and 35 of the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), persons with disabilities should not as a result of their disability be discriminated against in respect of wages and other conditions of employment if their work is equal to that of persons with no disability and that where and to the extent to which statutory regulation of wages and conditions of employment applying to workers generally is in operation it should apply to persons with disabilities employed under sheltered conditions. The Committee further wishes to recall that work performed by persons with disabilities in sheltered production workshops with a view to vocational rehabilitation, irrespective of whether it is performed under an employment relationship, should meet certain minimum standards if it is to contribute effectively to the Convention's objective of social and occupational integration of persons with disabilities. **The Committee therefore requests the Government to provide updated information on the nature and impact of the measures taken to ensure that the treatment of persons with disabilities in Type-A and Type-B workplaces is in line with the principle of equality between workers with disabilities and workers generally enshrined in the Convention (Article 4). Regarding type-A programmes, the Committee requests the Government to provide updated information on the measures taken to ensure the quality management of Type-A workplaces. The Committee also requests the Government to provide detailed updated information on the measures taken or envisaged to ensure that the general principle of equal remuneration for work of equal value, as set out in the Preamble of the ILO Constitution, is duly respected regarding the wages of persons with disabilities. The Government is further requested to provide detailed information on the use of a reduction rate (article 7 of the Minimum Wage Act) in relation to the wages of persons with disabilities, including information on the number of persons with disabilities affected by this measure, the nature of their disabilities, the type of work performed, and the reduction rate applied. Regarding Type-B programmes, the Committee requests the Government to provide detailed information on the measures taken or envisaged to ensure the quality of vocational rehabilitation services and to bring the work performed by persons with disabilities within the scope of labour legislation.**

(c) *Low pay for persons with disabilities carrying out activities under the Type-B programmes (paragraph 76 of the tripartite committee report).* In response to the Committee's previous comments, the Government reiterates that, in 2007, it adopted a Five-year wage-doubling plan. The Government also refers again to the Wage improvement plans implemented in each prefecture, which set targets for improving wages. The Government adds that the prefectures have continued to formulate Wage improvement plans, renewing them every year since FY2012. The Government further indicates that additional initiatives regarding the wages of persons with disabilities include showcasing Type-B workplaces that are proactive in wage enhancement and organizing trainings to increase management awareness in that regard. The Government reports that these initiatives resulted in a 35 percent increase in wages within Type-B programmes in FY2021 compared to FY2006. The Committee however notes that the Government does not provide information enabling the Committee to assess the evolution in wages for persons with disabilities during the period covered by the Government's report, that is, namely between 2017 and 2023. The Committee also notes that the Government does not respond to the 2016 observations from the NUWCW according to which there is an increase in the proportion of persons with disabilities living on an annual income below 1,000,000 yen, and a wage gap of 284,762 yen between persons with disabilities in Type-B programmes and the average worker. The Committee further notes that, in its observations communicated in 2023, the JTUC-RENGO submits that information on Type-B wages should be made public and investigated. **The Committee requests the Government to continue to provide information on the measures taken or envisaged to ensure equality**

**of wages for persons with disabilities participating in Type-B programmes. The Committee also requests the Government to provide updated information on the impact of these measure, including information enabling the Committee to assess the evolution in wages during the period covered by the Government's report. The Committee also requests the Government to provide its comments on the observations above-mentioned from the NUWCW and from the JTUC-RENGO to which it has not replied.**

(d) *Service fees for participants in Type-B programmes (paragraphs 77 and 79 of the tripartite committee report).* In response to the observations made by the NUWCW in 2016, the Government reiterates that persons with disabilities in low-income households are exempted from paying welfare service fees, including those related to Type-A and Type-B programmes. The Government reports that, as of November 2022, 92.7 per cent of the users of welfare services, including participants in Type-B programmes, were using these services free of charge. The Committee notes that this percentage appears to remain stable since November 2016 (93.3 per cent). The Government adds that persons with disabilities who pay as service fee contribute to the costs of the welfare services based on their individual financial capacities. **The Committee encourages the Government to continue taking and implementing positive measures in this regard and requests updated information on their impact.**

*Articles 3, 4 and 7. Equality of opportunity between persons with disabilities and workers generally. Double counting of persons with severe disabilities in relation to the quota system (paragraphs 81 and 82 of the tripartite committee report).* The Committee notes the Government's indication that the number of persons with severe disabilities in employment in companies has continued to increase, from 109,765 in June 2016, to 125,433 in June 2022, representing a 14.3 per cent increase. The Committee also notes that, in response to the NUWCW's request that the system of double counting persons with severe disabilities be reconsidered, the Government reiterates, once again, that the double-counting system is effective and necessary to promote the employment of persons with severe disabilities. **In view of the above observations of the NUWCW, the Committee requests the Government to provide information on whether it is envisaged to carry out, in consultation with the social partners and the representative organisations of persons with disabilities, an assessment on the efficiency of the double-counting system. In that regard, the Committee requests the Government to provide concrete examples illustrating the assertion that the double-counting system contributes to the promotion of the employment of persons with severe disabilities. The Committee also requests the Government to continue to provide statistical information on the employment of persons with disabilities.**

*Reasonable accommodation (paragraph 83 of the tripartite committee report).* The Government reiterates that the Act on the Promotion of the Employment of Persons with Disabilities provides for the obligation to provide reasonable accommodation and that various guidelines were introduced on the prohibition of discrimination against persons with disabilities and the provision of reasonable accommodation. The Government adds that Prefectural labour bureaus and public employment service offices are actively engaged in communication, consultation, and other initiatives related to providing reasonable accommodation. The Government reports that, in FY2021, public employment service offices provided guidance to 244 employers who failed to comply with the legislation on reasonable accommodation. The Committee notes that the Government does not provide information on the number of employers who have implemented reasonable accommodation measures. The Committee also notes that the Government does not provide comments on the observations submitted by the NUWCW (in 2016) and by the JTUC-RENGO (in 2017), according to which the Act on the Promotion of the Employment of Persons with Disabilities only applies to private companies and does not establish a conflict resolution mechanism. In that regard, the Committee notes the observations submitted in 2018 by the NUWCW, highlighting the case of a visually impaired teacher who was dismissed based on her alleged inability to teach and who had to pursue legal action for the Japanese courts to find that the lack of reasonable accommodation, rather than her disability, hindered her ability to teach. The Committee also notes that, in its 2023 observations, the JTUC-RENGO submits that 49 per cent of business owners are unaware that, when the revised Act on the Promotion of the Employment of Persons with Disabilities

comes into effect on 1 April 2024, they will be under the legal obligation to provide reasonable accommodation, instead of a mere obligation to make an effort in that regard, as it currently stands. **The Committee requests the Government to provide updated information on the nature and results of measures taken concerning the provision of reasonable accommodation in the workplace, in private companies and in public organizations. Recalling that legislation and policies should provide for financial or other incentives to encourage employers to provide reasonable accommodation where necessary, the Committee requests the Government to provide information on the measures taken or envisaged to that effect. The Committee is further requested to provide information on the number of employers who have provided reasonable accommodation in the workplace. Furthermore, the Committee requests the Government to provide its comments on the aforementioned observations from the NUWCW and from the JTUC-RENGO to which it has not yet replied.**

### Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

#### Previous comment

The Committee notes the observations of the Japanese Trade Union Confederation (JTUC-RENGO), received together with the Government's report. **The Committee requests the Government to provide its comments in this respect.**

#### Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the Constitution of the ILO)

In its previous comments, the Committee recalled the recommendations of the tripartite committee established to examine a representation alleging non-observance by Japan of the Convention (GB.313/INS/12/3). It expressed the firm hope, in the same way as the tripartite committee, that amendments to the Act for Securing the Appropriate Operation of Worker Dispatch Undertakings and the Protection of Dispatch Workers (Worker Dispatch Act) would ensure "adequate protection" for all workers employed by private employment agencies in accordance with *Articles 1, 5 and 11* of the Convention. Noting that the Bill for partial revision of the Worker Dispatch Act was enacted on 11 September 2015, the Committee requested the Government to provide detailed information on the above Act in relation to each of the provisions of the Convention. The Committee notes the information provided by the Government on the 2018 amendments to the Worker Dispatch Act which, among other things, require temporary work agencies to ensure that the dispatched workers receive equal and balanced treatment by the user enterprise, including through the conclusion of labour-management agreements. The Committee notes that these amendments entered into force on 1 April 2020. In its observations, JTUC-RENGO refers to the 2022 amendments to the Employment Insurance Act, which also amended the Employment Security Act to broaden the definition of private employment agencies that compile and provide information on job vacancies (*Article 1(1)(c)* of the Convention) and subject these agencies to legal restrictions. Additionally, the Committee notes the Government's reference to a June 2022 decision of the Supreme Court concerning section 40-6 of the Worker Dispatch Act, as amended in 2015, which recognized the establishment of a contract of employment between a user enterprise and an illegally dispatched worker, based on the worker's intention. **The Committee requests the Government to provide detailed updated information in its next report on the content and application of the Worker Dispatch Act, as amended, in relation to the provisions of the Convention.**

*Articles 1, 5 and 11 of the Convention. Definitions. Equal treatment by private employment agencies. Measures to ensure adequate protection for workers employed by private employment agencies.* The Government indicates that the 2015 and 2018 amendments to the Worker Dispatch Act did not include any changes relevant to *Article 1* of the Convention. The Government points out that the Worker Dispatch Act defines worker dispatch as "having a worker employed by one person so as to be engaged in work for another person under the instructions of the latter, while maintaining the worker's employment with the former". The Government considers that this definition is in conformity with *Article 1(1)(b)*. The Committee notes the observations of JTUC-RENGO with respect to the 2022 amendments to

the Employment Insurance Act and Employment Security Act, which broadened the definition of private employment agencies that compile and share data on job vacancies (as contemplated in *Article 1(1)(c)* of the Convention), and subject them to legal restrictions. The Government does not provide specific information with respect to the nature or extent of the restrictions mentioned. With respect to *Article 5* of the Convention, the Government reiterates that, pursuant to section 44(1) of the Worker Dispatch Act, the prohibition against discriminatory treatment set out in section 3 of the Labour Standards Act is applicable to temporary employment agencies (dispatching business operators) and user enterprises ("client operators"). The Government further notes that discriminatory treatment in relation to pregnancy, childbirth, childcare leave and nursing leave is prohibited under the relevant national legislation, which is applicable to both temporary employment agencies and user enterprises under sections 47-2 and 47-3 of the Worker Dispatch Act. In this context, the Government adds that if violations of labour standards-related laws and regulations are found, corrective guidance is provided. With respect to *Article 11* of the Convention, the Government indicates that as part of the revision of the Worker Dispatch Act, unreasonable differences in treatment of dispatched workers and permanent employees were eliminated, and information obligations in regard to dispatched workers were strengthened. The Government adds that 53.3 per cent of temporary work agencies indicated that they had increased wages following the 2018 amendments to the Worker Dispatch Act. JTUC-RENGO observes that regulations were established for equal and balanced treatment of dispatched workers by the 2018 amendments to the Worker Dispatch Act, expressing its view that the amendments represent improvements for dispatched workers to eliminate working condition disparities. It nevertheless indicates that the amendment has not resulted in an increase in dispatched workers' total take-home wages, with almost half the temporary work agencies reporting no changes. It considers that further action is needed to effectively enforce the amended Worker Dispatch Act. JTUC-RENGO adds that dispatched workers' contracts were disproportionately affected by terminations during the COVID-19 pandemic and calls for effective measures to be taken to ensure stable employment for this category of workers. With respect to employment stability and career progression, the Government reiterates that the 2015 amendments to the Worker Dispatch Act require temporary work agencies to provide dispatched workers with education and training, and career guidance for those wishing to receive such training. In addition, prior to the 2015 amendments, temporary work agencies were required to make efforts to promote the conversion of a certain number of fixed-term dispatched workers to permanent employment. The Government notes that this requirement creates an obligation for dispatched workers, who are expected to be employed for three years, with a lesser obligation (to make efforts) for workers, who are expected to be employed for more than one year but less than three years. The Government indicates that the 2018 amendments to the Worker Dispatch Act require temporary work agencies to ensure equal treatment of dispatched workers with regular employees of the user enterprise through labour-management agreements meeting certain requirements. With respect to the application of the amendments concerning the promotion of employment stability, career development and ensuring equal treatment, the Government indicates that 377,418 dispatched workers received career guidance, 3,236,152 received education and training for career development and 547,984 workers benefited from employment stability measures. ***In light of the observations of JTUC-RENGO, the Committee requests the Government to provide detailed updated information, including disaggregated statistical data, on the content, scope and impact of the amendments to the Worker Dispatch Act on the job stability, career development, equal treatment and adequate protection of dispatched workers in accordance with Articles 5 and 11 of the Convention. In addition, noting that private employment agencies within the meaning of Article 1(1)(c) of the Convention are now subject to legal restrictions following amendments introduced in 2022 to the Employment Insurance Act and the Employment Security Act, the Committee requests the Government to provide information on the nature and scope of these restrictions and the manner in which they are applied and enforced.***

*Articles 10 and 14. Investigation of complaints and adequate remedies.* The Committee notes the information provided by the Government with respect to amendments introduced to the Worker Dispatch Act in 2018. The amendments establish new procedures to facilitate the resolution of disputes by the relevant prefectural director, as well as conciliation processes carried out by dispute coordinating committees in matters arising from violations of the Act. The amendments seek to promote the resolution of disputes without having recourse to the courts, as well as to accelerate the resolution of disputes concerning equal pay for equal work brought by dispatched workers. The Government further indicates that these 2018 amendments include provisions aimed at eliminating unreasonable differences in treatment, strengthening the obligation to explain the conditions of their employment to workers, and developing alternative dispute resolution procedures. With respect to complaints mechanisms, the Committee notes that in 2021, 69 complaints of violations of the Worker Dispatch Act were registered with the Minister of Health, Labour and Welfare. It notes the Government's indication that, pursuant to section 49-3 of the Worker Dispatch Act, the temporary work agency and the user enterprise are prohibited from taking any retaliatory action against the dispatched worker for bringing a complaint. In 2021, the Minister received 69 notifications pertaining, inter alia, to disguised contracting. In its observations, JTUC-RENGO indicates that, while a certain number of administrative penalties have been imposed for violations of the Worker Dispatch Act, between 2018 and 2022 there were cases of illegal dispatches, including double dispatches, and action to remedy these has been insufficient. In addition, the workers' organization considers that, while strengthening the inspection system in relation to private employment agencies, it should take action to ensure that dispatched workers employed through problematic agencies are able to continue in appropriate employment. The Government reports that in 2020, there were 1,562,090 dispatched workers, of which 610,683 were permanent dispatched workers. In the same year, violations recorded resulted in: 8,258 cases of documented guidance, six orders for improvement, two orders suspending business operations and ten cases of license revocation for violations of the Worker Dispatch Act. In the same year, private employment agencies received 17,346,112 new job applications. There were 1,967 cases of documented guidance, three orders for improvement, two orders for business suspension and three license revocations for violations of the Employment Security Act. The Government adds that the public prosecutor's office opened 129 criminal proceedings for violations of the Employment Security Act and 39 proceedings for violations of the Worker Dispatch Act. ***The Committee requests the Government to provide detailed updated information with respect to the remedies available in the event of violations of provisions of the Convention. It also requests the Government to continue to provide information on the number and type of complaints recorded concerning dispatched workers, the outcome of the complaints and penalties imposed, where relevant. The Committee requests the Government to provide information regarding inspections carried out in relation to temporary work agencies and the results of such inspections. The Committee also requests the Government to provide information on whether the national courts or other review bodies have rendered decisions relevant to the application of the Convention, particularly Articles 1, 5 and 11, and to provide the texts of these decisions.***

## Madagascar

### Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

#### [Previous comment](#)

The Committee notes the observations of the General Confederation of Workers' Unions of Madagascar (FISEMA) and the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received on 1 September 2022. The Committee also notes that the Government's report contains observations attributed to FISEMA but that the latter are identical to the above-mentioned observations of FISEMARE and that FISEMA indicates in its observations that it did not receive the

Government's report. ***The Committee requests the Government to communicate its comments on the observations received by the social partners.***

*Articles 1 and 2 of the Convention. Implementation of an active employment policy.* In its previous comments, the Committee noted 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) had been adopted with an Operational Plan of Action (PAO) containing the various policy priorities for the implementation of the PNEFP. In its report submitted in August 2022, the Government indicates that achievements under Act No. 2015-040 on the PNEFP and its PAO are being approved and that a new policy is being developed in collaboration with the stakeholders. The Government adds that the recent main achievements under the PNEFP are: operationalization of steering and coordination partnership committees; establishment of a vocational skills information monitoring system; upgrading of the centres for technical and vocational education and training/skills development; establishment of the National Malagasy Certification Framework; training of ministry officials in Competency-Based Approach (CBA) engineering and training of trainers. With regard to the impact of the PNEFP on employment and unemployment rates, the Government indicates that a periodic household survey is currently being carried out. The Government adds that, according to the third General Census of Population and Habitat, conducted in 2018, the unemployment rate remains low, despite a rise of 0.4 percentage points compared to 2010 (that is 4.2 per cent in 2018 compared to 3.8 per cent in 2010). With regard to the impact of the PNEFP on the transition from the informal to the formal economy, the Government notes that the latest National Survey on Employment and the Informal Sector dates back to 2012, which is before the adoption of the Act on the PNEFP. In 2012, 95.1 per cent of jobs were in the informal sector. In 2020, the National Employment and Training Office (ONEF), in cooperation with the ILO, performed a diagnostic of the informal economy in the construction sector, a priority sector according to the PNEFP. According to this study, which involved 62 enterprises in three regions of the country, while 76.3 per cent of enterprises in the construction sector are "formal", 43.5 per cent of workers in these enterprises are informally employed. With regard to the economic policy of Madagascar and its contribution to the employment objectives as set forth by the Convention, the Government indicates that information in this regard was not transmitted by the departments concerned. With respect to the measures taken or envisaged to create lasting employment among specific categories of workers, the Government indicates that, as part of the implementation of the Initiative for Development in Madagascar (IEM) and in line with the will of the Malagasy State to promote entrepreneurship and job creation for vulnerable persons, the Ministry of Labour, Employment, the Public Service and Social Laws (MTEFPLS), in collaboration with its technical and financial partners, has initiated the following projects and programmes: the monitoring plan for the road map on capturing the demographic dividend; an empowerment programme for vulnerable women; the creation of an internship center; vocational training for young baccalaureate holders and for those in the final year of high school; the *Sera ben'ny asa* program; and employment forums. Furthermore, the National Vocational Training Centre for Persons with Disabilities provides two types of training: professional training leading to qualification (FPQ) and apprenticeships in core occupations (AMB). In 2021, 191 persons with disabilities were trained through FPQ and 2,085 persons with disabilities were trained through AMB.

With regard to the observations of the social partners, the Committee notes that FISEMA denounces the absence of an employment promotion policy in Madagascar. It observes that the 2015 PNEFP and the texts adopted subsequently, in particular the PAO, have been suspended or even abandoned. It considers that there is a significant delay in issuing a replacement document. The Committee also notes that FISEMARE, while acknowledging the establishment of an employment and vocational training policy, points out that this policy has not had the expected impact on the unemployment rate and the informal economy. FISEMARE indicates that there is still a mismatch between training provision and the job market, that persons in positions of responsibility are poorly



qualified and that the matter of poverty is far from resolved. According to FISEMARE, the employment policy must be implemented and subject to periodic monitoring that will result in amendments to the policy where needed.

The Committee recalls that the objective of the Convention is to stimulate economic growth and development, raise levels of living, meet manpower requirements and overcome unemployment and underemployment through the application of an active policy designed to promote full, productive and freely chosen employment (*Article 1* of the Convention) (see the [2020 General Survey on promoting employment](#), paragraph 39). ***In this regard, the Committee once again requests the Government to provide information to enable it to examine the manner in which the main components of the country's 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. In addition, the Committee requests the Government to provide information on the results of surveys, studies and other work, regarding the impact of the PNEFP, adopted in 2015, on employment, unemployment and the transition towards the formal economy. In addition, the Committee requests the Government to provide a copy of the periodic household survey, mentioned in its report, once it has been completed. The Committee also requests the Government to continue to provide updated information on any measures implemented to reduce unemployment and underemployment, create lasting jobs for specific categories of workers, such as women, persons with disabilities, rural workers and young persons, and to ensure the transition of the informal to the formal economy. Further, the Committee requests the Government to continue to provide information on the training delivered by the national vocational training centre for persons with disabilities. With regard to the new employment policy, which is currently being developed, the Committee requests the Government to provide information on the progress made in its preparation. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.***

*Coordination of the education and training policy with the employment policy.* With regard to the results of the actions taken to ensure the coordination of vocational education and training policy with employment policy, the Government indicates that it has developed various programmes and objectives in order to capture the demographic dividend in Madagascar. In particular, the Government has: set up a system of validation of skills and experience; strengthened the structures for training trainers; established a system of partnership with enterprises for the revision of training curricula; and developed vocational training for young persons who are out of school in centres for socio-economic promotion. With respect to the results achieved by the implementation of these programmes in terms of access of qualified young persons to lasting employment, the Government indicates that the departments involved have not provided the information requested. The Government also indicates that the relevant departments have not provided the information requested concerning the impact of the measures taken to promote the creation of small and medium-sized enterprises. ***The Committee requests the Government to indicate how the objective of coordination of the education and training policy with the employment policy will be taken into account in the new employment policy that is being drawn up. It once again requests the Government to provide information on the results achieved through the implementation of the coordination programmes for these policies in terms of access for qualified young persons to lasting employment. The Committee once again 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.* In its previous report, the Government referred to a partnership project with the ILO relating to a system of databases on employment and indicated that it had started to establish a Regional Employment Service (SRIE). With regard to the system of databases, the Government indicates that an order was issued in 2018 establishing a Vocational Training and Labour Market Information System (SIMTFP). However, following financial difficulties encountered by ONEF and a change in the organizational structure of the competent ministry, the operationalization of

the SIMTFP, initiated with the help of the Office, has been suspended. ONEF currently plans to set up a digital platform, named e-KANDRA, to help to match job supply and demand, and to ensure the circulation of information in the labour market. With regard to the implementation of the SRIE, the Government indicates that it has been operational in five regions. The Government considers that the SRIE has facilitated the collection and use of employment data. In particular, the use of an application has made it possible to gather information and transmit it to ONEF for processing and analysis. However, the application only worked for one year because, as the operating budget of the SRIE was cut due to COVID-19, its hosting was discontinued. The MTEFPLS is currently looking for ways to relaunch and develop the SRIE. The Government highlights that ONEF has also carried out several studies on employment since 2018, in particular on: the situation of young people in the labour market, the participation of women in working life and at decision-making levels, the employability and inclusion of persons with disabilities, child labour, the indicators of Sustainable Development Goal 8 for decent work, the informal economy in the construction sector, skills demand in the tourism, hotels and catering sector, and the lack of and opportunities for decent work in the textile value chain. The Government has not transmitted these studies nor the information they contain. The Committee notes that the data available to the ILO Statistics Department (ILOSTAT) for Madagascar date back to 2015. ***The Committee requests the Government to continue to provide detailed and up-to-date information on the measures taken to gather data on the labour market and use them to implement or review employment policy. In this respect, it invites the Government to provide further information on the e-KANDRA digital platform project, as well as on a possible relaunch of the Vocational Training and Labour Market Information System (SIMTFP) and the Regional Employment Service (SRIE). The Committee also requests the Government to provide copies or extracts of reports, surveys, studies and up-to-date statistical information on the labour market trends, particularly on employment, unemployment and visible underemployment, disaggregated by sex and age.***

*Article 3. Participation of the social partners in the formulation and implementation of policies.* The Government indicates that the two structures for developing the new national employment policy – the coordination unit and the technical implementation committee – include employers' and workers' representatives. More specifically, the coordination unit is composed of: two representatives of the Ministry of Technical Education and Vocational Training (METFP), two representatives of the MTEFPLS, one representative of the Prime Minister's Office, one representative of the Ministry of the Economy and Finance, two employers' representatives and two workers' representatives. The main task of the coordination unit is to outline the relevant points of the reform, enforce the deadlines set for the road map, and act as an intermediary between the members of the technical implementation committee and its consultants. The technical implementation committee is composed of: two representatives of the METFP, two representatives of the MTEFPLS, one representative of the Ministry of the Population, one representative of the Ministry responsible for young persons, five representatives of the sectoral ministries, two employers' representatives and two workers' representatives. The task of the technical implementation committee is to collect and analyse official documents, as well as information and observations from the stakeholders, and to subsequently prepare interviews and meetings, before consolidating the data gathered and supporting the development of the national policy document, while ensuring similar procedures as those for other existing reference texts. The Government also indicates that, during the broader national consultation on the reform of the Labour Code, representatives of persons with disabilities were invited and took part in the discussions. A representative trade union for persons with disabilities also took part in the discussions on the reform of the Civil Servants Regulations. The Government has not, however, provided any information concerning the consultations held on the employment policy with representatives of the most disadvantaged categories of the population, particularly the representatives of workers in rural areas and the informal economy. With regard to the observations of the social partners, the Committee notes that FISEMA regrets that the consultation with the social partners on employment policy issues is not carried out within the National Labour

Committee, that is, namely the body for tripartite consultation with the social partners on employment matters. FISEMA observes that the disfunctioning of the National Labour Committee prevents proper information and evaluation of Government action on employment matters, and that the existence of separate ministerial departments for employment and vocational training makes this work even more complex. FISEMA notes that requests for support for jobs affected by the COVID-19 pandemic have been rejected by the Government.

The Committee recalls that the Government is bound to consult representatives of employers and workers in order to take full account of their experience and views and secure their full cooperation in formulating such policies (*Article 3 of the Convention*) (see the 2020 General Survey on promoting employment, paragraph 94). The Committee notes, however, the disagreement between the Government and some of the most representative social partners concerning the manner in which national employment policy is designed and implemented. The Committee considers that in the absence of an effective dialogue among all interested parties, as required by the Convention, its proper implementation, which is already very complex, is made even more challenging or could be totally compromised. ***The Committee therefore requests the Government to provide information showing how the objectives of the Convention are pursued by properly involving the representatives from all interested parties, in particular in the context of the development of the new national employment policy. In this regard, it 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.***

*Part VII of the report form. Representative organizations consulted.* The Committee notes the Government's indication that it consulted the representative workers' and employers' organizations at a workshop to present and approve the report, held from 3 to 5 August 2022. The Government specifies that it sent a copy of the report to the Group of Enterprises of Madagascar (GEM) and to Fivondronan'ny Mpandraharaha eto Magagasikara (FivMpaMa) (for the employers' organizations), as well as to FISEMARE, FISEMA and the Christian Confederation of Malagasy Trade Unions (SEKRIMA) (for the workers' organizations). FISEMA notes, however, that it did not receive the Government's report. ***The Committee recalls that, in accordance with Article 23(2) of the ILO Constitution, the Government is bound to communicate the report to the representative organizations and requests the Government to provide its comments on FISEMA's observation that it did not receive the Government's report.***

## Mozambique

### Employment Policy Convention, 1964 (No. 122) (ratification: 1996)

#### [Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021. It further notes the observations of the International Organisation of Employers (IOE), received on 8 September 2021. In addition, the Committee notes the observations of the Workers' Organization of Mozambique (OTM), received on 1 September 2023. ***The Committee requests the Government to provide its comments in this respect.***

*Articles 1 and 2 of the Convention. Formulation and Implementation of an active employment policy and programmes.* The Committee notes with **interest** the series of measures taken by the Government to implement the objectives of the Convention. It recalls that, following receipt of ILO technical assistance, Mozambique developed its first National Employment Policy (NEP), entitled "Promoting More and Better Jobs for Mozambicans", adopted in October 2016. The NEP was developed through a process of consultation with the social partners and is centred around eight pillars: development of human resources; job creation; harmonization and prioritization of sectoral policies; promotion of decent, productive and sustainable work; improving the labour market information system; occupational health and safety; strengthening international cooperation; and cross-cutting issues. The NEP seeks to

stimulate the creation of new jobs, promote entrepreneurship and sustainable development to reduce poverty and contribute to the economic and social development of the country and the well-being of the population. An Action Plan (PAPE 2018–22) was launched in January 2018 to implement the NEP. The PAPE 2018–22 was subsequently reviewed to align it more closely to the Government's Five-Year Programme 2020–24. It was replaced in May 2021 by a new Plan of Action for the Implementation of the NEP (PAPE 2021–24). The Committee notes the significant challenges faced by the country, which include high rates of poverty, low levels of education and training, as well as the concentration of the workforce in subsistence agriculture and low-productivity informal enterprises, characterised by high levels of individual and household vulnerability, particularly in the northern half of the country. The Committee further notes the information provided by the Government with respect to the negative socioeconomic impacts of the Covid-19 pandemic. According to 2020 data from the National Statistics Institute (INE), 90.4 per cent of Mozambican enterprises were affected by the pandemic, leading to suspension of activities, reduction of working hours and suspension or termination of contracts and closure of businesses, affecting over three million workers. The Government took a series of social, economic, monetary and financial measures to respond to the pandemic. It also provides information on a series of policies implemented to promote employment in the framework of the PAPE 2021–24, including: the Industrial Policy and Strategy (PEI) (2016–25), whose main objectives are to increase industrial production, attracting investment and generating jobs, focusing on micro, small and medium-sized companies; the Commercial Policy and Strategy (PEC), which aims to stimulate trade in goods and services to respond to the needs of the internal market; the National Export Strategy (ENE) 2018–22, to support the industrialization process and create new jobs; the National Energy Strategy (2018–30); the Policy and Strategy for Standardization and Quality Policy and Strategy; the Strategy for the Development of Small and Medium-Sized Enterprises in Mozambique 2007–22. This last strategy aims, inter alia, to improve the business environment, increase the capacity of MSMEs and improve their access to financial services and markets. Finally, the Government refers to the adoption of the Plan of Action to Improve the Business Environment (PAMAN) 2019–21, which was developed through extensive consultation with the private sector and civil society. The Committee notes the observations of the OTM, which emphasizes the importance of the NEP and the PAPE 2021–24 to the workers' organizations. Nevertheless, the OTM expresses the view that the measures taken under section 5.3.1 of the NEP to improve employment and decent work in the agriculture and fishing sector are insufficient, adding that in most cases income levels are low and workers in this sector do not have access to social protection. The OTM further observes that stronger measures need to be taken to address unemployment levels in the country as well as to promote transition from the informal to the formal economy. In addition, with respect to job growth, the workers' organization indicates that, of the jobs registered in the second quarter of 2023, 76.5 per cent of these are temporary, with only 23.5 per cent being permanent jobs. Of the temporary jobs, 22.5 per cent are seasonal and 77.5 per cent are occasional jobs. The OTM maintains that precarious employment has increased in the country, whereas the objective under the NEP is to promote the creation of work that is decent, productive and sustainable (NEP section 5.4). ***The Committee requests the Government to provide detailed information, including statistical data disaggregated by sex, age and economic sector, on the impact of the initiatives taken under the National Employment Policy and its Action Plan 2021–24, as well as under the above-mentioned Strategies, on creating opportunities for women and men to access full, productive and freely chosen employment and decent work. The Committee further requests the Government to provide information on measures taken or envisaged to reduce precarious employment and promote the transition from informal to formal employment, in accordance with the Transition from informal to formal employment Recommendation, 2015 (No. 204).*** The Committee considers in this respect that employment policies indeed play a significant role in promoting transitions from the informal to the formal economy by addressing the factors that drive individuals and enterprises to operate informally, leading to more inclusive, productive, and resilient labour markets while also providing targeted

support to facilitate the transition process. **The Committee would therefore be interested to receive further information on specific measures taken to tackle the multiple challenges proper to the work in the informal economy, indicating in particular whether the measures taken or envisaged have included some of the following best practices observed internationally: (i) reducing administrative burden and red-tape; (ii) strengthening and extending social protection as a means to enrol enterprises and their workers; (iii) promoting access to finance and business development services, including access to credit and training, as these are often lacking for informal enterprises; (iv) enhancing labour market placement and intermediation and skills development services; (v) raising awareness and promoting formalization; (vi) tailoring policies to specific sectors and occupations as the informal economy is not monolithic, and informalization patterns vary across sectors and occupations; (vii) promoting dialogue and collaboration among all relevant stakeholders for effective policy formulation and implementation; and (viii) monitoring and evaluating policy impacts as this is crucial to assess policy effectiveness in promoting transitions from informality to formality. The Committee also requests the Government to continue to provide detailed up-to-date information, including statistical data disaggregated by sex and age, on the rates of informality in the country.**

*Article 2(a). Collection and use of labour market information.* The Committee notes the information provided by the Government with respect to the size and composition of the economically active population. The Government indicates that, according to the Family Budget Survey compiled by the INE for the period 2019–20, the overall unemployment rate fell from 21.7 per cent in 2019 to 17.1 per cent in 2020, with underemployment reaching 12.5 per cent. It adds that, by the end of 2020, a total of 184,477 unemployed persons were registered at the INEP Employment Centres (*Instituto Nacional de Emprêgo*), of which 26 per cent were women. The Government reports on the creation of 2,495 new jobs created by 196 new industrial businesses, ranging from micro, small, medium-sized and large enterprises. However, the Government indicates that, according to data compiled by the INE, the national economy shrank by 3.25 per cent in the second quarter of 2020 compared to the second quarter of the same year. It adds that the low rate of economic growth makes it ever more difficult to alleviate poverty and ease unemployment in the country. The Government also points out that formal salaried jobs constitute some 17 per cent of employment in Mozambique, noting that close to 80 per cent of the economy in Mozambique is informal. In its observations, the ITUC expresses the view that strong measures targeted at building a job-rich economy, promoting investment to create decent, stable and lasting employment and alleviate poverty need to be adopted. Moreover, the design and implementation of such measures must be based on in-depth analysis of the composition of the workforce, employment and labour market in the country. **The Committee requests the Government to provide information on measures taken to strengthen the labour market information system and to indicate the manner in which the information compiled is used to inform the design and implementation of employment policy and active labour market measures. The Committee also requests the Government to provide updated information, including statistical data disaggregated by age, sex and economic sector, on the current employment situation in the country, including trends in employment, unemployment and visible underemployment in the country.**

*Employment of young persons.* The Committee notes that the NEP sets specific targets for the employment of young persons. The Government reports that, as of 2021, young persons made up some two-thirds of the national labour force of 15,787,223 persons. It adds that around 21 per cent of young people residing in urban areas are unemployed, while in peripheral urban areas and rural areas young people are engaged in low productive activities. The Government indicates that it intends to increase formal employment opportunities, including through promotion of entrepreneurship. Beginning in 2021, the EMPREGA (*Employ*) programme is financing a business plan competition, through which 3,500 young companies will receive technical assistance to prepare business plans to create or expand their entrepreneurial activities. The Government also refers to the creation of a Fund to Support Youth Initiatives (FAIJ), implemented by the National Youth Institute, which provides material and financial

support for entrepreneurial initiatives by young Mozambicans in different areas, including agriculture, agro-processing, fishing, tourism, arts and culture, packaging and technological innovation. The FAIJ programme “My Kit, My Job” (MEU KIT, MEU EMPREGO), supports youth self-employment through allocating kits to young persons (such as block manufacturing kits and electricity installation kits). The Government also launched the Creative Youth Prize, recognizing young people whose actions impact the development of the community, including through entrepreneurial activities. In its observations, the IOE notes that the NEP calls for the promotion of youth entrepreneurship through training programmes in rural and urban areas, as well as increased access to credit, investments in training targeted at young persons and an increased number of traineeships available to young persons. The Committee also notes the adoption in June 2020 of the Plan of Action for Implementing the Youth Policy 2014–23 (PAIPJ 2020), which seeks to address the main challenges faced by young persons, including in accessing education and employment. The main objectives of the PAIPJ 2020 include the improvement of quality of life for adolescents and young persons, through promoting their access to education, health, employment, housing, as well as prevention of forced marriages and early pregnancies. In its observations, the ITUC notes from the Government’s statements at the 2021 International Labour Conference discussion that it had launched programmes to encourage internships and traineeships in certain sectors, such as the banking sector, as well as programmes to promote self-employment. ***The Committee requests the Government to provide updated detailed information, including statistical data disaggregated by age, sex and urban/rural area, on the nature and impact of the policies and programmes developed and implemented by the Government to promote full, productive, freely chosen employment and decent work for young women and men throughout the country. The Committee further requests the Government to provide additional detailed information regarding the content, scope and impact of the measures taken to promote youth entrepreneurship, including information on the entrepreneurship training and development programmes and their impact on job creation and increased access to opportunities for decent and sustainable employment of young women and young men.***

*Employment of women.* The Committee recalls that the NEP establishes specific lines of action aimed at promoting gender equality in economic and social development programmes, including: promoting the employment of women, including in traditionally male occupations; prioritising education and vocational training to promote equal employment opportunities for both women and men; and eliminating gender discrimination in access to employment. In its report, the Government also refers to the Government’s Five-Year Programme 2020–2024, which includes the promotion of gender equality in economic, social, political and cultural development. The Committee notes the information provided by the Government on a series of measures aimed at promoting gender equity, including: training 3,340 women in entrepreneurship and business management (135 per cent of the annual target of 2,542), 64 income generation projects financed by the FAIJ, with women making up 28 per cent of the beneficiaries, 741 kits allocated for self-employment in the areas of auto mechanics, sewing and electrical installation, benefiting 499 women (over 67 per cent of the beneficiaries), and training 14 women’s associations in the use of agro-processing techniques in two provinces: Gaza and Sofala. ***The Committee requests the Government to provide updated information on the nature, scope and impact of active labour market measures, including vocational guidance, education and training measures taken to facilitate women’s access to sustainable, lasting employment and decent work, particularly for women belonging to disadvantaged groups, such as women with disabilities or those living in rural areas.***

*Education and vocational guidance and training.* The Committee notes that access to secondary education in the country is limited and completion rates remain very low at 13 per cent. In its observations, the IOE points out that the relevance of education and vocational training to the needs of the labour market is also very low. In this context, the IOE suggests that technical education and vocational training policies and programmes should be defined and implemented in close consultation with employers’ organizations. The Committee notes the Government’s indication that extending access

to basic education for all Mozambicans is a central element of its poverty reduction strategy, with the aim of increasing access to sustainable employment opportunities. To this end, the Government has introduced reforms to the national education system, particularly in the area of technical vocational education and training. The Government reports that it has increased investment in general primary and secondary education, with a focus on promoting the increased integration of girls, increasing gender balance in schools and enabling more girls to attend technical courses. The Government provides additional information on measures taken to reduce drop-out rates, increase the quality and relevance of education, including by strengthening teacher training, and promote access to higher education. With respect to higher-level education and vocational training, the Government indicates that the number of students enrolled in university increased by six per cent from 2019 to 2020, and the number of those enrolled in technical education increased by five per cent during the same period. In 2020, 209,839 persons participated in vocational training, 61.7 per cent in private vocational training centres and the rest in public centres, including mobile units used in rural areas. The Committee notes that some one-third of the graduates (33.6 per cent) were women. The Government also provided 3,008 pre-professional internships during this period, in the areas of accounting, plumbing and mining. It adds that 1,174 women benefited from these internships. **The Committee requests the Government to provide updated information on the nature, scope and impact of the measures taken to provide quality education, vocational guidance and training, particularly on the impact of these measures on job creation and placement in employment for both women and men, especially those belonging to disadvantaged groups.**

*Article 3. Consultations with the social partners. Consultations with representatives of persons affected by the measures to be taken.* The Committee recalls that the NEP was examined and discussed within the tripartite Labour Advisory Commission (LAC) in May 2016, prior to its adoption. It further notes with **interest** that the Plan of Action for the Implementation of the NEP (PAPE 2021–24) was also discussed in the LAC, with the participation of the social partners prior to its adoption. However, the Committee notes the observations of the OTM, which indicates that, while the NEP was developed with the active participation of the social partners in 2016, the workers' organizations have not been effectively involved in its implementation. In its observations, the ITUC recalls that the LAC and the Development Observatory are the bodies entrusted with the responsibility of following up on the NEP. It nevertheless points out that, in the June 2021 International Labour Conference discussion on the application of the Convention by Mozambique, the Government provided no information on the involvement of the social partners in these two institutions. The ITUC considers that, for the NEP to be successful, it must fully include the social partners in its design, implementation and review, and calls for the establishment of strong mechanisms in this respect. **The Committee requests the Government to provide detailed updated information on the manner and extent to which the social partners are consulted in the implementation of the National Employment Policy, its Action Plan 2021–24 and all other employment policies and active labour market measures. In addition, the Committee requests the Government to provide information on consultations held with representatives of the groups affected by the measures to be taken, as required by Article 3 of the Convention.**

## New Zealand

### Employment Policy Convention, 1964 (No. 122) (ratification: 1965)

#### [Previous comment](#)

The Committee notes the observations of Business New Zealand (BusinessNZ) and of the New Zealand Council of Trade Unions (NZCTU), communicated with the Government's report, and the Government's responses thereto.

*Articles 1 and 2 of the Convention. Employment trends.* The Committee notes the Government's comprehensive information on the Review of Active Labour Market Programmes identifying

opportunities to strengthen support for workers facing economic displacement and persons with disabilities, including people with health conditions, as well as on legislative developments and the dialogue with the social partners in this regard. It further notes that the unemployment rate was characterized by low fluctuations within the last years and stood at 3.9 percent – 3.8 per cent for men and 4.1 per cent for women – in September 2023. Similarly stable was the employment rate for persons aged 15 and over, reporting at 69.1 per cent, with 73.9 per cent for men and 64.5 per cent for women, in September 2023. The employment rate saw an overall increase by 0.8 percentage points between the first quarter of 2017 and the first quarter of 2023, while that of the Asian population rose most significantly by 7.3 percentage points and women saw an increase by 2.1 percentage points. The only decreases during this period were among men compared to women and Pākehā compared to Māori, Pacific, and Asian ethnic groups, reporting a 0.2 per cent and 0.1 per cent decrease, respectively. With respect to underutilization, the Committee notes the Government's 2022 study, finding that it generally concerns more women and younger persons and those born in New Zealand and who live in larger households, with Māori persons being overrepresented in this group. BusinessNZ attributes the underutilization in particular of women and workers with disabilities to an overly protective regulatory regime. The Committee observes that, in September 2023, the total underutilization rate was 10.4 per cent (8.6 per cent for men and 12.2 per cent for women) which is low in comparison with other high-income countries. It also observes that labour underutilization is a broad concept that encompasses unemployment and other forms of mal-employment namely, insufficiency of the volume of work (labour slack), low remuneration (low earnings) and incompatibility of education and occupation (skill mismatch). In this respect, dedicated ILO reports have diagnosed that the problem in many developing countries is not so much unemployment but rather the lack of decent and productive work, which results in various forms of labour underutilization (that is, namely underemployment, low income, and low productivity). ***The Committee therefore requests the Government to continue to provide information on the results obtained in terms of decent employment generation in response to insufficiency of the volume of work, low remuneration and incompatibility of education and occupation. In the absence of information in this respect in the report, the Government is also requested to provide updated information on the measures taken or envisaged to create employment through the promotion of small and medium-sized enterprises. The Committee also requests the Government to continue to provide statistics concerning the size and distribution of the labour force, disaggregated by age and sex, as well as information on the employment situation and trends in employment, unemployment and underemployment/underutilization.***

*Active labour market measures.* In reply to the Committee's previous comments, the Government reported on the continued implementation and expansion of the Sector Workforce Engagement Programme, the Just Transitions Partnerships in Taranaki and Southland set up to proactively manage the effects of the potential closure of large regional employers and to enable just transitions for these workers and communities as well as the ongoing cross-agency Review of Active Labour Market Programmes (ALMP), which has identified gaps in terms of early intervention for workers facing displacement from the labour market and for workers with disabilities. Moreover, the Committee notes with ***interest*** two tripartite initiatives established by the NZCTU, BusinessNZ, and the Government: the Future of Work Tripartite Forum and the New Zealand Income Insurance (NZII) Scheme. The former continues to identify just transition priorities for New Zealand workforces in response to future of work megatrends and economic shocks focusing on at-risk workforces and communities to develop proactive policies that support workers at risk of labour market displacement to transition to secure employment. Catering in particular for workers becoming unemployed due to redundancy or firm closures and or whose ability to work has been impacted by a health condition or disability, the NZII Scheme was created in 2021 to provide them time and financial security to find a good job that matches their skills, needs and aspirations, or take part in training or rehabilitation for a new, fulfilling career. ***The Committee welcomes such integrated policies and measures meant to harness the potential offered by the***



**combination of employment and social protection policies to promote future-of-work-related transitions and decent work creation through participatory and inclusive processes anchored in effective social dialogue. It requests the Government to provide further detailed information on the effectiveness and impact of the above measures, as well as on the consultations held with the social partners with respect to their formulation, implementation and monitoring of such measures. The Committee also requests the Government to provide information on potential consultations held with other representatives of persons affected by such measures.**

*Persons particularly vulnerable to decent work deficits.* The Committee notes the employment actions plans, which, over a five-year period aim of improving labour market outcomes for underserved populations, including persons with disabilities, Māori, Pacific peoples, older workers, women, former refugees, recent migrants and ethnic communities. It further notes the central role attributed to the Ministry of Social Development in rendering, together with social sector providers, tailored support in this regard to take up or return to suitable and sustainable employment by targeting cohorts with specific barriers, such as Māori, Pacific People, and youth. Additional beneficiaries are, through specific pilot programmes, persons with disabilities, including persons with mental health conditions (Oranga Mahi programme). The Government further refers to its comprehensive review – called for also by BusinessNZ – of the ‘Tomorrow’s Schools’ program. The 2019 review report revealed deficits in adequately serving some learners, in particular Māori, Pacific People, persons with disabilities, persons with learning needs and those from disadvantaged backgrounds, which the Government envisages to combat with significant reforms to reset Tomorrow’s Schools. The Committee also notes the release, in 2019, of the Youth Employment Action Plan, targeted at improving young people’s education, training and labour market outcomes and focusing in particular on those 9,000 persons aged between 15 to 24 years who are not in education, employment or training for six months or longer and in which women, persons with disabilities and in particular Māori and Pacific Peoples, whose unemployment rates are around twice that of other ethnicities, are overrepresented. As part of the Youth Employment Action Plan, the Government works across the education, welfare and employment systems and partners with Māori and other communities to identify needs and intervene earlier and by improving career guidance and job brokering services. Finally, the Committee notes the Disability Action Plan 2019–2023 (Action Plan) developed together with persons with disabilities, the “Disabled People’s Organisation Coalition” and government agencies. Continuing similar action plans since 2011, the Action Plan aims at delivering the eight outcomes of the New Zealand Disability Strategy 2016–26 – education, employment and economic security, health and wellbeing, rights protection and justice, accessibility, attitudes, choice and control, and leadership – and contains a package of 25 cross-government work programmes to be implemented beyond 2023. **With reference to the measures referred to by the report, the Committee observes that active labour market strategies and measures are indeed more successful when tailored to specific employment barriers and circumstances faced by different groups like those identified above. At the same time, while certain of these measures may be effective for some subgroups of these groups, they may not be effective for others. Identifying and understanding the combinations of barriers faced by each subgroup allows for more effective and fine-tuned measures to be crafted. The Committee therefore requests the Government to provide updated, detailed information on the type and impact of employment measures targeting persons with decent work deficits such as youth, including young Māori and Pacific Peoples, women, and persons with disabilities. It further requests the Government to continue to provide information, including statistics disaggregated by age and sex, on the impact of education and training measures to facilitate obtaining lasting employment for young persons and other persons vulnerable to decent work deficits. The Committee also requests the Government to provide further information on the coordination of education and training policies with prospective employment opportunities, and on the consultations held with the social partners in this regard.**

## Nigeria

### Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 2010)

#### Previous comment

*Articles 1–4 of the Convention. National policy. Promoting opportunities in the open labour market for persons with disabilities.* The Committee notes with **interest** the adoption of the Discrimination Against Persons with Disabilities (Prohibition) Act in 2018, as well as the adoption of the National Policy on Disability (NPD) in 2018. The Act prohibits discrimination on the ground of disability by any person or institution in any manner or circumstance (section 1(1)), and further provides that a person with a disability has the right to work on an equal basis with others, including the right to the opportunity to gain a living by work freely chosen or accepted in an open labour market (section 28(1)). It also provides that all employers of labour in public organizations shall, as much as possible, have persons with disabilities constituting at least five per cent of their employment (section 29), and encourages their participation in politics and public life (section 30(1)). The Act also establishes the National Commission for Persons with Disabilities, whose powers include: (i) the establishment and promotion of inclusive school, vocational and rehabilitation centres for the development of persons with disabilities (section 37(j)); (ii) liaising with the public and private sectors and other bodies to ensure that their peculiar interests are taken into consideration in every government policy, programme and activity (section 37(k)); and (iii) receiving complaints made by persons with disabilities with respect to the violation of their rights (section 37(n)). For its part, the NPD envisages the implementation of measures in the area of vocational guidance, such as providing vocational training programmes and facilities; vocational guidance and information about different occupation to enable persons with disabilities to make informed decisions when choosing an occupation according to their interests and abilities. The NDP further provides for the implementation of measures in the area of employment, including ensuring effective participation of persons with disabilities in the employment process; as well as identifying and eliminating employment barriers, including by ensuring reasonable accommodation for persons with disabilities. The Committee notes that, according to the World Health Organization, in 2018, about 29 million of the 195 million people were living with a disability. It observes that access to decent work for persons with disabilities is a critical issue that requires the attention and efforts of a wide range of stakeholders. The Committee notes that there are often significant barriers that prevent workers with disabilities from accessing decent job opportunities which include stigma and discrimination, lack of accommodation and support, and a lack of awareness and understanding about the capabilities and potential of workers with disabilities. These barriers need to be tackled by way of crafting and implementing inclusive policies and legal frameworks which do not only establish the principle of non-discrimination but also specific measures facilitating access to the open labour market such as requirements to make reasonable accommodation in the workplace, to actively recruit and hire persons with disabilities, to provide training and support, or to foster an inclusive work environment. ***In this context and taking into account the measures taken over the last reporting period, the Committee requests the Government to provide follow-up information on the manner in which the newly adopted legislation and the national policy have been implemented in practice, communicating relevant secondary legislation as well as copies of evaluation reports and court decisions concerning the application of the principles of the Convention. The Committee also requests the Government to provide information on concrete measures implemented to promote the employment of persons with disabilities in the open labour market, notably in the case of women and girls with disabilities taking into account the physical and economic barriers they often face in gaining access to education and employment. Finally, it requests the Government to provide statistical information on the employment rate of persons with disabilities in the open labour market, disaggregated, as much as possible, by age and sex.***

*Article 5. Consultations.* The Committee notes that, according to the NPD (2018), although there are no legal provisions expressly requiring representatives of persons with disabilities to participate in policy making and work with government institutions, organizations of persons with disabilities do participate in practice in the planning, implementation and evaluation of services and measures that affect the lives of persons with disabilities. This Policy further states that the Government provides financial, organizational, and logistical support to organizations of persons with disabilities. **The Committee requests the Government to describe in detail the manner in which representative employers' and workers' organizations and organizations representing persons with disabilities are consulted in practice regarding the designing, implementation and evaluation of the vocational rehabilitation and employment policy for persons with disabilities and that of the NPD more generally. Furthermore, noting that the Discrimination Against Persons with Disabilities (Prohibition) Act provides that the National Commission for Persons with Disabilities, which comprises in its membership persons with disabilities from each geopolitical zone, liaises with the public and private sectors and the government to ensure that all policies, programmes and activities address the needs of persons with disabilities, the Committee asks the Government to consider extending the mandate of this commission to also conduct consultations with the social partners on matters covered by the Convention.**

*Articles 7 and 8. Services accessible to persons with disabilities, including in rural and remote areas.* According to the NPD, the Government has launched rehabilitation centres for vocational training of persons with disabilities and has adopted the Community Based Vocational Rehabilitation (CBVR), which includes vocational skills training at the community level. The Government further reports that it runs three vocational rehabilitation centres, namely: the Nigeria Farmcraft Centre for the Blind in Lagos; the School of Social Work in Enugu and Rehabilitation Centre in Gwarinpa FCT. The Committee notes that according to the 2020 World Bank report on Disability Inclusion in Nigeria, the government has established six rehabilitation and vocational centers to provide training to persons with disabilities, but most are in deplorable condition as a result of neglect by the authorities. The Committee notes from the Government's 2021 report submitted to the Committee on the Rights of Persons with Disabilities (CRPD) that the Lagos state government: (i) inaugurated in 2016 the governing board of the Office for Disability Affairs, to manage a 25 billion Nigerian Naira Employment Trust Fund for persons with disabilities; (ii) in 2017, empowered over two thousand persons with disabilities with financial grants, assistive technologies and mobility aids, and funded 500 persons with disabilities with 100,000,000.00 Nigerian Naira each as start-up grants to establish businesses of their own; and (iii) in 2018, employed 250 persons with disabilities in its public service. The NDP includes as part of its objectives to make necessary adaptations in existing public and private services and institutions which provides skills training in both urban and rural areas. **Noting the indication in the Government's report that, between 2019 and 2020, only some 48 persons with disabilities have received training, the Committee requests the Government to provide detailed information, including statistics, disaggregated by sex and region, on how the newly created vocational training centres have stepped up their activities with a view to providing a greater number of persons with disabilities with vocational rehabilitation and employment services to secure and retain lasting employment on the open labour market and to advance in employment, with a special emphasis on those in rural areas and remote communities.**

*Article 9. Training and availability of rehabilitation counsellors or other qualified staff.* The Committee notes that the Government's report only contains succinct information indicating that between 2019 and 2020, there were thirty-three qualified workers providing vocational guidance, vocational training, placement and employment of persons with disabilities. The Committee also notes that according to the 2020 World Bank report on Disability Inclusion in Nigeria, persons with disabilities are often limited in their choice of careers due to stigma and to the dearth of skilled professionals available to teach subjects, such as mathematics to visually impaired students. **In view of the above, the Committee does not consider the offer of employment-related services available to persons with disabilities to be**

***adequate considering its obligation to ensure training and availability of rehabilitation counsellors or other qualified staff for the vocational training and guidance as well as placement services to persons with disabilities. It therefore calls for efforts to be stepped up in this regard and asks the Government to supply further information as regards measures taken or envisaged with a view to improve the offer of services required by the Convention.***

## Paraguay

### Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

#### Previous comment

The Committee notes the observations of the Central Confederation of Workers Authentic (CUT-A), received on 30 August 2022. ***The Committee notes that it has received no response to these observations from the Government and requests it to provide its comments in this regard.***

*Articles 1 and 3 of the Convention. Active employment measures. Informal economy.* The Committee notes information from the Government on the approval in May 2022 of the National Employment Plan for 2022–26, which includes, inter alia, promoting the transition to formality through monitoring activities, stimulating labour intermediation, and building in greater advantages and incentives. In this regard, the Plan envisages the development of public and private action aimed at generating formal employment as the economy grows, with emphasis placed on young persons, women, and groups in vulnerable situations. The Committee also notes: (i) the adoption of the Employment Reactivation Plan for 2020–21, which includes promoting formal employment among its objectives; and (ii) the inauguration in 2018 of the Entrepreneurs' Training Centre (CEE), with the objective of providing guidance and increasing entrepreneurial skills to build sustainable enterprises or businesses, by promoting formalization of self-employment and enterprises, through mentoring, training, technical assistance and leveraging other actors of the national and international entrepreneurial system. The Committee notes the adoption in 2019 of the National Promotion and Formalization Plan for Developing and Increasing the Competitiveness of MSMEs, 2018–23, which includes among its five cross-cutting objectives the simplification of procedures to formalize MSMEs. Regarding measures adopted under the national employment policy to facilitate the transition to the formal economy in rural areas, the Committee notes that Decree No. 3678/20 of 2020, which regulates Act No. 5446/2015 on public policies for rural women, provides for: (i) the implementation of employment formalization programmes in rural areas, such as the inclusion of women workers in the social security system (IPS); (ii) the formulation of occupational training courses; (iii) the creation of first job policies for young rural women; and (iv) the provision of information on the voluntary inclusion of independent rural women workers in the IPS Social Security – Retirement and Pensions Fund. The Committee notes that the CUT-A stresses that no progress has been made regarding the informal economy. The Committee observes that the phenomenon of informality is related to the level of social and economic development and that there is a clear correlation between poverty and informality, as informal economy workers are frequently in a situation of poverty or extreme poverty. In many developing countries, a large part of the labour force is employed informally, often for their own account, but also as occasional workers, home workers, or domestic workers. In this connection, the Committee stresses how important it is that public policies addressing factors leading to informality include macroeconomic policies favourable to employment that support aggregate demand, productive investment and structural transformation to create formal employment, together with strengthened social security systems. It further highlights the importance of consulting the representatives of the social partners and persons working in the rural sector and the informal economy. Adapting policy support to the most affected and vulnerable groups in the informal economy, including women and young persons, will be crucial in the period following the COVID-19 crisis. Where a large part of the workforce works in the informal economy, it is essential that informal and rural workers' associations, where they exist, take part in the elaboration of national employment

policy with a view to fixing its primary objective: to ensure access to high quality and productive employment for the greatest number of persons under conditions that allow them to escape from poverty. **Noting the importance of an integrated strategy for the formalization of employment and for social security, the Committee requests the Government to provide detailed and updated information on the measures adopted with regard to employment policy and their impact on promoting the transition from the informal to the formal economy, in coordination with other public policies including, for example, social protection, education, fiscal and rural development policies.**

*Coordination of employment policy with economic and social policies.* The Government states that the Social Policy of Paraguay, which is part of the National Development Plan (PND) 2030, facilitates coordinated action between the sectoral bodies under the Executive and with the various Government echelons, civil society, the private sector, and with the judicial and legislative authorities. The Ministry for Social Development (MDS) was created in 2018 to design and apply policies, plans, programmes and projects relating to development and social equity through coordinated, inter-institutional action aimed at reducing inequalities and improving the quality of life of vulnerable populations and those living in poverty. In its previous comment, the Committee noted the implementation of the “Tekopora” cash transfer programme with co-responsibility, and of the “Tenoderã” programme to support socioeconomic inclusion. The Government reports that these programmes continue to operate: “Tekopora” covered 166,164 families during the first two months of 2022, of which 85 per cent were headed by women, with 80 per cent of the homes located in rural areas. The “Tenonderã” programme, operating in 14 departments, provided seed capital to 9,331 families in 2021; 83 per cent of the families were headed by women and 17 per cent headed by men. The Committee also notes from the report of the Office of the United Nations High Commissioner for Human Rights for the Human rights Council Universal Periodic Review, dated 1 March 2021, that “the Committee on the Elimination of Racial Discrimination (CERD) was concerned by reports of the precarious working conditions faced by many indigenous people, in particular on farms in the Chaco region” (A/HRC/WG.6/38/PRY/2, paragraph 33). The Committee observes that, in the context of planning national employment policies, coordination between the various parties concerned and between employment objectives and other economic and social objectives, as provided under *Article 1(3)* of the Convention, is essential, but can prove complicated due to differences of opinion. It also observes that the ILO has supported the creation of employment committees, informal consultations and drafting groups to promote coordination and that some countries have made use of existing structures, such as inter-ministerial committees, while others have established ad hoc committees to design national employment policies. The Committee emphasizes that, if the coordination is to be effective, the committees must be tripartite and inter-ministerial and must have power of decision. They must involve different ministries, including finance, planning and other sectors, as well as employers’ and workers’ organizations, civil society and development partners. The participation of influential bodies, such as national labour advisory committees or economic and social councils, has been beneficial in many countries. The Committee also emphasizes that high-level representation, including government leaders, can promote cooperation between the parties concerned. **Recalling that the Convention establishes the objective of employment policy to be stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, the Committee requests the Government to provide information on the measures adopted or envisaged to give full, productive and freely chosen employment a preponderant place in all growth and development strategies, in particular those concerning members of the indigenous peoples. The Committee also requests the Government to indicate the impact of cash transfer and seed capital programmes and initiatives referred to above.**

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

## Poland

### Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

#### Previous comment

The Committee notes the observations made by the Independent and Self-Governing Trade Union “Solidarność”, received on 1 September 2022. The Committee also notes the Government’s reply to these observations, received on 2 November 2022.

*Articles 1 and 2 of the Convention. Active employment policy and labour market measures.* The Committee notes the adoption of Poland’s Recovery and Resilience Plan (RRP) in 2021 in the framework of the European Union (EU) Plan “NextGenerationEU” providing funds to EU Member States to implement ambitious reforms and investments. Poland’s RRP includes a strong combination of reforms addressing bottlenecks to lasting and sustainable growth, and investments targeting at decarbonising the Polish economy, accelerating the digital transition and reinforcing Poland’s economic and social resilience. According to information available in the European Commission website, the green transition and digital transformation of the economy are at the core of the RRP’s policy response, representing 42.7 per cent and 21.3 per cent of the RRP’s investment streams and reforms, respectively. The RRP include measures that aim at improving the resilience of the labour market by, inter alia, improving the quality and adequacy of the functioning of labour market institutions, reaching out to and activating older workers or people from disadvantaged groups through upskilling and reskilling programmes, contributing to improving the labour market participation of women, and introducing incentives to remain active in the labour market after reaching the statutory retirement age. The RRP also includes a number of relevant measures to improve the business environment and investment climate. While noting the comprehensive reforms and measures envisaged in the RRP, the Committee recalls that the national employment policy shall take due account of mutual relationships between employment objectives and other economic and social objectives (*Article 1(3)* of the Convention). In this regard, the Committee wishes to recall also that, as a set of policies that have an impact on labour markets, employment policies not only include classical labour market and skills policies, but also sectoral, macroeconomic, investment, enterprise, social protection and other economic and social policies. Governments need to monitor all these policy areas together to genuinely understand their impact on employment creation and seek to ensure coordination across the various ministries involved. In the current times made of transformation and labour market transitions, governments, together with the social partners, need to analyse the impact of the drivers of the future of work (such as digitalization, structural shifts in labour markets, labour market transitions and gender impacts of automation) on social justice and how integrated employment policies can be harnessed to participate to this objective.

Furthermore, the Committee notes the approval of the 2022/2023 National Reform Programme (NRP) on 26 April 2022, in the framework of the economic and budgetary policy: the “European Semester”. The NRP envisages the adoption of measures to ensure effective institutions for the labour market, such as introducing new or improving the existing support instruments, reaching the inactive, supporting lifelong learning and improving the competences of public employment services (PES). Moreover, the Government refers to the implementation of the Operational Programme Knowledge Education Development (OP KED) and regional operational programmes (ROP) with the support of the European Social Fund (ESF). The OP KED focuses on the integration in the labour market of young people, vocational education and training and on participation of women in the labour market. The Government reports that the implementation of a set of measures is also envisaged to modernize the PES related to raising competences and lifelong learning, such as expanding the labour offices’ offer to include new groups of clients (including jobseekers and employees), and introducing a lifelong learning voucher, a partially redeemable education loan as well as a new apprenticeship formula. In addition, measures have been taken to promote the participation in the labour market of persons with family responsibilities, including providing assistance for childcare to parents and carers of children under the

age of three, and grants to employers hiring unemployed carers of persons with disabilities. Changes to the National Training Fund are also planned, including extending the access to the National Training Fund to self-employed and persons working under civil law contracts. Lastly, the Government reports that the draft Labour Market Act was not adopted and that a draft Act on professional activity has been prepared in order to replace the 2004 Act on Employment Promotion and Labour Market Institutions (hereinafter the 2004 Act).

The Committee also notes that, in its observations, Solidarność reiterates that, while the implementation of the employment policy has improved, more efficient measures are needed notably as regards adopting more effective legislative action and allocating greater financial resources to the Labour Fund dedicated to the professional activation of the long-term unemployed. It stresses the need to identify the skills demands of the labour market to ensure adequate industry training and observes that, under the new legislative reform, the obligation of developing a National Programme for Employment will be removed. In this regard, the Government observes that the National Programme will be replaced by the Public Employment Service Development Plan, which will be consulted with the Labour Market Council. It also indicates that the demands of the labour market are analysed by the Occupational Barometer and the Polish labour market forecasting system. With regards to the professional activation of the long-term unemployed, the Government indicates that they constitute one of the priority groups of labour offices, that the number of registered long-term unemployed is taken into consideration in the distribution of Labour Fund resources among the district labour offices and that a new proposed legislation will enable the transfer of larger amounts of resources to district labour offices where there is a high proportion of long-term unemployed. The Government further reports that, at the end of 2021, 9,300 long-term unemployed were registered in the labour offices. In 2021, 74,400 long-term unemployed benefited from active forms of support (non-subsidized work, internships or vocational training) and represented 26.7 per cent of the total activated unemployed. ***The Committee invites the Government to supply in its future reports details on how it prioritizes and tackles the above-mentioned challenges provoked by the transformations taking place in the world of work and labour market transitions at the national level, including in the framework of the Recovery and Resilience Plan (RRP), such as information on how the challenges associated to work on digital platforms have been addressed. It requests the Government to continue providing updated detailed information on the impact of the measures that are being taken to support the objectives of the national employment policy, including newly adopted laws and regulations adopted in the future, such as the Act on professional activity, as well as of the measures taken to promote the integration of the long-term unemployed in the labour market.***

*Employment trends.* The Committee notes that the Government indicates that, despite the negative impact of the COVID-19 pandemic, the labour market trends remained stable thanks to the support measures taken to address its impact. The employment rate for persons aged 15 to 64 increased from 67.4 per cent in 2018 to 70.3 per cent in 2021 (63.8 per cent for women and 76.8 per cent for men), the economic activity rate increased from 70.1 per cent to 72.8 per cent (66.1 per cent for women and 79.5 per cent for men). The unemployment rate slightly decreased from 3.9 per cent to 3.4 per cent. ***The Committee requests the Government to continue to provide detailed information, including updated statistics, disaggregated by sex and age, on the situation and trends of the labour market in the country, including information on employment, unemployment and visible sub-employment.***

*Workers under self-employment, civil law and fixed-term contracts.* The Government indicates that the practice of concluding civil contracts with persons who are in fact in an employment relationship is subjected to fines ranging from 1,000–30,000 Polish Zloty (PLN). It adds that compliance with laws and regulations concerning the employment relationship is ensured through the National Labour Inspectorate (NLI) and the existence of an employment relationship can be asserted and recognized in court. Nonetheless, the Government indicates that the specific characteristics of the operation of some sectors and the need of certain employers, may justify the use of civil law contracts, the application of

which requires complying with the minimum wage established and ensuring safe and healthy working conditions. The Committee also notes the Government's indication the draft act amending the Labour Code envisages the introduction of changes to the provisions on fixed-term employment contracts, such as the employer's obligation to indicate the reason justifying the termination of these contracts and to notify in writing the company's trade union. Solidarność maintains that, despite the reduction of the abusive recourse to self-employment, civil law contracts and fixed-term contracts, there is still a high level of use of such contracts. The Committee further notes that Solidarność emphasizes once again the need for adopting legislative changes to promote the strict regulation, supervision and control of the operations of private employment agencies. Solidarność reiterates its concern that often private employment agencies are unprepared organizationally and lack the appropriate competencies. The Government indicates that private employment agencies need to meet certain requirements to be registered in the Register Employment Agencies. It adds that private employment agencies are regulated under the Entrepreneurs' Law of 6 March 2018 and that no new legislative measures have been adopted in this regard. Therefore, a fixed-term employment contract remains the employment form of temporary workers used by private employment agencies (Act on the Employment of Temporary Workers of 2013). Those performing such work under civil law contracts are also covered by the definition of temporary work and the time limits established in the legislation for temporary arrangements. ***The Committee invites the Government to provide information on the scale of the use of civil contracts and on whether and how the labour inspectorate is given the necessary means to monitor the application of the national legislation, combat misclassification of contracts and ensure that they are not used to mask the identity of an employer actually directing and monitoring the working activity in a way that is incompatible with the worker's declared independent status. It also requests the Government to provide information on the status of the draft act amending the provisions of the Labour Code related to fixed-term contracts. The Committee further requests the Government to provide statistical information on the types of contracts (permanent, fixed term, self-employed) prevalent in the labour market.***

*Migrant workers.* The Committee notes the adoption of the Act on assistance to Ukrainian citizens on 12 March 2022 and its subsequent amendments of 8 April 2022, which include measures to enable Ukrainian citizens which left the country in the context of the extremely difficult situation in the country since 24 February 2022 to access the Polish labour market and enhance their professional activation and social integration, including by: (i) introducing the possibility of registering with the labour offices and receiving assistance; (ii) taking up legal employment with no additional permits; and (iii) financing Polish language courses as well as the costs of the procedure to recognize the completion of studies. The Government reports that, in April 2022, over 20,000 unemployed Ukrainian citizens were registered with the labour offices, representing two per cent of the total number of registered unemployed. The Committee also notes the Government's indication that the interministerial Team for Migration adopted the document "Polish migration policy – diagnosis of the initial state", which became the basis for the draft document "Poland's Migration Policy – Action Directions for 2021–2022". During the preparation of the document, public consultations were held, including with All-Poland Trade Unions Alliance (OPZZ). However, according to information available in the Government's website, the work on the draft Policy was suspended due to the rapid changes taking place in Poland's environment, affecting the characteristics of migration movements. For its part, Solidarność emphasizes the lack of a migration policy in the country and expresses a number of concerns regarding the amendments to the Law on Foreigners related to counteracting illegal employment and ensuring that migrants workers enjoy equal treatment with respect to working conditions and remuneration. In its reply, the Government indicates that, according to new rules introduced in the employment of migrants on 29 January 2022, employers cannot employ migrant workers at a wage lower to the one that it would be paid to Polish citizens performing the same job. The Government adds that it envisages adopting a new Act on the Employment of Foreigners, which will aim to reduce administrative barriers, streamline procedures



related to the employment of migrants and preventing abuses against them. ***The Committee takes due note of the measures taken and envisaged in relation to migrant workers' access to the national labour market and requests the Government to continue to provide information, including statistical data disaggregated by age and sex, on the nature, scope and impact of the measures adopted for the use of the labour potential of persons with a migration background, including Ukrainian citizens, to help them integrate sustainably into the labour market.***

*Persons with disabilities.* The Committee notes the detailed information provided by the Government on the measures taken to promote employment of persons with disabilities, including in the framework of the OP KED (such as the implementation of new support tools for persons with disabilities and the development of assisted employment) and the ROPs (measures related to active integration, social services and the social economy). The Government reports the implementation until August 2023, under the OP KED, of the project "High Quality Policy for the Social and Professional Inclusion of People with Disabilities". The project includes measures aimed at supporting employers in adapting employment, recruiting and maintaining employment for persons with disabilities; and supporting persons with disabilities in taking up employment, including the transition between social and vocational rehabilitation, and starting a business activity. The Government also indicates that, under the ROPs, a wide range of services are provided to persons with disabilities, such as personal assistance services, to support their participation in social, professional and educational areas. The Government adds that with the support of the ESF, jobs are created in social enterprises for persons with disabilities. The Government reports that, under different professional activation projects, including the OP KED, support was provided to over 15,000 women with disabilities and 13,400 men with disabilities and nearly 4,100 received support in entrepreneurship under the ROPs. The Committee wishes to highlight that employment placement services play a central role in promoting employment opportunities, especially for jobseekers who face particular obstacles in finding a job. The role of placement services and their strengthening in assisting persons with disabilities to enter the labour market has increasingly been the focus of growing attention globally. Inclusive employment placement services can support both employers and people with disabilities and include providing information on job vacancies, assessing the professional aspirations and skills of jobseekers, matching jobseekers to available jobs or referring them for further training, if needed. They can be a core part of a solid policy framework with a sound operational strategy backed by legislation, where necessary. To be effective and efficient in this respect, employment services need to form linkages with other government ministries and agencies at a policy level, to ensure that obstacles which persons with disabilities may face are minimized, and that the skills which they offer are relevant to labour market opportunities. Partnerships with disability organizations can help to reach out persons with disabilities and provide them with the necessary support, and can also assist employers and training organizations to implement reasonable accommodation. ***The Committee requests the Government to continue to provide updated detailed information, including statistical data disaggregated by sex and age, on the nature and the impact of the specific measures taken to promote employment opportunities for persons with disabilities in the open labour market. It requests the Government to supply all relevant information on how the challenges associated with the placement of persons with disabilities are addressed, including measures taken at the inter-ministerial coordination level and in coordination with organizations of persons with disabilities.***

*Older workers.* The Government indicates that, between 2019 and 2021, the economic activity rate of persons aged over 50 increased from 59.2 per cent to 64.6 per cent, and the employment rate from 57.5 per cent to 63.1 per cent, while the unemployment rate decreased from 2.8 to 2.4 per cent. The Government indicates, however, that these ratios are still lower than the European Union average. The Committee notes the information provided by the Government on the measures taken to promote employment among older workers, including the provision of wage subsidies and the exemptions from the payment of social contributions for companies employing persons older than 50. Moreover, older workers are identified as a priority group in employment programmes and services for unemployed.

The Government points out that the activation of persons over 50 remains difficult due to the low occupational and geographical mobility of this group. The Government reports that, in April 2022, persons over 50 represented 26.7 per cent of the unemployed registered and 15.8 per cent of activated unemployed after joining active programmes. The Committee takes due note of this information and observes in this respect that such measures often include addressing discrimination in employment on the basis of age by taking measures, such as legislation preventing age discrimination and public-awareness campaigns, to eliminate discrimination in the recruitment, promotion and training process, and in employment retention in collaboration and consultation with employers' and workers' representatives. In the same way, encouraging employer and worker representatives to jointly identify mechanisms to facilitate the retention and hiring of all older workers, including those in vulnerable situations, is a good practice. Employers can also be encouraged to constitute an age-diverse workforce through initiatives that provide guidance on issues such as promoting a sharing of knowledge and experience across different age groups and adjusting work responsibilities and working-time arrangements to the changing capacities of workers and their family responsibilities over their life course as well as to take account of improvements in the education, health and physical capacities of older workers. ***The Committee asks the Government to supply updated information on the nature, the scope and the impact of measures adopted or envisaged targeting older workers, with a particular focus on the older persons facing long-term unemployment.***

*Youth employment.* The Committee notes the Government's indication that the COVID-19 pandemic had the most profound impact on young people, often working based on easy-to-terminate employment contracts, and in sectors that were heavily affected by the social restrictions. The youth employment rate decreased from 31.7 per cent in 2019 to 27.3 per cent in 2021, while the youth unemployment rate increased from 9.9 per cent in 2019 to 11.9 per cent in 2021. The rate of young people not in employment, education or training (NEET) was 13.4 per cent. The Committee observes that the OP KED envisages the adoption of measures to enhance the possibilities of permanent employment for young people in difficult situations in the labour market and for young NEET, by improving their practical skills and work experience and increasing their level of entrepreneurship. The OP KED also offers support to young persons in building social competences to strengthen their employability through their participation in social activities carried out by non-governmental organizations for local communities, youth centers, and so on. The Government indicates that, in the framework of the OP KED, comprehensive and personalized support in the form of job placement, career counselling, training or subsidized employment was provided to 368,900 young women under the age of 30 and 289,000 young men, including over 234,300 long-term unemployed. The participants also received non-returnable financial support for setting up a business. In addition, the Government refers to the implementation of the programme "First Business-Support to Start" under the agreement concluded with Bank Gospodarstwa Krajowego, which grants preferential loans for starting a business and creating jobs for unemployed persons. ***The Committee requests the Government to continue to provide detailed updated information on the nature and the impact of the vocational education measures and active labour market policies targeted at young persons. It wishes to recall in this respect the existence of the YouthPOL database, an online inventory of current policies and legislation affecting youth employment and which provides policy makers, researchers and practitioners with relevant and up-to-date information on policy responses for youth employment and aims at contributing to the promotion of decent work for youth through the expansion and consolidation of the knowledge base on youth employment and legislation.***

*Article 3. Consultations with the social partners.* The Committee observes that, according to the NRP report, the draft NRP 2022/2023 was submitted for consultation to workers' and employers' organizations. In its observations, Solidarność maintains that greater participation of the social partners should be ensured in the National Training Fund. The Government emphasizes in this respect that, in accordance with the 2004 Act, the tripartite Labour Market Council actively participates in setting the

priorities for the allocation and the spending plans of the funds of the National Training Fund. The Committee recalls that the involvement of workers and employers in the design and implementation of employment policies is a key element to improve the design as well as the implementation of integrated employment policy frameworks. The Committee observes that social partners' role is indeed vital as these actors rely on both their experience and practical understanding of the problems associated with work and business and can provide decision-makers with relevant information in the quest for decent employment creation. While most countries recognize the importance of the principle of social dialogue in employment policy formulation and implementation, having effective and institutionalized mechanisms in place guarantees an informed and effective dialogue on employment policy. It notes that, over the last years, with ILO support, a number of countries have thus gone beyond consultation to establish more deliberative and inclusive types of participation and have invited the most knowledgeable actors, including persons affected by the measures to be taken, to work together and jointly set the research agenda and then debate the options available for creating decent work. Another important element in this respect is to ensure active engagement and debate amongst stakeholders throughout the policymaking process as opposed to holding consultations only late in the formulation process to validate the proposed policy. ***The Committee therefore once again asks the Government to provide specific examples on the manner in which representative organizations of workers and employers and other stakeholders, such as representatives of the persons affected by the measures to be taken, are given the possibility to be consulted concerning the design and implementation of integrated employment policies so that their experience and views are fully taken into account with a view to securing their full cooperation and support for such policies.***

## Romania

### Employment Policy Convention, 1964 (No. 122) (ratification: 1973)

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

*Articles 1 and 2 of the Convention. Employment trends and active labour market policies.* The Committee notes the Government's indication that the overall employment rate for the active population (15–64 years) reached 66.0 per cent in the third quarter of 2020, showing an upward trend compared to 63.9 per cent in 2017. It also notes the persistently lower employment rates for women in 2017 (55.8 per cent for women compared to 71.8 per cent for men) and in the third quarter of 2020 (56.9 per cent for women compared to 74.9 per cent for men). The Committee notes that, according to ILOSTAT data, the overall unemployment rate in 2020 was 5 per cent (5.3 per cent for men and 4.7 per cent for women, respectively). The Government refers to the Human Capital Operational Program (HCOP) as an important tool for financing employment measures, structures in seven priority axes, including employment (axes 1, 2 and 3), social inclusion (axes 4 and 5), education (axis 6) and technical assistance (axis 7). The Government also indicates that Act No. 76/2002 on the unemployment insurance system and employment stimulation during the period 2016–18 was amended, with the aim of increasing employment opportunities for registered unemployed persons and jobseekers and stimulating employers to hire registered unemployed persons. The Committee notes that job subsidies are provided to employers who offer employment opportunities to specific groups of workers, including new graduates, persons with disabilities, registered unemployed persons over the age of 45, long-term unemployed persons, young people in the NEET category (not in employment, education or training), youth at risk of social marginalization and unemployed single parents. ***The Committee requests the Government to continue providing updated detailed information on general employment trends, including statistical data disaggregated by sex and age. It further requests the Government to continue providing information on the impact of its employment policy measures in terms of the creation of productive employment and decent jobs, job creation, particularly for specific groups such as women, youth at risk of social marginalization, persons with disabilities, older workers and the long-term unemployed.***

*Youth employment.* The Committee notes that the unemployment rate of youth (15–24 years) stood at 18.3 per cent in 2017, rising to 19.2 per cent in the third quarter of 2020. Moreover, according to the 2020 European Commission Country Report for Romania (SWD (2020) 522 final), in 2018 the percentage of young

people not in education, employment or training (NEET) was one of the highest in the European Union, with three times as many NEETs among the young rural resident population (15–24) compared to those living in urban areas. The Government indicates that, as part of its efforts to support the labour market integration of young persons, particularly those in the NEET category, the Ministry of Labour and Social Justice elaborated the Youth Guarantee Implementation Plan 2017–2020. The Government also reports that it approved a draft Youth Law on 5 July 2018 which was sent to Parliament. **The Committee requests the Government to continue providing updated detailed information, including statistical data disaggregated by age, sex and rural/urban areas on the nature and impact of the measures taken to facilitate lasting employment opportunities for young people, especially those classified as NEETs. It also requests the Government to provide information on progress made regarding the adoption of the new Youth Law, and to provide a copy once adopted.**

*Roma minority.* The Committee notes the Government's reference to the Strategy for the Inclusion of Romanian citizens belonging to the Roma Minority 2012–2020 as well as to axes 4 and 5 of the HCOP, which focus on reducing social exclusion. The Government indicates that the National Agency for Employment is responsible for implementing measures taken to attain the employment objectives, based on annual employment programs. Measures taken include the provision of information on employment services in communities with large numbers of Roma, allocation of territorial budgets, job exchanges and development of collaboration with Roma representatives. The Committee notes that the Government exceeded its target of providing employment to 5,385 members of the Roma community in 2015, with 6,295 Roma being placed in employment; however, the targets set for 2016 and 2017 were not fully achieved. **The Committee requests the Government to continue to provide updated detailed information, including statistical data disaggregated by sex and age, on the nature and impact of the measures taken to promote access to lasting employment and decent work for members of the Roma community.**

*Article 3. Participation of the social partners in the formulation and implementation of policies.* The Committee previously requested the Government to provide specific examples of how the social partners are effectively consulted and participate in decision making on the matters covered by the Convention. In this respect, the Committee notes the Government's reference to the development of the Youth Guarantee Implementation Plan, indicating that the social partners were consulted during this process. The Government also indicates that social partners and non-governmental organizations play an important role in the implementation of various programmes and projects related to employment, promotion of youth-related initiatives, training ventures, job placement, apprenticeship and traineeship programmes. The Committee further notes that the National Employment Program, developed each year by the National Agency for Employment since 2002, is formulated on the basis of proposals from the county employment agencies and the Bucharest Municipality Agency, taking into account the economic and social situation at the territorial level and the strategic targets in the programmatic documents adopted at national level. The Government indicates that the National Employment Program targets specific groups that encounter difficulty in accessing the labour market, such as members of the Roma community, persons with disabilities, young persons covered by the child protection system, foreigners, refugees and beneficiaries of other forms of international protection, persons who have executed custodial sentences and victims of trafficking. **The Committee requests the Government to provide updated information on the manner in which the social partners are effectively consulted and participate in the development of the National Employment Programme each year. It also requests the Government to provide information on the measures taken or envisaged to ensure that these consultations include representatives of other segments of the economically active population, including representatives of the Roma community, persons with disabilities, women and young persons, as well as of persons working in informal economy.**

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

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

## Serbia

### Employment Policy Convention, 1964 (No. 122) (ratification: 2000)

#### Previous comment

The Committee notes the observations of the Serbian Association of Employers (SAE) and the Confederation of Autonomous Trade Unions of Serbia (CATUS) communicated with the Government's report, received on 30 September 2022.

*Articles 1 and 2 of the Convention. Active labour market measures.* The Committee notes from the implementation report of the National Employment Action Plan for 2020 that the general objective of the employment policy was to increase employment and included the specific goals of reducing duality in the labour market through improving labour conditions and labour market institutions, encouraging employment and inclusion of less employable persons in the labour market through implementation of Active Employment Policy Measures (AEPs), supporting for regional and local employment policy, and improving the quality of the workforce and investing in human capital. The Committee notes the AEPs taken to improve the situation of "hard-to-employ" persons, such as employment fairs, job search clubs, specific trainings and workshops, trainee, educational and work assistance programmes, professional practice, public works, and targeted subsidies. The Committee also notes the Government's reference to an ex-post analysis of the National Employment Strategy for 2011–20, which stresses that the implementation of the Strategy has been successful overall. The number of registered elderly persons in employment (aged between 50 and 64) more than doubled in 2019 compared to 2011, increasing their participation in the total number of employees from 13 to 20 per cent. According to the analysis, the number of long-term unemployed (job seeking for more than 12 months) reached its peak in 2012 (over half a million) and decreased to 170,000 in 2019. The share of long-term unemployment in total unemployment decreased from 75.4 per cent in 2012 to 50.3 per cent in 2019. The Committee notes that the activity rate of the rural population increased from 60.4 per cent in 2010 to 68.7 per cent in 2019 and their employment rate increased from 49.7 per cent to 62.1 per cent. The analysis indicates that 142,540 unemployed persons and 137,443 "hard-to-employ" persons were covered in all AEPs in 2019. The relative improvement is primarily attributed to institutional factors and demographic trends, such as the 2014 amendments to the Labour Law about the severance pay, increase in the retirement age, as well as the 2014 amendment to the Law on Pension and Disability Insurance, which introduced penalties for early retirement. The Committee also notes the Government's indication that the Employment Strategy for 2021–26 recognizes as a specific objective that of improving labour market situation of the unemployed women, young persons, persons with disabilities and Roma minority. **The Committee requests the Government to continue to provide detailed updated information on the nature, scope and impact of the measures taken to promote full, productive and sustainable employment, including those adopted within the framework of the Employment Strategy for 2021–26. The Committee also requests the Government to provide information on the impact of measures adopted with a view to promoting the employment of elderly persons, persons living in rural areas, combating undeclared work as well as long-term unemployment, to enable them to access decent and lasting employment.**

*Employment trends.* The Committee notes the Government's reference to the Labour Force Survey of the Statistical Office of the Republic of Serbia, which indicates that the employment rate in 2022 increased by 0.7 per cent compared to 2011 and reached 50.3 per cent (43.2 per cent for women and 57.9 per cent for men) and that the unemployment rate amounted to 9.4 per cent (11 per cent in 2021). The CATUS refers to the elimination as of 1 January 2019 of the employers' share in unemployment insurance and the introduction of restrictive conditions for qualifying for unemployment benefits, the levels of which are considered inadequate. The CATUS also observes that only 6.4 per cent of the unemployed received unemployment benefits in 2021, mostly below the risk of poverty threshold. The CATUS maintains that 872,600 persons in 2021 regarded themselves as unemployed, whereas only

352,300 were officially categorized as unemployed. Noting that the official unemployment rate declined from 10.6 per cent in the first quarter of 2020 to 7.9 per cent in the second quarter, during the hardest period of the COVID-19 pandemic for the economy, the CATUS questions the accuracy of official data related to unemployment. It also highlights that the official unemployment rate of 10.6 per cent in the first quarter of 2022 does not reflect the labour market situation. The CATUS also emphasizes the problem of low wages and inadequate social protection and calls to urgently take specific measures to overcome it. The Committee also notes SAE's observations about its initiative to reform the education system according to the needs of the economy towards creating quality jobs, employment for young people and suppressing the grey economy. ***Stressing that accurate statistical data sets are of paramount importance for informed policymaking, the Committee requests the Government to provide its comments to the observations made by the CATUS and the SAE. The Committee also requests the Government to provide detailed updated information, including statistical data disaggregated by sex, age and economic sector, on employment trends in the country, concerning the size and distribution of the labour force, the nature and extent of employment, unemployment and underemployment. The Committee further requests the Government to provide information on the measures taken to promote, develop and deliver quality apprenticeships and draws its attention to the guidance contained in this respect in the Quality Apprenticeships Recommendation, 2023 (No. 208), which calls, among others, to incorporate and promote quality apprenticeships within relevant education, vocational training, lifelong learning and employment policies, as well as establish a regulatory framework for quality apprenticeships.***

*The informal economy.* The Committee notes the Government's reference to the reform of seasonal employment in agriculture and the adoption of the Law on simplified employment in seasonal jobs in certain sectors and industries. The Government states that the law entered into force on 7 January 2019 with 75,687 employed persons (37,253 women and 38,434 men) registered through the portal of seasonal workers by 632 employers in 198 municipalities. The Committee further notes that according to the Labour Force Survey of the Statistical Office of the Republic of Serbia, informal employment rate for 2022 was 13.6 per cent (12.8 per cent for women and 14.6 per cent for men), which marked an increase by 21,300 persons compared with previous year, predominantly of unpaid family workers (20,500). The Survey states that the number of informally employed persons in the agriculture (225,500) is larger than the number of the formally employed (205,200). The Committee also notes about 93,500 persons employed informally in services sector and that the formality–informality ratio in construction sector amounts to 47 per cent. ***The Government is requested to continue to provide information on the measures taken to promote the formalization of the informal economy, taking into account the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Committee requests in particular the Government to provide detailed updated information on the impact of the reform of seasonal employment in agriculture with regard to facilitating transition to formal employment as well as on measures taken or envisaged to integrate informal economy workers into the formal labour market, particularly young workers, older workers and women, including in services and construction sectors and in the category of "hard-to-employ" persons.***

*Article 3. Consultations with the social partners.* The Committee notes the Government's indication about the annual national action plan and reference report prepared by the tripartite Working Group consisting of representatives of various authorities and ministries, as well as National Employment Service (NES), Union of Employers of Serbia, TUC "Nezavisnost" and CATUS. The Government also refers to two meetings of the Working Group, in the preparation of the National Employment Action Plan for 2018, held in April 2018, four regional meetings in May–July 2017, four in January–February 2018, two in October–November 2018, all open for social partners, one of which in February 2018 was attended by "Nezavisnost" representative, as well as to the meetings of the Working Group for drafting of the 2019 National Employment Action Plan in October–November 2018, attended by representatives of "Nezavisnost" and CATUS. The Government also reports about meetings of the Working Group for the

Drafting of the Employment Strategy for the period 2021–26 and the Action Plan for 2021–23 as well as involvement of social partners in formulating the recommendations for the preparation of the ex-ante analysis of the Employment Strategy for 2021–26. In this regard, the Government refers to discussions held within the Social and Economic Council (SEC) and the Republican Employment Council in February 2021. The Committee also notes that, in response to its previous comment on the lack of records of membership and the level of participation of social partners in local employment councils (LECs), the Government indicates that the Ministry of Labour, Employment, Veteran and Social Affairs possesses data on LECs members on all local self-government units that submit a request for participation in the co-financing programme of local employment action plans.

The Committee notes from the ex-post analysis of the National Employment Strategy for 2011–20 that social dialogue is not sufficiently developed and refers to the European Commission's annual reports on Serbia highlighting the need to remove obstacles to social dialogue and strengthen it by enhancing social partners' capacities, adjusting the legal framework and increasing SEC's administrative budget. The Committee also notes the conclusions of the Focus Group on cooperation with social partners, which state that despite the legal requirement to cooperate with social partners, including through working groups on public policies, amendments and adoption of laws, employers and workers' representatives are not satisfied with their influence on the process highlighting that cooperation is only formal without a considerable effect on revision of ministerial proposals. The conclusions recommend to further improve cooperation with social partners, encourage them to take a more active role in the preparation of public policies and give due consideration to their proposals. **Recalling the importance of the meaningful, effective and constructive dialogue with representatives of employers and workers, in relation to decision-making on the development and implementation of active employment policies, the Committee requests the Government to provide concrete examples of the manner in which their experience and views have been fully taken into account so as to secure their full cooperation in formulating and enlisting support for such policies. 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, informal economy workers, the Roma population and other concerned groups, as required under Article 3 of the Convention.**

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

## Spain

### Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

#### [Previous comment](#)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), and of the Spanish Confederation of Employers' Organizations (CEOE) and the Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME), transmitted with the Government's report. The Committee also notes the Government's reply to these observations, included in its report.

*Articles 1 and 2 of the Convention. Implementation and evaluation of the active employment policy.* The Committee notes the numerous reforms introduced by the Government, both in legislation and in relation to the modernization of active employment policies, within the framework of the Recovery, Transformation and Resilience Plan (PRR), of 27 April 2021. The Plan includes reforms and investment in public employment policies to guarantee a dynamic, resilient and inclusive labour market, with emphasis on the training of workers in the areas required by the transformations in the Spanish economy. The Plan also includes a component on the promotion of women's employment and gender mainstreaming in all active employment policies. In this context, the Committee notes the adoption of the Employment Act No. 3/2023, of 28 February, which establishes the framework for the structuring of

public employment policies and regulates the whole series of structures, resources, services and programmes of which the National Employment Service is composed. In accordance with section 4 of the Act, the objectives of the employment policy include: (i) promoting conditions for the creation of inclusive labour markets in which effective equality of opportunity and non-discrimination in access to employment are guaranteed; (ii) stimulating the creation of good quality and stable jobs to facilitate the transition towards a more efficient labour market that guarantees adequate levels of economic well-being for workers; (iii) the maintenance in employment and the vocational progression of employed persons; (iv) the broadening and improvement of the skills, qualifications, competences and employability of the unemployed and of employed persons; and (v) the promotion of viable entrepreneurship and social economy initiatives. Royal Legislative Decree No. 1/2023, adopted on 10 January, also reforms incentives for recruitment with a view to increasing the numbers of permanent and good quality jobs. The Committee further notes the adoption of the Spanish Strategy of Active Employment Support 2021–24, drawn up with the participation of the social partners and in collaboration with the Autonomous Communities. The Strategy coordinates the activities of the various entities of the National Employment Service and establishes the strategic objectives of focussing on people and enterprises, coherence in the transformation of production, the results-based approach, the improvement of the capacities of public employment services and the governance and cohesion of the National Employment Service. The Government indicates that evaluation is a fundamental pillar of the new Strategy, which changes the paradigm of earlier strategies by stepping away from the use of indicators focussing exclusively on the distribution of funding towards a results-based, transparent and accessible evaluation model. With a view to the achievement of the objectives set out in the Strategy, various Annual Employment Policy Plans have been adopted, as well as the recent Annual Plan for the Promotion of Decent Employment 2023, which specifies the active employment and labour placement policies implemented by the Autonomous Communities in the exercise of their competences, as well as the indicators to be used to assess the extent to which the objectives are achieved. Finally, the Committee notes the adoption of Royal Decree No. 818/2021 of 28 September, which updates and harmonizes the regulation of these programmes with a view to ensuring greater efficiency, adaptation to the changing conditions on the labour market and the new requirements of the digital and green environment.

The Committee notes that, in their observations, the CEOE and the CEPYME indicate that the Strategy and Royal Decree No. 818/2021 are continuing along the same lines and do not go beyond the approach that places public employment services as the main protagonists of active employment policies. They therefore place emphasis on the need to promote public–private collaboration to ensure greater efficiency and effectiveness. In this regard, the Government indicates that public–private collaboration is incorporated in active employment policies in various areas, such as the labour market analysis processes, the identification of training needs and employment intermediation. The Committee also notes that both the CCOO as well as the CEOE and CEPYME emphasize that one of the most relevant deficits of employment policies continues to be their lack of evaluation. They indicate that the Strategy and the Annual Employment Policy Plan 2022 were drawn up without first evaluating the impact of the measures implemented within the context of the Strategy and the previous Plans. The CCOO adds that, although important tools have been adopted and reformed, including evaluation as a fundamental pillar, the procedures, tools and determination of objectives and indicators have not yet been undertaken or agreed. The CCOO and the employers' organizations also consider that they did not participate in the development of the Annual Plans and reiterate that they are confined to establishing a list of services and programmes to be implemented by the Autonomous Communities. In response, the Government indicates that it is planned to undertake an evaluation of the Strategy 2021–24 and the various Annual Plans and adds that the contributions of the social partners were taken into consideration in the formulation of the Annual Plans. In this regard, the Committee recalls that *Article 2(a)* of the Convention establishes the requirement to “decide on and keep under review, within the



framework of a co-ordinated economic and social policy, the measures to be adopted for attaining the objectives” of full, productive and freely chosen employment. It is essential to ensure that policies are monitored and evaluated in relation to the established targets and indicators. In this regard, the Committee emphasizes that a comprehensive, participative and transparent monitoring and evaluation mechanism enables all the parties concerned to identify achievements and challenges in meeting policy objectives. The results achieved may contribute to setting a baseline for future employment policies (2020 General Survey, *Promoting employment and decent work in a changing landscape*, paragraphs 112, 153 and 154).

With reference to the process of the formulation of the Employment Act, the CCOO reports that contributions were made to various preliminary versions, some of which were not taken into account, and it emphasizes the need for the contributions to be taken into account, including those on the need to address jointly the employability, integration and vocational development of people; the requirement of guarantees and controls over private collaborators and on the possibility of acting as placement agencies; the allocation to public employment services, at the level of the Autonomies and the State, of the human, material and technological resources necessary so that they can discharge their functions in a satisfactory manner and can work towards full employment. The Government indicates that some of those proposals could be addressed in the regulations of the Employment Act. ***Noting the information provided, including the fact that evaluation is considered to be a fundamental pillar of the new Spanish Strategy of Active Employment Support 2021–24, the Committee once again 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, including those adopted within the framework of the 2021–24 Strategy and the Annual Employment Policy Plans, and particularly on the manner in which they have helped beneficiaries to obtain full, productive and lasting employment.***

*Labour market trends.* The Committee observes that, according to the report of the European Commission on the 2023 National Reform Programme of Spain (SWD(2023) 609 final), following the COVID-19 crisis, the Spanish labour market experienced a solid recovery in 2021 and 2022, achieving an employment rate of 69.3 per cent in the fourth quarter of 2022. Nevertheless, it is still below the European Union average of 74.9 per cent. Moreover, although the unemployment rate fell in 2022 to 12.9 per cent (the lowest since 2008), it continues to be double the European Union average (6.1 per cent), with structural pockets of vulnerability, related to the very high level of youth and long-term unemployment and a rate of temporary employment that is still high in the public sector. The Committee notes that the CCOO emphasizes that, despite the increase in employment and the reduction of unemployment following the pandemic, the social crisis and the weaknesses of the Spanish model of production persist. In particular, the CCOO considers that: (i) the number of the unemployed is still very high, particularly for the long-term unemployed; (ii) almost half of the unemployed have a low educational level (45 per cent); (iii) the temporary employment rate continues to be very high; (iv) employment creation is still concentrated in sectors that are not very productive; (v) gender gaps persist in the world of work (women account for 53.6 per cent of the unemployed) and the labour market continues to be segregated; (vi) the level of unemployment protection is still low (1.16 million unemployed persons are excluded from the unemployment protection system); and (vii) poverty levels are very high. With reference to the latter, the Committee notes, on the basis of the report of the European Commission, that the percentage of persons at risk of poverty or social exclusion is 27.8 per cent, one of the highest rates in the European Union (6.1 percentage points above the European Union average). Persons born outside the European Union are particularly vulnerable, as the gap between them and persons born in Spain is 34.2 percentage points. The report emphasizes that the poverty rate among employed persons is also the highest in the European Union (34.2 per cent, compared with 20.8 per cent for the European Union). ***The Committee requests the Government to indicate how it is considering responding to these challenges, taking into account that the objective of the promotion of***

**full, productive and freely chosen employment has to be pursued with a view to stimulating economic growth and development, and overcoming unemployment and underemployment, as well as raising levels of living. The Committee also requests the Government to continue providing updated statistical data on labour market trends, and particularly on the rates of the active population, employment and unemployment, disaggregated by sex and age. While noting the high proportion of people at risk of poverty and social exclusion, the Committee requests the Government to provide information on the nature and impact of the measures adopted to address poverty within the context of the national employment policy.**

*Measures to promote employment stability.* The Committee notes with **satisfaction** the measures adopted to combat one of the major challenges of the Spanish labour market: the high levels of temporary employment and the large percentage of short-term contracts. In this respect, the Committee notes the adoption of Royal Legislative Decree No. 32/2021 of 28 December on urgent measures for labour reform, guarantees of employment stability and the transformation of the labour market, which is based on the agreement reached between the Government and the social partners for the structural reform of the labour market. The new Decree establishes measures to reduce temporary contracts and promote permanent contracts, such as the presumption that contracts are concluded for an indefinite period, the reduction of the types of contracts available and the redesign of disincentives to penalize excessive rotation in very short-term contracts. It also introduces new mechanisms to promote internal flexibility within enterprises with a view to promoting the continuity of stable labour relations and avoiding periods of unemployment, by authorizing enterprises under certain circumstances to suspend contracts temporarily or reduce working hours. In terms of evaluation, the Decree requires an evaluation to be undertaken by January 2025, which will be repeated every two years, of the results of the measures envisaged in the reduction of temporary employment on the basis of an analysis of temporary and open-ended contracts. It also provides that, in the event that no progress is achieved, additional social measures will have to be proposed to the dialogue round table. The Committee notes that the CEOE and CEPYME indicate that the flexibility measures implemented are creating a climate of trust which is reflected in the positive figures for recruitment, especially under open-ended contracts. With reference to the public sector, the Government indicates that the adoption of Act No. 20/2021 of 28 December adopting urgent measures for the reduction of temporary public employment, which introduces measures to prevent the constant coverage of jobs by temporary personnel and to ensure that such personnel are only engaged for genuinely temporary tasks. The Government also refers to the conclusion of various agreements with unions with the objective of the implementation of a process of making employment more stable and improving conditions of work in the public sector, reducing temporary employment in sectors that are considered to be priorities, such as health, education and the administration of justice. Moreover, with the objective of addressing the lack of stability in scientific occupations, which has resulted in recent years in the exodus of research personnel from Spain, Legislative Decree No. 8/2022 of 5 April was adopted issuing regulations on a general scheme for permanent employment contracts in the Spanish science, technology and innovation sector.

The Committee notes that, according to the report of the European Commission referred to above, although, following the reforms described, the level of temporary work in the private sector fell rapidly from 23.6 per cent in 2021 to 18.5 per cent in 2022, the percentage of fixed-term contracts in the public sector continues to be high (31.4 per cent in 2022). The report also emphasizes that temporary workers continue to be more vulnerable to material and social deprivation than conventional employees (20 per cent, compared with 6.9 per cent). Finally, the Committee notes the emphasis placed by the CCOO on involuntary part-time work (49.3 per cent of persons working part time do so because they have not been able to find a full-time job). **The Committee requests the Government to continue providing detailed information, including statistical data disaggregated by age and sex, on the nature and impact of the measures adopted, in collaboration with the social partners, to address the still high**

**levels of temporary employment in the public and private sectors. It also requests the Government to provide specific information on the reasons why, despite the recent reforms, the rate of temporary employment in the public sector has not been reduced significantly. The Committee also requests the Government to provide information on the nature and impact of the measures adopted to address the high levels of involuntary part-time employment.**

*Youth employment.* The Committee notes the emphasis placed by the CCOO in its observations on the fact that the youth unemployment rate continues to be much higher than the national average (23.3 per cent), while the employment rate (40.4 per cent) and the activity rate (52.7 per cent) continue to be lower. The Committee also notes that, according to the report of the European Commission referred to above, the percentage of young persons between the ages of 15 and 29 years who are not studying, working or receiving training fell from 17.3 per cent in 2020 to 12.7 per cent in 2022, but continues to be higher than the European Union average (11.7 per cent in 2022). The report also indicates that, although the proportion of young persons under 30 years of age with temporary contracts has fallen, it continues to be higher than the European Union average (45.7 per cent, compared with 35.6 per cent in 2022). The Committee notes the information provided by the Government on the measures adopted with a view to promoting stable employment and the employability of young persons, who continue to be among the priority groups for employment programmes and measures. Among other measures, the Government refers to the implementation of the Youth Plus Guarantee Plan (Plan GP+) 2021–27 on decent work for young persons, with the financial support of the European Union. The principal objective of the Plan GP+ is to take effective action to combat precarious work through training and placement measures, focussing on good quality vacancies that facilitate the stable labour market integration of young persons. The Shock Youth Employment Plan 2019–21, developed in collaboration with the Autonomous Communities, has also been implemented following the conclusion of an agreement signed on 5 December 2018 between the Government and the social partners. The objectives of the Plan included reducing the youth employment rate to 32.5 per cent and finding work for 168,000 unemployed persons under 25 years of age. The dual training and employment programme “Youth Employment – Tandem” (for young persons between 16 and 29 years of age) was implemented, as well as the “First Experience in Public Administrations” programme, which offers a first experience for persons under 30 years of age in the area in which they are qualified. Various initiatives have also been adopted to modernize public employment services and improve their operation in relation with the transition of young persons from education to the labour market. With reference to the evaluation of the measures adopted, the Government indicates that it is planned to carry out an evaluation of the National Youth Guarantee System.

However, the Committee notes that the CEOE and the CEPYME consider that the Plan GP+ does not establish specific objectives or offer tangible solutions for the labour market situation of young persons, but only focusses on organizational and instrumental aspects. They emphasize that it is necessary for the Plan to take into consideration the needs of enterprises and to foresee the participation of placement agencies, which provide a professional and effective service. In this regard, the Government indicates that the Plan GP+ establishes 69 specific measures to improve the employability of young persons and promote decent work in various areas, such as vocational guidance, training, the promotion of employment opportunities and entrepreneurship. The Government adds that public–private collaboration is envisaged in each of the areas identified. The CCOO emphasizes that the monitoring and evaluation system for the Plan GP+ has not yet been determined or developed. In its reply, the Government indicates that it is planned to determine the evaluation model for the Plan GP+ with the technical support of the Organisation for Economic Co-operation and Development (OECD) and working groups composed of representatives of the social partners and the Autonomous Communities. Finally, the Committee notes that both the CEOE and the CEPYME, as well as the CCOO, emphasize that evaluations have not been carried out of the Shock Youth Employment Plan 2019–21, and that its impact is not therefore known. ***In view of the concerns expressed by both the employers’ organizations,***

***the CEOE and the CEPYME, and the CCOO, the Committee once again requests the Government to provide an evaluation, undertaken in consultation with the social partners, to ascertain the specific results achieved by the measures adopted with a view to promoting youth employment, including those adopted within the context of the Plan GP+.***

*Long-term unemployment.* The Committee notes, from the report of the European Commission referred to above, that long-term unemployment fell in 2022 (4.8 per cent), but continues to be double the European Union average (2.2 per cent). Moreover, in the fourth quarter of 2022, some 22.7 per cent of unemployed persons were in a situation of very long-term unemployment (that is, 24 months or more). The Government indicates that, with a view to addressing this situation, the Employment Act 2023 reinforces the participation of private and local bodies in active labour market policies. Furthermore, the *Reincorpora-t* Plan was implemented up to April 2022, which included the adoption of specific coordinated vocational guidance and training measures, and the promotion of employment opportunities and entrepreneurship. The objective of the Plan was to recuperate the labour and social integration potential of certain communities in long-term unemployment. The Committee nevertheless notes that the CEOE and the CEPYME, as well as the CCOO, indicate that evaluations of the Plan have not been carried out, and that its impact is not therefore known. The CCOO adds that there is no data on the long-term unemployed, despite the fact that they are identified as a priority category in employment policies. The Committee also recalls that it has been requesting the Government for five years to provide information on the impact of the measures adopted to combat long-term unemployment. ***The Committee therefore once again requests the Government to provide an evaluation of the impact of the measures implemented, with the participation of the social partners, to facilitate the return to the labour market of the long-term and very long-term unemployed.***

*Education and vocational training programmes and policies.* The Committee notes the Government's indication that, although 44.8 per cent of the Spanish population between the ages of 30 and 34 years have completed higher education (3.9 percentage points above the European Union average), the employment rate of those who have recently concluded higher education aged between 20 and 34 years is lower in Spain (77.2 per cent) than the European Union average (85 per cent). The employment rate is particularly low for those with a low educational level (only 33.6 per cent in the fourth quarter of 2021), compared with those with an average (53.8 per cent) or high (72.6 per cent) educational level. The highest unemployment rate is for workers with a low educational level (20 per cent), but is 7.8 per cent for those with a high educational level. In this context, the Recovery, Transformation and Resilience Plan provides for the implementation of action to promote the acquisition of new skills for the digital, green and productive transformation, with a view to reinforcing the training and employability of workers. The Committee also notes the adoption of Basic Act No. 3/2022, of 31 March, on the organization and integration of vocational training, which is intended to regulate a system of vocational training and support, capable of responding flexibly to the vocational skills interests, expectations and aspirations of persons throughout their lives and to the skills needed for new production and sectoral requirements. With a view to the achievement of this objective, the Act promotes the dual nature of vocational training and public-private collaboration between various actors, such as administrations, centres and enterprises. The Act also provides for the participation of employers' organizations and unions at the various levels, including in decision-making processes in relation to vocational training and the evaluation of the operation of the vocational training system. Finally, the Government refers to the development of the Annual Plan for the Evaluation of the Quality, Impact, Effectiveness and Efficiency of the whole of the vocational training system for employment in the field of labour 2020-21, which was submitted to the General Council of the National Employment System, which includes participation by the social partners and the Autonomous Communities. The Committee notes the emphasis by the CCOO in its observations that one of the greatest deficits of further training continues to be the lack of coordination of education and training policies with employment policy. ***The Committee requests the Government to continue providing detailed information on the nature and impact of the measures***

**adopted, in collaboration with the social partners, to promote the acquisition of the new skills required for the digital, green and productive transformation and with a view to strengthening the training and employability of workers, and particularly the long-term unemployed. It also requests the Government to provide detailed information on the measures adopted to ensure the coordination of education and training policies with potential employment opportunities.**

*Small and medium-sized enterprises (SMEs).* The Committee notes that, according to the report on SME data of the General Directorate of Industry and SMEs published in September 2023, SMEs (with between 0 and 249 employees) account for 99.8 per cent of the Spanish business environment, with large enterprises (250 employees and over) only representing 0.2 per cent. It also observes that SMEs generated 11,104,539 jobs, compared with large enterprises, which generated 6,515,244. The Committee notes the adoption of a series of measures under the Recovery, Transformation and Resilience Plan to promote the adoption of advanced digital technologies with a view to improving the productivity of Spanish enterprises, such as the adoption of the National Artificial Intelligence Strategy and the SME Digitalization Plan 2021–25. Nevertheless, according to the European Commission report referred to above, Spain is continuing to experience a low level of investment in research and development in the telecommunications sector, and enterprise expenditure on research and development is well below the European Union average. The report emphasizes that this all hampers the productivity and competitiveness of Spanish enterprises, and particularly SMEs. **The Committee requests the Government to provide detailed information on the nature and impact of the measures adopted with a view to improving the business environment in support of the productivity and growth of small and medium-sized enterprises, including through the promotion of the skills required for the ecological transition and the digital transformation and increased investment in research and development.**

*Article 3. Consultations with the social partners.* The Committee notes the emphasis placed by the Government on the participation of the social partners in the measures adopted within the context of the various social agreements to address the crisis arising out of the COVID-19 pandemic, which succeeded in reducing its negative impact on employment. It adds that the current legislation provides for the active participation of employers' organizations and unions in the design, implementation and evaluation of employment policies. The participation of the social partners occurs through various bodies, such as sectoral conferences and social dialogue round tables, and they are regularly kept informed and express their views on the various initiatives in the different bodies, such as the General Council of the National Employment System and the General Vocational Training Council. By way of illustration, the Government indicates that, in the context of the development of the Spanish Strategy of Active Employment Support 2021–24, working groups were established with the participation of representatives of the unions and the Autonomous Communities. The Government indicates that social dialogue has also been important in specific initiatives for youth and the long-term unemployed, the modernization of public employment services, the reform of vocational training for employment and the reform of the pension system to ensure its sustainability. The CCOO indicates that, although improvements have been made in the transparency of the policies and programmes implemented, measures still need to be adopted to improve the participation of the social partners in their design and follow up. In particular, the CCOO considers that for the effective participation of the social partners, it is necessary for information to be shared sufficiently in advance to allow it to be discussed, analysed and decisions taken, and for the scheduling of the meetings of the various bodies in which they participate to be adapted to allow discussions of the required depth. In this regard, the Government indicates that it agrees with these proposals to continue reinforcing social dialogue and the institutional participation of the social partners in relation to employment policy. In this context, the Committee recalls that *Article 3* of the Convention calls for the measures and programmes related to the national employment policy to be adopted and implemented through an inclusive process of consultations with the social partners and representatives of the persons affected. In accordance with the spirit of the

Convention, national employment policies should be designed and implemented in consultation and cooperation with specific groups, such as women, older workers and young persons, those in the informal economy, persons with disabilities and other persons affected. The active participation of the concerned groups will in turn foster ownership and cooperation in the policy and the measures taken for its implementation (2020 General Survey, *Promoting employment and decent work in a changing landscape*, paragraph 94). **The Committee requests the Government to provide detailed information on the measures adopted with a view to ensuring that the social partners and the representatives of the persons affected by the measures that are implemented are able to participate actively in the design, implementation and evaluation of employment policies.**

## Thailand

### Employment Service Convention, 1948 (No. 88) (ratification: 1969)

#### Previous comment

The Committee notes the observations of the National Congress of Thai Labour (NCTL) and of the Employers' Confederation of Thailand (ECOT), received on 22 November 2022, to which the Government has provided its comments.

*Articles 4 and 5 of the Convention. Consultation and cooperation with the social partners.* The Committee takes note of the observations made by the ECOT regarding the lack of consultation prior to the adoption of new legislation and measures relating to the Convention. The Government replies that, in conformity with the Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985) a Committee on the development of employment arrangement and jobseekers' protection was created which counts among its members, one member appointed from the employees and one member appointed from the employers. Its powers and duties include making recommendations to the Minister of Labour on policies and measures related to employment and jobseekers' protection, on challenges in employment arrangements and jobseekers' protection and on the prevention and suppression of deceit against jobseekers. It also provides guidance and counsel to employment agencies on overseas employment standards, on the promotion of employment, on the development of skills for the Thai labour market, on the determination of standards and practices for skill testing and may perform other duties as assigned by the Cabinet or the Minister of Labour. The Committee notes from the Government's report that the Committee on the development of employment arrangement and jobseekers' protection held four meetings between 2014 and 2018 to discuss "various related issues". The Committee however notes that no meetings have taken place since 2018, when the three-year term of the Committee on the development of employment arrangement and jobseekers' protection ended. The Government indicates in that regard that the selection process for the appointment of new members of this Committee is underway. **The Committee recalls that Articles 4 and 5 of the Convention require the establishment of advisory committees with a view to ensuring the full cooperation of employers' and workers' representatives in the organization and operation of the public employment service. Noting with concern that the three-year term of the Committee on the development of employment arrangement and jobseekers' protection has expired, the Committee hopes that the Government will take all necessary measures to give effect without delay to these important provisions of the Convention and requests the Government to provide information on any progress made in this regard.**

*Article 6(b)(iv). Migrant workers.* The Government indicates that it has taken several measures to prevent abuse in the recruitment and the exploitation of migrant workers. First, the Government states that, under the Employment Arrangement and Jobseeker Protection Act B.E. 2528 (1985), the Maritime Labour Act B.E. 2558 (2015), the Foreigners' Working Management Emergency Decree B.E. 2560 (2017) and the Revision No. 2 B.E. 2561 (2018), all private employment agencies must be licensed by the Government. As a result, as of 25 April 2022: (i) 300 recruitment offices/agencies are allowed to arrange

“domestic placement” for job seekers, (ii) 129 recruitment agencies are allowed to arrange job placements overseas, (iii) 6 recruitment agencies are allowed to arrange placements for seafarers and (iv) 245 companies are allowed to place migrant workers in Thailand. Second, the Government indicates that, in 2022, the Department of Employment inspected an important number of recruitment agencies/offices: (i) 175 recruitment offices/agencies that are allowed to arrange domestic placement, (ii) 123 recruitment agencies that are allowed to arrange overseas placements, (iii) 6 recruitment agencies that are allowed to place seafarers and (iv) 225 companies that are allowed to place migrant workers in Thailand. Third, the Government indicates that, as a result of these inspections, 35 recruitment offices/agencies that place job seekers in Thailand had their licenses suspended (for not submitting monthly recruitment reports to the registrar) and recruitment agencies that arrange overseas placements also got license suspensions (on several grounds). Fourth, the Government indicates that, in 2016, Migrant Workers Assistance Centres were established in ten provinces throughout the country. These centers provide consultations, guidelines, and assistance to migrant workers. They further cooperate with organizations that prevent human trafficking. In terms of impact, the centers assisted 3,452 migrant workers in 2016, 52,983 migrant workers in 2017, 46,109 migrant workers in 2018, 42,653 migrant workers in 2019, 41,240 migrant workers in 2020, 38,749 migrant workers in 2021 and 25,864 migrant workers in 2022. Fifth, the Government indicates that it continues to manage the migration of workers to Thailand through the signature of Memorandums of Understanding (MOUs) with its neighbouring countries. In 2015–17, the Government signed MOUs with Cambodia, the Lao People’s Democratic Republic, Myanmar, and Vietnam. Regarding the impact of the MOUs, the Government indicates that the number of migrant workers who registered with the MOU process was: 279,311 in 2015, 392,749 in 2016, 582,726 in 2017, 912,231 in 2018, 1,005,848 in 2019, 797,158 in 2020, and 594,408 in 2021. In the context of the COVID-19 pandemic, cross-border recruitment under the MOU procedure resumed in December 2021. Migrant workers had to provide evidence of vaccination or a certificate showing a history of COVID-19 infection in the past three months. Some 474,834 migrant workers registered with the MOU process in 2022. Sixth, during the COVID-19 pandemic, the Government took several measures to allow migrant workers who were already in Thailand to keep working in the country. The Government adopted several resolutions allowing the renewal and the extension of work permits or legalizing the status of migrant workers without work permit. Regarding the observations received from social partners, the Committee notes that the NCTL has no objection to the Government’s indications in its report. The Committee also notes the observations submitted by the ECOT, indicating that the smuggling of migrant workers persists. The ECOT observes that the smuggling of migrant workers is low-risk, cheaper, and faster than the legal channels, and that eventually, illegal workers receive amnesty and can apply for work permits. In reply, the Government reiterates that it has introduced various relief measures for migrant workers. Notably, the Government has enabled migrant workers to come work in Thailand under the MOU process, including during the COVID-19 pandemic. The Government affirms that the MOU process tackles the smuggling of illegal workers and prevents human trafficking. Moreover, on 30 May 2022, the Government issued the Order of the Centre for the Administration of the Situation due to the Outbreak of the Communicable Disease Coronavirus 2019 (COVID-19) No. 11/2565 (in effect since 1 June 2022), which reduces the length and the cost of the MOU process. As a result, as of October 2022, the cost of migration through the MOU process is 5,890 Thai bahts (instead of 11,409 to 24,200 bahts before) and the process takes approximately 20 to 30 service days, depending on the procedures in the country of origin. The Government further recalls that it took several resolutions to allow migrant workers who were in Thailand to stay in the country during the COVID-19 pandemic. The Government specifies that such measures were taken with a view to preventing undocumented workers from being exploited during this difficult time, as the Government considers irregular workers as being vulnerable rather than having committed crimes. The Government also indicates that law enforcement, the military, police, and the local administrative offices in the provinces at the border of the country have intercepted

smuggling of migrant workers. Further, the Department of Employment regularly inspects companies at risk of employing irregular workers and takes this opportunity to inform the employers on the process to hire migrant workers legally. ***Taking due note of the above information, the Committee wishes to acknowledge the efforts made by the Government to facilitate the movement of workers between Thailand and the neighbouring countries and prevent the abuse in the recruitment and exploitation of migrant workers. Noting the concerns expressed by the ECOT, the Committee requests the Government to continue providing detailed information on the impact of the measures taken, including by the public employment service, to protect migrant workers during recruitment and placement and to facilitate their movement across borders, with due regard to their fundamental rights. The Government is also requested to provide updated statistical data, disaggregated by country of origin and by sex, on the migrant workers working in the country under the above MoUs as well as outside of these frameworks and their access to employment services.***

*Article 11 of the Convention. Effective cooperation between the public employment service and private employment agencies.* Regarding the participation of the private employment agencies in the activities of the Committee on the development of employment arrangement and jobseekers' protection, the Government indicates that, in accordance with the Employment Arrangement and Jobseeker Protection Act, B.E. 2528 (1985), the Cabinet appoints to the Committee at least three persons with knowledge of employment and jobseekers' protection. The Thai Overseas Manpower Association has been appointed for its knowledge in the recruitment and protection of jobseekers. The Thai Overseas Manpower Association has 57 licensed private employment agencies among its members and aims at promoting overseas employment placement. Regarding the measures taken to secure effective cooperation between the public employment service and private employment agencies, the Government indicates that, on 30 June 2020, the Department of Employment and six private recruitment agencies signed a MOU for Cooperation in Job Arrangements. In conformity with this MOU, the Department of Employment and the private agencies have been exchanging job announcements. The Department of Employment has also been providing a link to the job vacancies database of the six private agencies on its website, and vice versa. This allowed jobseekers to have better access to information. The six private recruitment agencies also provided the Department of Employment with statistical information, enabling it to assess trends in the labour market. The MOU for Cooperation in Job Arrangements was initially in effect until June 2023 and is expected to be renewed for a continued implementation. The Government indicates that the Department of Employment has a project to exchange employment information with three additional private employment agencies in 2023. Regarding the observations received from the social partners, the Committee notes that the ECOT is concerned that, although a core principle is that private employment services should be non-profit, the collection of fees and expenses is not prohibited under Thai law. The ECOT further finds that the use of the term fees and expenses in the relevant Thai legislation is ambiguous and may be interpreted differently. The Government replies that several texts regulate the collection of fees and expenses by private recruitment agencies. The Employment Arrangement and Jobseeker Protection Act B.E. 2528 (1985) and Revision state that domestic private employment agencies are prohibited from demanding or receiving any money or property from jobseekers other than service fees or expenses, at a rate not exceeding the rate prescribed by the Minister of Labour. In conformity with this same Act, overseas employment agencies are prohibited from demanding or accepting fees from jobseekers except to the extent permitted by the Director-General of the Department of Employment. The Rule of the Ministry of Labour on Service Fees and Expenses Rates to be Collected from Jobseekers B.E. 2547 (2004), stipulates that the fees and expenses received or demanded by domestic private employment agencies shall not exceed 25 per cent of the workers' wages in the first month of work. Overseas employment agencies however may demand/receive fees or expenses from jobseekers which do not exceed 100 per cent of the wages in the first month of work, when the contract is of one year or more. For employment contracts of less than a year, the fees shall be reduced proportionately. The Foreigners' Working Management



Emergency Decree B.E. 2563 (2017) and Revision No. 2 B.E. 2564 (2018) prohibits private employment agencies that bring migrant workers to work in the country from demanding/accepting money or property from employers or workers, except for the fees and expenses listed in a notice from the Department of Employment, at the rate prescribed thereby. The notice of the Department of Employment entitled "Items and rates of service fees and expenses for bringing migrant workers to work with employers in the country," B.E. 2564 (2021) states that companies allowed to bring migrant workers to work in Thailand can demand fees from employers at a rate not exceeding 25 per cent of the workers' wages in the first month of work. **Noting that the fees and expenses that overseas employment agencies may demand to jobseekers appear substantial (amounting to approximately 8 per cent of the annual remuneration) and unrelated to any specific service offered to the workers, the Committee requests the Government to provide further information in this regard, taking into account the provisions of Article 11 of the Convention. The Government is further requested to indicate what countries the overseas employment agencies primarily draw jobseekers from, as well as to indicate how many jobseekers are being charged these high fees every year. Taking into account the fact that, pursuant to Article 11 of the Convention, the co-operation between the public employment service and private employment agencies cannot be conducted with a view to profit, the Government is asked to indicate the types of services offered that justify allowing the rate of fees and expenses that is four times that charged by domestic agencies. The Committee also requests the Government to provide updated information on the manner in which private employment agencies participate in the activities of the Committee on the development of employment arrangement and jobseekers' protection, once it is operational again. More generally, the Committee requests the Government to continue providing detailed and updated information on the measures taken to secure effective cooperation between the public employment service and private employment agencies. In this regard, recalling the campaign launched by the Office in May 2022 to promote the ratification of both the Public Employment Services Convention, 1948 (No. 88), and the Private Employment Agencies Convention, 1997 (No. 181), the Committee invites the Government to consider ratifying Convention No. 181, as the most up-to-date instrument in the area of private employment services, which in turn complements the effective implementation of Convention No. 88.**

## Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

### [Previous comment](#)

*Articles 1 and 2 of the Convention. Implementation of an active employment policy. Labour market trends.* In its previous comments, the Committee requested the Government to provide information on the implementation of the 12th Social and Economic Development Plan (2017–21) with respect to employment promotion, including its impact on labour market trends. The Government reports that the 12th Social and Economic Development Plan (2017–21), which was extended to 2022, was implemented through plans, policies and schemes, such as activities to prepare the workforce to meet labour market needs by way of skills development and capacity-building activities. It refers to the results of the Smart Job Centres that provided services to 1,096,307 jobseekers during the 2017–21 period, and to the Tri-Thep Centres which provided career development and guidance services to 135,693 participants during the same period. In terms of employment trends, the Government provides statistical data concerning employment, unemployment and visible underemployment, as well as information on the size and distribution of the informal economy. The Committee notes from the 2021 data that the total number of employed persons in both the formal and informal economy was measured at 37,705,741 workers, decreasing slightly from 2020, with 20,453,927 men and 17,251,814 women. In 2021, the total number of workers in the informal economy was 19,598,061, decreasing from 20,364,391 in 2020. Looking at the share of informal economy workers by economic sector in 2021, most of them are employed in the agricultural sector (58 per cent), followed by the trade and service sector (32.4 per cent). Referring to the unemployment rate that was decreasing at the end of the reporting period, the Government

indicates that it is a good sign of the recovery of the employment situation from the COVID-19 pandemic that hit Thailand in 2020. The Committee notes the adoption of the National Strategy (2018–37), the long-term action plan which will guide the formulation of employment policies, and the 13th National Economic and Social Development Plan (2023–27), which is the key mechanism to guide the implementation of the National Strategy. The Committee notes from the National Strategy document that Thailand will need to prepare for rapid changes brought upon by disruptive technology in order to minimize any negative impacts, especially if the access to technology, infrastructures and knowledge of different income groups is a key constraint. Disruptive technology will affect employment and forms of employment and occupation, higher capacity workforce will be more demanded while some occupations will be replaced by automation, especially low-skill jobs, which will pose a risk for some population groups, particularly those who are unable to keep pace or lack up-to-date knowledge and skills.

The Committee welcomes the reference to measures aimed at accompanying the rapid transformations in the economy and the world of work, including those occasioned by disruptive new technologies. The Committee considers that employment policies represent a very important tool which, if properly used, allows member States to anticipate and make the necessary adaptations to keep pace with these changes and challenges. The Committee observes that an ever increasing number of countries have started mobilizing the potential of employment policy in this respect, including by adopting measures to : (i) promote lifelong learning and skills development by providing funding for training programmes, and by making it easier for workers to access education and training opportunities; (ii) encourage innovation and entrepreneurship by providing funding for research and development, and by creating an environment that is conducive to business growth; (iii) facilitate labour market transitions by making it easier for workers to move between jobs and industries without losing their social protection entitlements, and by providing support for workers who are displaced by new technologies; (iv) strengthen social protection by expanding the coverage of unemployment benefits and other social protection benefits, and by providing support for workers who are retraining or transitioning to new jobs; (v) support investing in digital infrastructure to ensure that everyone has access to the tools they need to succeed in the digital economy; (vi) support workers in the transition to new jobs by providing retraining programs, job placement services, and other assistance; (vii) encourage dialogue between employers and workers to help identify challenges and opportunities, and to develop solutions that benefit both workers and businesses; or (viii) promote responsible innovation by establishing ethical guidelines for the development and use of new technologies in a way that benefits society and does not harm workers or the environment. ***In this respect, the Committee requests the Government to provide detailed information on the implementation of the 13th National Economic and Social Development Plan (2023–27) with respect to employment promotion, indicating also whether it intends to implement measures as those mentioned above. 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 by sector of the informal economy.***

*Promoting transition from the informal to the formal economy.* The Government indicates that it continues to promote formal employment, in accordance with the *Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)*, by extending access to social security benefits to workers in the informal economy and developing draft legislation to tackle this issue. The Committee notes with **interest** that the number of workers in the informal economy who are insured under section 40 of the Social Security Act (B.E. 2533 (1990)) increased every year during the 2017–21 period, from 2,432,927 in 2017, to 3,242,579 in 2019, and 10,664,848 insured persons in 2021. It also notes from the 13th National Economic and Social Development Plan (2023–27) that informal economy workers can opt into the voluntary retirement savings systems with government co-sponsored contributions as a way to ensure old-age income security. However, only around 35 per cent of workers in the informal economy

opt for these systems, thereby demonstrating the limits of voluntary insurance as a mechanism to extend protection and reach universal social protection. With respect to the measures taken, the Government indicates that the Ministry of Labour established an action plan on informal worker management (2017–21), which resulted in the promotion and protection of 3,618,731 informal economy workers in 2021. In addition, 76 provincial informal worker coordination centres and 253 provincial community service units were established to provide assistance to informal economy workers. Moreover, the Ministry of Labour has established a working group for the National Promotion and Development of Informal Workers Act, which includes representatives from government, employers' and workers' organizations. The Government indicates that the Cabinet approved the draft bill in principle in December 2021 and the bill is moving towards adoption. The draft bill provides for the creation of a National Committee on the Promotion and Development of Informal Workers, which will develop strategies and measures for the informal economy, as well as consult with informal workers' organizations.

The Committee welcomes this information and the recognition by the Government that employment policies play a significant role in promoting transitions from the informal to the formal economy by addressing the factors that drive individuals and enterprises to operate informally. As such, national best practices suggest that when properly designed and implemented, they can play a catalytic role in accelerating the transition from the informal to the formal economy, leading to more inclusive, productive, and resilient labour markets by creating an enabling environment that encourages formalization and by providing targeted support to facilitate the transition process. ***The Committee invites the Government to provide further information on specific measures taken to tackle the multiple challenges faced by workers in the informal economy, indicating in particular whether the measures taken or envisaged include some of the good practices in this regard: (i) reducing administrative burden and red-tape; (ii) strengthening and extending social protection as a means to incentivizing the enrolment of enterprises and their workers; (iii) promoting access to finance and business development services, including access to credit and training, as these are often lacking for informal enterprises; (iv) enhancing labour market placement and intermediation and skills development services; (v) raising awareness and promoting formalization; (vi) tailoring policies to specific sectors and occupations as the informal economy is not monolithic, and informalization patterns vary across sectors and occupations; (vii) promoting dialogue and collaboration among all relevant stakeholders for effective policy formulation and implementation; (viii) monitoring and evaluating policy impacts as this is crucial to assess policy effectiveness in promoting transitions from informality to formality. The Committee also requests the Government to continue to provide information, including disaggregated data, on the impact of the measures implemented to promote the transition to formal employment. In addition, noting with interest the considerable increase in the scope of persons covered by social protection, the Committee asks the Government to provide further information on the combination of measures the deployment of which was instrumental to such a positive outcome and to indicate how this extension of social protection was correlated to the objective of reaching decent, full, productive and freely chosen employment.***

**Older workers.** The Government indicates that Thailand is becoming an ageing society which is a major demographic challenge. In response to such changes, the Government has given importance to the promotion of employment of older workers through various measures and programmes, which include the Promotion of Self-Employment of Older Workers, the District One (Folk) Wisdom Programme, measures by public employment services, and skills development training courses. The number of older persons (those 60 of age and older) gradually increased during the 2017–21 period, with 4.06 million in 2017, 4.23 million in 2019, and 4.88 million in 2021. Older men accounted for 2.78 million people in 2021 and older women accounted for 2.10 million. The majority of older workers were agricultural and fishing workers, totalling almost 3 million workers in 2021. In terms of employment services, the Committee notes from the report that there were 9,263 older jobseekers that applied for

jobs through the Ministry of Labour's Employment Service Centres from 2017 to 2021, and 9,076 obtained employment. In the same period, there were 43,609 older workers that received skills development training and 15,356 older persons participated in a self-employment programme.

The Committee observes that demographic shifts indeed present a number of challenges for employment policy, including in terms of skills shortages, age discrimination, or health and safety concerns. It notes that successful employment policies have tended to include a selection of measures to secure positive employment outcomes, such as: (i) promoting lifelong learning through training programs, financial assistance, and flexible learning options; (ii) ensuring equal employment opportunities by providing clear guidelines for employers, promoting awareness of age discrimination among workers, and establishing mechanisms for workers to report and challenge age discrimination; (iii) promoting workplace flexibility by encouraging employers to adopt flexible work arrangements, such as part-time work, telecommuting, and flexible hours; (iv) promoting workplace health and safety, including by providing appropriate training and equipment, and implementing ergonomic principles; (v) raising awareness of the benefits of an ageing workforce to reduce negative stereotypes about older workers and promoting a more inclusive workplace; and (vi) providing funding for training programs for older workers or offering tax benefits to employers who hire and retain older workers. Other successful measures in this respect include providing support for older workers who are starting their own businesses and conducting research and analysing data on the ageing workforce for informed policymaking. ***In view of the above elements and future demographic challenges related to an ageing society, the Committee requests the Government to provide information on the measures adopted, in consultation with the social partners, to address these labour market challenges. It also requests the Government to continue to include statistical data, disaggregated by sex and age, on the results of the measures taken to increase employment opportunities for older workers and reduce the barriers they may encounter in accessing, advancing and remaining in employment.***

*Promotion of women's employment and prevention of discrimination.* The Government indicates that Thailand continues to enforce the Gender Equality Act (B.E. 2558 (2015)) and promote non-discrimination in employment between women and men according to section 15 of the Labour Protection Act (B.E. 2541 (1998)). The Committee refers in this regard to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Government indicates that the implementation of women's employment promotion activities and the prevention of discrimination include the promotion of breastfeeding areas in enterprises and the establishment of childcare centres in workplaces. From January to June 2022, 112 enterprises established breastfeeding areas. Statistical data on the impact of the measures taken to promote increased participation of women in the labour market show that the labour force participation rate of women varied from 59.38 to 60.07 per cent during the 2017–21 period, while it varied for men from 76.17 to 77.10 per cent during the same period. The Committee notes from the report that out of 29.58 million women aged 15 and over in 2021, only 17.65 million were employed (59.7 per cent).

The Committee notes that the inclusion of specific measures into national employment policies to promote women's employment and prevent discrimination represents an important component of gender-sensitive and gender-responsive employment policies. Based on comparative good practices, these often include : (i) promoting flexible work arrangements so as to allow better work-life balance for both men and women; (ii) investing in women's education and training by providing scholarships and financial aid, and by expanding the availability of vocational training programmes for women; (iii) addressing gender stereotypes and discrimination by implementing anti-discrimination laws and raising awareness of gender equality issues; (iv) promoting women's entrepreneurship by providing funding and support for women-owned businesses, and by creating an environment that is conducive to business growth; (v) collecting and analysing gender-disaggregated data to inform policy decisions and interventions for understanding the challenges and opportunities facing women in the workplace; (vi) strengthening enforcement of labour laws by increasing the number of labour inspectors, and by

raising awareness of workers' rights; (vii) promoting a culture of gender equality in the workplace by providing training for employers and employees on gender equality issues, and by recognizing and rewarding businesses that promote gender equality; (viii) supporting women's organizations and promoting women's empowerment by providing funding and resources, and by creating an environment that is conducive to their work; and (ix) providing affordable and accessible childcare by securing funding for childcare subsidies and expanding the availability of childcare options, such as daycare centers and preschools. **By reference to the above, the Committee requests the Government to provide information on the types of measures adopted at the national level to promote employment of women and 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. It also requests the Government to provide information on the consultations held with the social partners with respect to the measures adopted.**

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

## Zimbabwe

### Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1998)

#### [Previous comment](#)

The Committee notes the observations from the Zimbabwe Congress of Trade Unions (ZCTU), received on 14 September 2022. **The Committee requests the Government to provide its reply in this regard.**

*Articles 2 and 5 of the Convention. National policy on vocational rehabilitation and employment of persons with disabilities. Consultation with the social partners and organizations of and for persons with disabilities.* The Committee notes with **interest** the adoption of Zimbabwe's first National Disability Policy (NDP) on 9 June 2021, developed with the technical and financial support of the United Nations Children's Fund (UNICEF). The Committee notes that the NDP was formulated with the participation of a diverse range of stakeholders, including persons with disabilities and their representative organizations, non-governmental organizations, and the private sector. The NDP aims to reduce inequalities and empower persons with disabilities to enable them to improve their own standard of living and that of their families. The NDP includes among its objectives: mainstreaming disability in all laws, policies, guidelines, programs, and interventions to ensure that these are inclusive of and accessible to persons with disabilities and that they address the rights of persons with disabilities; raising awareness of disability issues; and guiding and supporting self-representation of persons with disabilities, particularly of women with disabilities. The Committee observes that, according to information available on the UNESCO website, on 7 July 2022, the Government, in collaboration with the United Nations Partnership on the Rights of Persons with Disabilities (UNPRPD) launched the National Technical Coordination Committee for the Implementation of the National Disability Policy. The Government indicates that workshops will be held to raise awareness of the NPD among employers and workers. Furthermore, the Committee notes that, according to the Government's initial report of March 2022 to the UN Committee on the Convention on the Rights of Persons with Disabilities (CRPD), the Government is in the process of amending the Disabled Persons Act [Chapter 17:01] and taking measures to adapt national legislation aligned to both the Constitution of Zimbabwe and the CRPD. The Persons with Disabilities Bill, 2021 is the piece of draft legislation through which this legislative reform will be achieved. The Government indicates that the Draft Bill has been submitted to the Cabinet Committee on Legislation for its consideration. The Committee notes the observations of the ZCTU, in which it maintains that, while the Government has adopted a very progressive legislation on the rights of persons with disabilities, it has nevertheless failed to enforce it to effectively ensure the access to

employment of persons with disabilities. Lastly, the Government reports that, although measures are being taken toward undertaking a national disability survey, current and reliable data on disability in Zimbabwe is not available. Nonetheless, the Government adds that it is estimated that approximately 15 per cent of the population in Zimbabwe have a disability, and that more than half of this percentage are women. ***The Committee requests the Government to provide detailed updated information on the nature, scope and impact of the measures taken to promote employment opportunities for persons with disabilities, including those adopted in the framework of the National Disability Policy (NDP). It also requests the Government to provide updated information on the status of the adoption of Persons with Disabilities Bill, 2021, and to provide a copy once it is adopted. The Government is also requested to provide concrete information on the content, frequency and outcome of the consultations held with the social partners and with organizations representing persons with disabilities in relation to the application of the provisions of the Convention. The Committee further requests the Government to provide detailed updated information on the practical application of the Convention, including statistical data, disaggregated by age and sex, as well as extracts from court decisions, reports, studies or other relevant documents concerning the matters covered by the Convention.***

*Article 3. Promotion of employment opportunities in the open labour market.* The Committee notes that the NDP envisages the formulation of national guidelines on the employment of persons with disabilities, as well as on achieving inclusive education to prepare persons with disabilities for the world of formal employment, including entrepreneurship training and support. Moreover, the Government indicates that measures are being taken toward the establishment of a revolving loan fund of up to US\$1,000 for persons with disabilities who wish to undertake small scale income generating investment programmes. To this end, the Government has partnered with the National Building Society (NBS) Bank to ensure the distribution of loans through the Bank to all eligible persons throughout the country. The Government reports that 15 applications for entrepreneurial initiatives have been submitted and are awaiting further approval by the NBS. It adds that measures will be taken to raise awareness of the fund, aimed at the National Social Security Authority (NSSA) rehabilitation centres and stakeholders. With respect to access to education, the NDP includes among its key elements: ensuring an inclusive education system at all levels, as well as lifelong learning for all persons with disabilities; guaranteeing that persons with disabilities are exempt from paying fees and levies at all public learning institutions; and providing reasonable accommodation to students with disabilities. Furthermore, financial support is provided for persons with disabilities that decide to enrol in vocational training, and the Government also has vocational institutions that provide certain courses free of charge, as well as free boarding facilities. The Government reports that, from January to 1 September 2022, 34 children with disabilities and 122 adults with disabilities were enrolled in public education institutions. Recalling that assistive technologies can be essential to enable persons with disabilities to secure and remain in employment, the Committee takes particular note of the Government's indication that 260 applications for assistive technologies were processed during the reporting period, and that there has been an improvement in reach out following an exercise conducted on mapping of service providers to persons with disabilities. In addition, the Committee notes from the Government's initial report to the CRPD, the development of the policy on "Equalisation of Employment Opportunities for persons with disabilities in the Public Sector", in consultation with the National Disability Board, the private sector and the general public. The policy provides for the mainstreaming of disability in all matters related to employment and conditions of work in the public service. The Government adds that the Public Service Commission (PSC) is carrying out a disability baseline survey in the public sector to assess the inclusion of persons with disabilities in government policies and programmes, with a view to promoting evidence-based programming and interventions focused on persons with disabilities. There are currently 661 men with disabilities and 417 women with disabilities working in the public sector. With regard to the establishment of an employment quota of persons with disabilities, the Government indicates in its initial report before the CRPD that clause 42 of the Persons with Disabilities Bill provides for a 2 per cent employment quota for

persons with disabilities in both the public and private sectors. The clause further provides for the imposition of penalties on employers who fail to comply with the quota (non-compliance). ***The Committee requests the Government to continue to provide detailed updated information on the nature, scope and impact of the measures taken to promote employment opportunities for men and women with disabilities in the open labour market in both the public and private sectors, including those adopted in the framework of the National Disability Policy (NDP) and the policy for the Equalisation of Employment Opportunities for persons with disabilities in the Public Sector, as well as the nature and impact of measures taken in relation to the provision of assistive technologies. The Committee further requests the Government to provide updated information on the adoption and implementation of the quota system envisaged in clause 42 of the Persons with Disabilities Bill to promote the employment of persons with disabilities in the labour market.***

*Article 4. Effective equality of opportunity and treatment between men and women workers with disabilities, and between workers with disabilities and other workers.* The Government refers in its report to section 5 of the Labour Act, which prohibits discrimination on the basis of disability and other specified grounds, against any employee or prospective employee in the advertisement, recruitment, creation, and classification of jobs. The Committee notes the information provided by the Government regarding the measures taken to promote equality of opportunity and treatment between workers with disabilities and other workers. In particular, the Committee notes that joint inspections of workplaces are carried out by the labour officers and labour inspectors of the NSSA to assess compliance with legislation and raise awareness of the obligation to promote equal treatment and non-discrimination against persons with disabilities and persons with albinism. The Government adds that, in accordance with a directive from the Ministry of Local Government and Social Amenities, only building plans that are accessible to persons with disabilities are approved. The Committee nevertheless notes that, in its observations, the ZCTU denounces that persons with disabilities still face discrimination, stigma and stereotyping in Zimbabwean society. The ZCTU adds that, while there are persons with disabilities employed in the public sector, employers in the private sector rarely employ persons with disabilities. Lastly, the Committee notes that the Government does not provide information on measures taken to promote effective equality of opportunity and treatment between men and women with disabilities. ***The Committee requests the Government to continue to provide detailed updated information on the nature, scope and impact of measures adopted or envisaged to ensure effective equality of opportunities and treatment in employment and occupation between women and men with disabilities, as well as between workers without disabilities and those with disabilities, including statistics disaggregated by sex, age and economic sector. The Committee also requests the Government to provide copies of court decisions, if any, addressing discrimination against women and men with disabilities, including denial of reasonable accommodation in the public and private sectors.***

*Article 7. Vocational rehabilitation and employment services.* The Committee notes that the Government refers to the establishment of the Department of Disability Affairs. According to information available on the Government's website, this Department has two main sections Disability and Rehabilitation Section and the State Service Disability Benefits. It utilizes the Department of Social Welfare structures at provincial and district levels in rolling out its programmes. The Department is responsible for processing the financial assistance granted to persons with disabilities who wish to pursue vocational education up to the university level as well as the applications for state service disability benefits. The Government reports that, from January to July 2022, 289 persons with disabilities were enrolled in tertiary education and received financial support for vocational training fees, and that 489 applications for state service disability benefits were processed during the same period. The Committee also notes that the NDP envisages the adoption of measures to ensure that comprehensive rehabilitation services and programmes are organized, strengthened and extended to persons with disabilities in, among other areas, education, employment and social services; and that a minimum of 15 habilitation and rehabilitation students per enrolment must be persons with disabilities. The

Committee also notes that, in its initial report to the CRPD, the Government indicates that financial support is provided to the three State-owned National Rehabilitation Centres (Ruwa, Lowdon Lodge and Beatrice National Rehabilitation Centres), which exclusively enroll persons with disabilities. The rehabilitation centers offer courses in areas such as: carpentry, motor mechanics, leatherwork, domestic appliances electrical, welding, storekeeping and bookkeeping, ornamental horticulture and information technology. The Government reports that 420 students are currently enrolled in the vocational training centres. Moreover, institutional support is provided in the form of administrative and per capita grants to NGO-owned institutions. **The Committee requests the Government to continue to provide updated detailed information on the nature, scope and impact of the vocational guidance and training measures adopted to enable persons with disabilities to secure, retain and advance in employment. It further requests the Government to provide updated detailed information on nature, scope and impact of vocational rehabilitation and employment services provided to persons living with a psychological, emotional or intellectual disability.**

*Article 8. Access to services in rural areas and remote communities.* The Committee notes the Government's indication that, between January and August 2022, 35 career guidance workshops for persons with disabilities were held in rural and remote areas of the country. In addition, measures were taken to raise awareness among persons with disabilities of the range of vocational training and related services available to them through the Social Welfare District offices. **The Committee requests the Government to continue to provide updated detailed information on the nature, scope and impact of the measures taken to ensure the effective provision of vocational rehabilitation and employment services in rural areas and remote communities.**

*Article 9. Training of staff responsible for persons with disabilities.* The Committee notes that, pursuant to the NDP, continuous professional development in the area of disability must be compulsory for staff, including qualified teachers and social workers. In addition, the Government reports that staff development programmes and exchange programmes with organizations of persons with disabilities have been implemented to train staff responsible for providing services to persons with disabilities. The Government further indicates that diploma, degree and master's programmes on disability studies have been introduced in higher education institutions. **The Committee requests the Government to continue to provide detailed updated information on the nature, scope and impact of the training provided to vocational rehabilitation and employment services staff in both urban and rural areas to enable them to provide effective employment-related services, including training, vocational guidance and placement services tailored to the specific needs of persons with disabilities.**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 2** Iceland, Kenya **Convention No. 88** Belize, Democratic Republic of the Congo, Ethiopia, Guinea-Bissau, Kenya, Madagascar, Mozambique, Thailand, Tunisia, Türkiye, United Republic of Tanzania (Tanganyika), Viet Nam **Convention No. 96** Djibouti, France (French Polynesia), Gabon **Convention No. 122** Antigua and Barbuda, Australia, Barbados, Bosnia and Herzegovina, Costa Rica, El Salvador, Gabon, Iceland, Iran (Islamic Republic of), Italy, Japan, Montenegro, Namibia, Netherlands (Sint Maarten), Papua New Guinea, Paraguay, Romania, Russian Federation, Senegal, Serbia, Slovakia, Sri Lanka, Switzerland, Thailand, Tunisia, Türkiye, Viet Nam, Yemen, Zambia **Convention No. 159** Ecuador, El Salvador, Ethiopia, Madagascar, Türkiye, Yemen, Zambia **Convention No. 181** France (New Caledonia), Madagascar, Republic of Moldova.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 122** Croatia **Convention No. 159** Croatia.



## Vocational guidance and training

### Guinea

#### Human Resources Development Convention, 1975 (No. 142) (ratification: 1978)

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. Formulation and implementation of education and training policies.* In response to the Committee's previous comments, the Government indicates that the Ministry of Technical Education, Vocational Training, Employment and Labour has envisaged measures with a view to improving the initial training of teachers. These measures include raising the entry requirements for the teaching profession to the single baccalaureate and granting an incentive bonus of 150,000 Guinean francs (GNF) per month to student teachers during their two years of training in order to attract the best candidates. The Government also reports that a liberalization of private initiatives has facilitated the growth of private schools, which employ a large number of graduates from teacher training colleges. In this context, the Government indicates that a state mechanism has been established for the supervision, inspection and coordination of these private schools at the national and local levels. The Government indicates that, in order to strengthen links between training and employment, a strategy to link the graduates' final examination to the recruitment competition for the public service is being formulated by an inter-ministerial committee comprising representatives of the public service, finance, budget, national education, literacy and technical education. A strategy targeting the training of young persons is envisaged by the Government through the "Boosting skills for the employability of young persons" (BOCEJ) project, within which vocational and technical training and higher education institutions work with the private sector to prepare training projects via a public-private partnership (PPP) with a view to improving the employability of young graduates. In the context of enhancing the status of the teaching profession, the Committee notes the signature of joint order No. 2018/1629/MESRS/METFPET/SGG of 21 March 2018, issuing Bachelor's diplomas to graduates of "B" training institutes. The Government adds that, to address the lack of teachers, it has initiated a training programme for 2,000 teachers a year with the support of the World Bank. In this regard, two main innovative training strategies have been implemented: emergency training comprising three months of classroom training and nine months of practical training, followed by three further months of classroom training; and regular training comprising nine months of classroom training and nine months of practical training. The Committee notes that, according to the 2015-17 education sector programme, the Government has implemented several measures to combat the gender inequalities suffered by young women. **The Committee therefore requests the Government to indicate the measures taken to eliminate gender inequality between young women and men, and their results. The Committee requests the Government to provide statistical data, disaggregated by age and sex, on the impact of the measures implemented within the framework of the above training strategies and programmes, and a copy of the order of 21 March 2018. The Committee refers to its comments on the Employment Policy Convention, 1964 (No. 122), and reiterates its request to the Government to provide detailed information on the manner in which it ensures effective coordination between vocational guidance and training policies and programmes and employment policies and programmes and on the manner in which it facilitates lifelong learning, as envisaged in Paragraph 3(a) of the Human Resources Development Recommendation, 2004 (No. 195). The Committee also requests the Government to indicate the impact of these policies on the creation of decent jobs and poverty eradication in accordance with Paragraph 16 of the Recommendation. Lastly, the Committee requests the Government to continue to provide information on the consultation and coordination measures between the various competent bodies to develop comprehensive and collaborative policies and programmes for vocational guidance and training.**

*Article 5. Cooperation with the social partners.* The Government indicates that the social partners, students' parents, local politicians, the community and non-governmental organizations were heavily involved in the implementation of the training project for 2,000 teachers a year. It adds that it decided, in cooperation with the social partners, that it was necessary to review the project, which was implemented from 2011 to 2012. In this context, the Government and the social partners implemented a new training model through the education sector programme with the institutional support of CEPEC-Lyon International.

The Government indicates that the social partners are also involved in the implementation of this model, which is currently in force in teacher training colleges, as part of the practical training of the student teachers. ***The Committee requests the Government to continue to provide detailed information on the participation of the social partners and other concerned parties in the formulation and implementation of vocational guidance and training policies and programmes. The Committee also requests the Government to describe any consultation procedures or mechanisms established in this regard.***

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 140** Afghanistan, Kenya, United Kingdom of Great Britain and Northern Ireland (Anguilla), United Republic of Tanzania **Convention No. 142** Afghanistan, Czechia, Egypt, Finland, France (French Polynesia), Iran (Islamic Republic of), Japan, Montenegro, Tunisia, United Republic of Tanzania.

## Employment security

### Democratic Republic of the Congo

#### Termination of Employment Convention, 1982 (No. 158) (ratification: 1987)

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

*Observations by the Labour Confederation of Congo (CCT). Abusive dismissals.* In its previous comments, the Committee invited the Government to provide its own comments on the observations of the CCT, indicating whether the dismissal of around 40 employees of a private multinational enterprise governed by French law were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also requested the Government to provide information on the measures adopted to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166). In its report, the Government indicates that section 78 of the Labour Code adopted in 2002 prohibits mass dismissals, and that the information held by the Government does not indicate that the dismissed workers did not receive severance allowances, as no complaint was noted. The Committee notes that, with regard to measures adopted to mitigate the effects of the dismissals, the Government indicates that the provisions of section 78 of the Labour Code guarantee priority hiring in the event of a resumption of activity. The Committee also notes that section 78 provides that mass dismissals on economic grounds are prohibited, "except for possible exceptions that will be determined by an order of the Minister responsible for labour and social security" and sets out the applicable procedure. **Noting that the Government provides information of a general nature concerning the above-mentioned dismissals, the Committee requests the Government to provide information on the procedure followed in the case reported by the CCT, including copies of inspection reports, where possible. It once again requests the Government to provide specific information indicating whether the dismissals were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also once again requests the Government to provide specific information on the measures adopted in this particular case to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).**

In its previous comments, the Committee also requested the Government to provide a report containing information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. It also requested it to indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form). The Committee notes that the Government has provided inspection reports from 2014, 2015, 2016 and 2017 but that these reports do not contain information on the application of the above-mentioned Articles. **The Committee therefore once again requests the Government to provide information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. It also reiterates its request to the Government to indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form).**

*Article 7. Procedure prior to, or at the time of, termination.* In its previous comments, the Committee requested the Government to provide copies of collective agreements which provide for the possibility of a specific procedure to be followed prior to, or at the time of, termination, as required by the Convention, and to indicate the manner in which this provision of the Convention is given effect for workers not covered by collective agreements. The Government indicates that: (i) it ensures that collective agreements are in conformity with sections 63, 72, 73 and 75 of the Labour Code; and (ii) in addition to enterprise collective agreements, there is the national inter-occupational labour agreement, of which it provides a copy. The Committee nevertheless notes that the copy of the latter agreement was already provided by the Government in its 2013 report and that, in this regard, it considered that the above-mentioned collective agreement did not appear to envisage the possibility of a specific procedure to be followed prior to, or at the

time of, termination. The Government adds that enterprises that have not concluded collective agreements are required to adhere to the sectoral collective agreement and the procedure to be followed prior to, or at the time of, termination is provided by the implementing measures, such as OrderNo.12/CAB.MIN/TPS/116/2005 of 26 October 2005, determining the terms of dismissal of workers. The Committee notes with **interest** that Act No. 16/010 of 15 July 2016, amending and supplementing Act No. 015-2002 issuing the Labour Code, with respect to section 62, provides that “when the employer envisages dismissal for grounds related to the worker’s aptitude or conduct, he or she is required, before any decision is taken, to allow the person concerned to defend himself or herself against the allegations made or to provide an explanation for the grounds put forward”. **The Committee requests the Government to provide up-to-date information on the application in practice of the Labour Code with regard to the possibility offered to workers to defend themselves against the allegations against them before any dismissal measures are imposed, as well as the application of the above Order. It also once again requests the Government to provide copies of the collective agreements which provide for the procedure to be followed prior to, or at the time of, termination.**

*Article 12. Severance allowance and other income protection.* In its previous comments, the Committee noted that national legislation does not provide for severance allowances or other forms of income protection for dismissed workers. The Committee therefore reiterated its request to the Government to indicate the manner in which effect is given to *Article 12* of the Convention. The Committee notes the Government’s indication that in order to prevent workers from being adversely affected, tax deductions are limited to 10 per cent during the notice period. However, other categories are not taxed, except for non-statutory family benefits. **Noting, once again, the absence of specific information in the Government’s report in response to the Committee’s request, it urges the Government to provide detailed information indicating the manner in which effect is given to Article 12 of the Convention.**

*Articles 13 and 14. Terminations for economic or similar reasons.* In its previous report in 2013, the Government indicated that the Ministry of Employment, Labour and Social Welfare signed 15 orders authorizing collective terminations for economic or similar reasons, covering 701 workers in 2012–13. The Committee invited the Government to indicate whether the dismissed workers were entitled to severance allowances (*Article 12*) and to provide information on the measures taken to mitigate the effects of terminations for economic or similar reasons, as envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166). **Noting that the Government’s report does not contain information in this regard, the Committee once again requests the Government to provide the information requested.**

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

## Papua New Guinea

### Termination of Employment Convention, 1982 (No. 158) (ratification: 2000)

The Committee notes with **deep concern** that the Government’s report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 1 of the Convention.* For a number of years, the Committee has requested information concerning the ongoing revision of the Industrial Relations Bill which, according to the Government’s 2013 report, includes provisions on termination of employment with the objective of giving effect to the Convention. In its reply to the Committee’s previous comments, the Government indicates that the draft Industrial Relations Bill is still pending with the Department of Labour and Industrial Relations and is undergoing final technical consultations. The Government adds that the Department of Labour and Industrial Relations Technical Working Committee has carried out various consultations with national stakeholders, such as the Department Attorney General’s Office, the Office of the Solicitor General, the Constitution Law Reform Commission, the Department of Personnel Management, the Department of Treasury and the Department of Planning, Trade Commerce and Industry, as well as with external technical

partners, including the ILO. **Referring to its previous comments, the Committee once again expresses the hope that the Government will take the necessary measures to ensure that the new legislation gives full effect to the provisions of the Convention. It also reiterates its request that the Government provide a detailed report to the ILO and a copy of the legislation as soon as it is enacted, so as to enable the Committee to examine its compliance with the Convention.**

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

## Türkiye

### Termination of Employment Convention, 1982 (No. 158) (ratification: 1995)

#### Previous comment

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TISK), communicated together with the Government's report. It further notes the observations of the Confederation of Progressive Trade Unions of Türkiye (DISK), received on 1 September 2022.

#### Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that, at its 341st Session in March 2021, the ILO Governing Body approved the report of the tripartite committee set up to examine the representation submitted by the Action Workers' Union Confederation (Aksiyon-Is) under article 24 of the ILO Constitution (GB.341/INS/13/5). The tripartite committee issued conclusions and made recommendations in relation to: (i) the summary dismissal of thousands of Turkish workers, including all members of Aksiyon-Is, by legislative decree on the grounds that they were terrorists who had supported the coup attempt that took place in Türkiye on 15 July 2016; (ii) the lack of due process in respect of the appeals procedures held before the Inquiry Commission established to examine the terminations; and (iii) the situation of the dismissed workers who suffered from retaliatory actions that impeded them from securing alternative employment, receiving termination indemnities or their entitlements under the health, employment and pension systems to which they were affiliated and contributing.

The tripartite committee found that the Government summarily dismissed thousands of workers, including all 29,579 members of Aksiyon-Is, under emergency decrees issued by the Government following the attempted coup, deeming the workers to be terrorists on the basis of alleged links with a terrorist organization merely due to their association with the trade union confederation. The dismissed workers were not informed prior to the dismissal of the reasons for their termination, nor were they afforded the opportunity to defend themselves prior to being dismissed. The tripartite committee also found that the workers were apparently denied the opportunity to present information or evidence in their defense, including witness testimony, to the Inquiry Commission on the State of Emergency Measures responsible for examining their appeals. The tripartite committee found that, in addition to being summarily dismissed, the workers concerned were blacklisted as being or having ties to terrorists, precluding them from securing alternative employment. They received no termination indemnities and were deprived of their entitlements under the health, unemployment and pension systems to which they were affiliated and had been contributing, in violation of *Article 12* of the Convention. The tripartite committee also observed, citing *Article 9(2)* of the Convention, that the sample cases set out in the 2019 Inquiry Commission report appeared to place the burden of proof on the worker, in addition to restricting their means of defense. It urged the Government to ensure that the dismissed workers are ensured a full and fair opportunity to argue their case and present information and evidence in their defense in challenging their dismissals, and that the principle of due process is fully observed in each individual application, including on appeal. Noting that the work of the Inquiry Commission is still under way, the tripartite committee urged the Government to ensure full reconsideration on the merits of those cases in which applications have been rejected without the

applicants having had the opportunity to present oral statements or witnesses, and to ensure this right of defense for those dismissed workers whose cases have not yet been examined. Noting the dire impact of the dismissals on the workers' ability to secure alternative employment, the tripartite committee urged the Government to make all efforts to ensure a rapid, comprehensive and impartial review of the merits of each individual case, and in the event that the dismissals were found to be unjustified, to award compensatory damages and restitution of accrued benefits. The tripartite committee requested that the Government take into account these observations in its application of the Convention and invited it to provide information for examination and possible further monitoring by the Committee of Experts.

The Committee **deeply regrets** that the Government does not refer in its report to any measures taken to address the concerns and recommendations of the tripartite committee regarding the denial of the dismissed workers' rights to be informed of and present a defense prior to dismissal, as well as of their right to a fair, impartial review of their termination decision. The Committee further **regrets** that the Government does not provide concrete information on the situation of those dismissed workers whose appeals were upheld. **The Committee therefore urges the Government to take all necessary measures to implement the recommendations of the tripartite committee approved by the Governing Body and requests the Government to provide full information in this respect in its next report.**

*Articles 4 through 9, 10 and 12. Valid reason for termination. Right to present a defense. Right of appeal to an impartial body. Adequate compensation and termination indemnities.* The Committee notes the conclusions of the tripartite committee referred to above concerning the summary dismissals of thousands of workers since July 2016, including all members of the Aksiyon-Is trade union confederation. While the Committee notes the Government's position that the dismissals were not based on the workers' affiliations with the trade union confederation, it once again emphasizes that *Article 4* of the Convention provides that the employment of a worker shall not be terminated unless there is a valid reason connected with the capacity of conduct of the worker or based on the operation requirements of the undertaking, establishment or service. Moreover, prior to dismissal, the worker should be informed of the reason for the termination decision and be afforded the opportunity to be heard. In this context, the Committee draws the Government's attention to paragraphs 146 and 150 of its [1995 General Survey on Protection against unjustified dismissal](#), which provide that, pursuant to *Article 7* of the Convention, "the worker, before his employment is terminated, must have an opportunity to defend himself against the allegations made, which presupposes that the latter should be expressed and brought to his attention before the termination. [...] It is important that the allegations are expressed and communicated to the worker without ambiguity and that the worker is given a real opportunity to defend himself." Moreover, pursuant to *Articles 8* and *9(2)* of the Convention, the dismissed worker is entitled to appeal the termination to an impartial body and should not have to bear alone the burden of proving that the termination was not justified. The Committee notes the Government's indication that as of 27 May 2022, the number of applications submitted to the Inquiry Commission stood at 127,130. The Commission had handed down decisions on 98 per cent of the applications, delivering 124,235 decisions (17,265 appeals accepted and 106,970 rejected). The Government indicates that 61 of the acceptance decisions are related to the opening of organizations that had been shut down, such as associations, foundations and television channels. **The Committee urges the Government to implement the recommendations of the tripartite committee to make all efforts to ensure full reconsideration on the merits of those cases in which applications have been rejected without the applicants having had the opportunity to present oral statements or witnesses, and to ensure this right of defence for those dismissed workers whose cases have not yet been examined. The Government is requested to provide detailed updated information on the manner and extent to which the recommendations of the tripartite committee have been given effect.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** *Finland, Gabon, Saint Lucia, Türkiye, Yemen*.

## Wages

### Plurinational State of Bolivia

#### Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1977)

##### [Previous comment](#)

The Committee notes the comments of the Confederation of Private Employers of Bolivia (CEPB), received on 1 September 2023, which state that: (i) over the past 15 years, the form in which the minimum wage is fixed has led to a reduction of decent work in the country, damaging the business environment and hampering the progress of Bolivian citizens; (ii) the system for fixing the minimum wage must reflect the reality of the parties in the employment relationship and, even more so, the national dynamic; (iii) the Bolivian Government fails systematically to observe *Article 4(2)* of the Convention, which provides for full consultation with representative organizations of employers and workers concerned; and (iv) *Article 4(3)* of the Convention provides for the direct participation of the representatives of employers' and workers' organizations in the application of the minimum wage fixing system on a basis of equality, without preference, priority or privilege being given to a workers' organization over an employers' organization. **The Committee requests the Government to provide its comments in this regard.**

*Articles 3 and 4(1) and (2) of the Convention. Elements for the determination of the level of the minimum wage and full consultations with the social partners.* In response to its previous comments, the Committee notes the Government's indication in its report that: (i) Supreme Decree No. 4711 of 1 May 2022, which establishes the minimum wage for 2022, was adopted after in-depth analysis of the national and international economic context, the situation of the public finances, State enterprises, macroeconomic stability, public investment and production programmes; (ii) the consultation process for fixing the minimum wage for 2022 began in March of that year when the Government invited the Bolivian Central of Workers (COB) and the CEPB to separate meetings to discuss adjustments to the minimum wage; (iii) during the first meeting, the CEPB refused to discuss wage increases and other matters were dealt with; (iv) the enterprise sector submitted no suggestions regarding the salary increase for either the 2022 exercise, or for previous exercises; (v) the negotiation mechanism through tripartite meetings is not applicable to the Bolivarian reality, but that has not prevented the adoption of a series of mechanisms allowing the direct participation of both employers and workers, by holding meetings with each of them, to promote equality of the partners of both sectors; and (vi) no difficulty has been encountered in applying the Convention and therefore an ILO direct contacts mission is not necessary.

The Committee notes the lack of dialogue with the CEPB regarding fixing the minimum wage. **The Committee strongly urges the Government to make all possible efforts to consult fully with the representative organizations of employers and workers concerned regarding the minimum wage fixing mechanism, adapted to the national conditions and needs. In this context, the Committee notes once again with regret the Government's refusal to accept the direct contacts mission to the country requested by Standards Committee of the Conference on three occasions (in 2018, 2019 and 2021), given that such missions constitute an effective form of dialogue and aim at seeking a positive solution to the problems. The Committee strongly hopes that the Government will reconsider its refusal and that such a mission may be undertaken before the 112th Session of the International Labour Conference.**

Finally, the Committee notes, from information available on the Government's website, that the minimum wage was readjusted in May 2023 with the adoption of Supreme Decree No. 4928. **The Committee requests the Government to provide information on the consultations undertaken with the representative organizations of employers and workers for the fixing of the minimum wage.**



## Central African Republic

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

#### Previous comment

*Article 12 of the Convention. Regular payment of wages in the public service.* In response to the Committee's previous comment, the Government indicates in its report that the Standing framework for consultation and bargaining (CPCN), established pursuant to Decree No. 14.158 of 14 August 2014, is the consultation and social dialogue mechanism that underpins the General Conditions of Service of the Public Service. This body comes under the aegis of the Ministry of Public Service and is composed of representatives of the State institutions and the trade union organizations of public sector employees. The Committee notes that, according to the Government's indications, the question of wage arrears in the public service was raised in 2018, and that a memorandum of understanding was signed on 25 September 2019 and that a steering committee had been established on 20 October 2019. The Committee welcomes the efforts to which the Government has committed with a view to progressively clearing the wage arrears for 2001, 2002 and part of 2003. The Committee also notes that discussions are ongoing within the CPCN in respect of the remaining arrears, and that the precise amount of these will be determined by a joint mixed commission, put in place by the Government. **The Committee requests the Government to renew its efforts with a view to the complete settlement of the wage arrears in the public sector. In the absence of new information in this regard, the Committee again requests the Government: (i) to take the necessary measures to ensure the regular payment of wages in this sector and to ensure efficient control, including the adoption of appropriate sanctions and the existence of means to redress any injuries caused, and: (ii) to provide information on all measures taken in this regard.**

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

## Comoros

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1978)

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1978)

### Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) (ratification: 1978)

The Committee notes 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 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.***

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

## Cuba

### Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1972)

#### Previous comment

*Article 4(2) and (3) of the Convention. Consultations with organizations of employers or representatives of employers.* With regard to its earlier comments, the Committee notes the Government's indication that throughout the process of drawing up Decision No. 29 of 2020, approving the minimum wage in force in the country, consultations were held with the Confederation of Workers of Cuba (CTC) as the most representative organization of workers. ***In this context, the Committee requests the Government to take the necessary steps, within the framework of the functioning of the minimum wage fixing machinery, to ensure in future full compliance with the obligation to consult fully with the representative organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned, as provided by Article 4(2) and (3) of the Convention.***

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

## Djibouti

**Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)** (ratification: 1978)

**Protection of Wages Convention, 1949 (No. 95)** (ratification: 1978)

**Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)**  
(ratification: 1978)

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

The Committee notes the joint observations of the General Union of Djibouti Workers (UGTD) and the Labour Union of Djibouti (UDT) received on 4 May 2021 on Convention No. 95.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 and 99 (minimum wages) and 95 (protection of wages) together.

### Minimum wages

*Articles 1 to 3 of Convention No. 26 and Articles 1 and 3 of Convention No. 99. Minimum wage fixing machinery.* Further to its latest comments on the need to reintroduce the guaranteed interoccupational minimum wage (SMIG), which was withdrawn from the legislation in 1997, the Committee welcomes the information provided by the Government in its report, particularly in respect of the approval by the National Council for Labour, Employment and Social Security of a draft amendment to the Labour Code aimed at reintroducing the minimum wage. The Committee notes with **satisfaction** that Act No. 221/AN/17/8th L of 2017, by amending section 60 of the Labour Code, effectively reintroduced the SMIG as from 1 January 2018.

### Protection of wages

*Articles 8(1) and 10 of Convention No. 95. Deductions from and attachments of wages.* Further to its latest comments on the need to review the conditions in which wage deductions can be made and to limit the amount thereof, the Committee notes the Government's reference in its report to a draft text fixing portions of wages that are subject to progressive deductions and the related rates, which is under examination. The Committee also notes that by amending section 141 of the Labour Code, Act No. 221/AN/17/8th L of 2017 removed the possibility of allowing deductions from wages on the basis of an individual agreement. It also notes with **satisfaction** that the Code of Civil Procedure, adopted in 2018, fixes the portions of wages that may be subject to attachment. Lastly, it notes that a limit on the amount of deductions from wages made otherwise than by attachment is yet to be established. **The Committee therefore requests the Government to indicate the progress made towards the adoption of a decree limiting the amount of these deductions, as provided for in section 142 of the Labour Code.**

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

## Guinea-Bissau

**Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)** (ratification: 1977)

### Previous comment

The Committee takes note of the observations of the International Trade Union Confederation (ITUC) and the International Organisation of Employers (IOE), received on 1 September 2023.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

*Article 3 of the Convention. Operation of the minimum wage-fixing machinery.* The Committee notes the **discussion** that took place in the Conference Committee on the Application of Standards (hereinafter the "Conference Committee") in June 2023 concerning the application of the Convention. It notes that the Conference Committee requested the Government: (i) to review the minimum wage for the public

and private sectors without delay, in consultation with the social partners, in accordance with the Convention; (ii) to establish the minimum wage-fixing machinery in consultation with the social partners with a view to fixing and updating the minimum wage on a regular basis in accordance with the Convention; (iii) to strengthen social dialogue, including the machinery for consultations with workers' and employers' organizations, by ensuring their independence and autonomy in law and practice; and (iv) to provide to the Committee of Experts a copy of the promulgated and published version of the new Labour Code. The Conference Committee also requested the Government to avail itself of ILO technical assistance, in close cooperation with freely established and independent workers' and employers' organizations, to ensure full compliance with the Convention.

The Committee notes with **regret** that, according to the Government's report, a new minimum wage for the private sector has not yet been set. The Government nevertheless indicates that the Ministry is working with the social partners and is in the process of recruiting a consultant to conduct a preliminary study and determine the minimum wage criteria, in accordance with section 154 of the Labour Code. The Committee notes that, according to the ITUC's observations, the situation due to inflation and the rising cost of living has become unsustainable for workers. The ITUC also deplores the Government's attitude to social dialogue and tripartite consultations, mentioning the Government's use of violence and threats against workers. The Committee notes that the IOE also stresses the impact of rising food prices, urging the Government to take the necessary measures to bring the minimum-wage fixing machinery into line with the Convention, in close consultation with the social partners. **The Committee therefore urges the Government to take all necessary measures to follow up on the conclusions of the Conference Committee without delay. It requests the Government to provide detailed information on the measures taken in this regard, including on the tripartite consultations that have taken place on the minimum wage.**

## Rwanda

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (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 3(2) of the Convention. Minimum wage-fixing machinery. Consultation of employers' and workers' organizations.* Following its previous comments, the Committee notes with **regret** that the Government indicates in its report that the draft Ministerial Order determining the minimum wage has not yet been adopted. The Government also indicates that: (i) the draft Ministerial Order was discussed within the tripartite National Labour Council in 2018 and is presently still subject to consultation between all relevant stakeholders; and (ii) the negative impact of the COVID-19 pandemic on the labour market and the economy will also call for relevant assessments to be made. **Recalling that the last adjustment to minimum wage rates was made in 1980, the Committee urges the Government to take the necessary measures to fix new minimum wage rates, including through the adoption of the Ministerial Order determining the minimum wage, without delay and in consultation with social partners.**

*Article 4. Sanctions.* Following its previous comments, the Committee notes that the Government indicates that Section 23 of the Ministerial Order No. 001/19.20 of 17 March 2020 relating to Labour Inspection establishes the modalities of application of administrative fines for obstructing the work of the labour inspectorate, as provided under section 120 of the Labour Code. The Committee observes that neither the Labour Code nor the Ministerial Order provide for sanctions in the case of violations of provisions concerning minimum wages. **The Committee once again requests the Government to take the necessary measures to put in place a system of sanctions, to ensure that wages are not paid at less than the minimum wage rates determined.**

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

## Sierra Leone

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

#### Previous comment

*Legislative developments.* The Committee notes with **interest** the adoption of the Employment Act, No. 15 of 2023 which repeals and replaces the Employers and Employed Act, as amended by Amendment Act. No. 23 of 1962. It is noted that at the same time the Regulation of Wages and Industrial Relations Act, No. 3 of 1971 remains in force. Furthermore, the Government indicates in its report that it adopted the Wages and Compensation Commission Act, No. 36 of 2023, which provides for the establishment of a Wages and Compensation Commission aiming to address disparities in pay and remuneration in the public sector of Sierra Leone and streamline the pensions system in the public services. Moreover, the Committee notes that the draft Employment Regulations and a Worker's Compensation Bill are currently being debated. **The Committee requests the Government to provide information on the adoption of the Employment Regulations and the Worker's Compensation Bill and to transmit a copy of any newly adopted legislation relevant to the application of the Convention.**

*Articles 6 and 13 of the Convention. Freedom of workers to dispose of their wages. Place and time of payment. Prohibition of payment in taverns and the sort.* The Committee notes that the new Employment Act, No. 15 of 2023 does not contain provisions giving effect to *Articles 6 and 13* of the Convention. **In this context, the Committee reiterates its request that the Government take the necessary measures to give effect to these Articles of the Convention.**

*Article 8. Deductions.* The Committee notes that the Employment Act, No. 15 of 2023 includes several provisions that are dedicated to the regulation of deductions from wages: section 52 prohibits all deductions not stated in the Act, sections 53 and 54 provide for permitted deductions, and section 54 provides for the obligation of the employer to repay wages wrongfully deducted. At the same time, the Committee notes that the Regulation of Wages and Industrial Relations Act, No. 3 of 1971, is still applicable and recalls that section 19(1) of this Act provides that, where a minimum rate of wages has been confirmed by direction of the Commissioner of Labour under this Act, an employer shall, in cases to which the minimum rate is applicable, pay wages to the worker at not less than the minimum rate, clear of all deductions. The Committee recalls once again that section 19 would not apply to any case in which minimum wages have not been prescribed, while *Article 8* of the Convention covers all wages. **The Committee reiterates its request that the Government takes the necessary measures to give full effect to this Article.**

*Article 12(1). Regular payment of wages.* The Government indicates that with regard to the payment of workers, the draft Employment Regulations under consideration stipulate that a worker shall be paid according to the terms agreed by the parties. Therefore, according to the Government, payment is to be made regularly, and on the days agreed by the worker and employer. It is noted that in the text of the Draft Employment Regulations, communicated to the Office, there is a reference to a "regular monthly salary" and "wage payment intervals". **The Committee reiterates its request that the Government take the necessary measures, including through the ongoing process of adopting the new Employment Regulations, to give full effect to this Article of the Convention and to provide information on any progress made in this regard.**

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

## Tajikistan

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1993)

#### Previous comment

*Article 7(2) of the Convention. Works stores.* Following its previous comment, the Committee notes the Government's indication in its report that the price of socially essential goods is regulated by the State. **While taking note of this information, the Committee requests the Government to indicate the measures adopted to ensure that prices of goods that are sold and services that are provided in work stores and that do not fall within the list of essential goods, are fair and reasonable, or that stores established and services operated by the employer are not operated for the purpose of securing a profit, but for the benefit of the workers concerned.**

*Articles 12 and 15(b). Regular payment of wages. Control of compliance.* Further to its previous comments concerning wage arrears in the country, the Committee notes that the Government indicates a decrease in total wage arrears by 7,533,643 somoni from January 2022 to January 2023, with the total wage arrears amounting to 29,032,605 somoni as of January 2023 (approximately US\$26 million). At the same time, the Government indicates that, in the period from November 2022 to December 2022, wage arrears have increased in all types of economic activities of the real sector, except for agriculture, forestry and fisheries. Concerning enforcement activities, the Committee notes the Government's information that in 2022 the inspection services conducted 2090 inspections. However, the Committee notes that the Government does not indicate if these were inspection visits specifically undertaken to ensure compliance with the timely payment of wages. Concerning enforcement activities, the Committee also refers to its observation made under the Labour Inspection Convention, 1947 (No. 81), regarding a moratorium on all types of inspections of the activities of business entities, which was re-introduced in March 2022, without a limit of time. **The Committee requests once again the Government to take all necessary measures to address the persistent issue of wage arrears in the country and to provide information on the results achieved by those measures. With reference to its comments on the application of the Labour Inspection Convention, 1947 (No. 81), the Committee requests the Government to take the necessary measures to ensure that effective penalties are imposed in the event of non-compliance of provisions concerning timely payment of wages, and to provide information in this regard. In this regard, the Committee requests that the Government provides specific information pertaining to the results of labour inspections conducted, including the number of inspection visits undertaken to ensure compliance with the timely payment of wages by sector, the number of cases of non-compliance detected and the measures taken to settle all outstanding payments, including adequate penalties or other appropriate remedies.**

*Articles 14(b) and 15(d). Wage statements and record-keeping.* Following its previous comment, the Committee notes the Government's reference to the employer's obligations with regard to wages provided in the national laws. However, the Committee notes that the Government does not indicate how workers are informed of their wages and the form and manner of wage record-keeping. The Committee recalls that under *Article 14(b)*, effective measures must be taken to ensure that workers are informed in an appropriate and easily understandable manner at the time of each payment of wages, of the particulars of their wages for the pay period concerned, in so far as such particulars may be subject to change. The Committee further recalls that *Article 15(d)* calls for the maintenance, in all appropriate cases, of adequate wage records in an approved form and manner. The Committee wishes to highlight that a failure to inform workers of the particulars of their wages for a given period may be a contributing factor as regards the persistent problem of wage arrears. **The Committee therefore once again requests the Government to indicate the measures adopted to give effect to these provisions of the Convention.**

## Uganda

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1963)

#### Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

*Legislation.* Following its previous comment, the Committee notes that the Employment Act, 2006, was amended by the Employment (Amendment) (No. 2) Bill, 2022, adopted on 7 December 2022.

#### A. Minimum wage

*Article 3 of Convention No. 26. Operation of the minimum wage-fixing machinery.* Following its previous comment, the Committee notes that, according to the Government's indication in its report, the Minimum Wages Advisory Board is a tripartite body whose members are tasked with undertaking an analysis on the wage trends in the different regions and sectors of the economy and to submit recommendations to the Minister. The Government adds that the Board that was set up in 2016 recommended a general minimum wage of 136,000 Uganda shillings but that this recommendation was rejected by the Cabinet, which opted for sector-based minimum wages and also requested that further consultation be organized. The Government further states that the current minimum wage (6,000 Uganda shillings) is far below the estimated 250,000 Uganda shillings living wage, and is also below the poverty line. **The Committee urges the Government: (i) to take the necessary measures so that the level of the minimum wage, which was last set in 1984, be revised without further delay and in consultation with employers' and workers' organizations; and (ii) to provide information on any progress made in that respect.**

#### B. Protection of wages

*Article 1 of Convention No. 95. Coverage of all parts of the remuneration.* The Committee notes that the Employment (Amendment) (No. 2) Bill, 2022, has not amended the definition of "wages" under section 2 of the Employment Act, 2006. **As a consequence, the Committee once again requests the Government to provide information on any measure taken or envisaged to provide workers with the protection afforded in the Convention in relation to the elements of their remuneration which are excluded under section 2 of the Employment Act, 2006.**

*Article 4. Partial payment in kind.* **In the absence of new information in this respect, the Committee once again requests the Government to indicate whether regulations on the partial payment of wages in kind have been adopted.**

*Article 7(2). Works stores.* **In the absence of new information in this respect, the Committee once again requests the Government to indicate what measures are in place in order to ensure that goods are sold and services are provided at fair and reasonable prices in work stores or that work stores and services are not operated by the employer for the purpose of securing a profit but for the benefit of the workers concerned.**

*Article 8. Deductions from wages.* **In the absence of new information in this respect, the Committee once again requests the Government to take the necessary measures for the establishment of specific and overall limits to deductions of wages.**

*Article 12(1). Regular payment of wages.* In reply to the Committee's previous comment, the Government indicates that the Industrial Court of Uganda orders the repayment of salaries of workers who are not paid their minimum wage. **While noting this information, the Committee once again requests the Government to provide up-to-date information on the situation of wage arrears in the**

**country, including data on the number of workers affected by non-payment or delayed payment of wages, the sectors concerned and the results of labour inspections on these issues.**

*Article 14(a). Information on wages before entering employment. In the absence of new information in this respect, the Committee once again requests the Government to indicate which measures are in place in order to ensure full implementation of this provision.*

*[The Government is asked to reply in full to the present comments in 2024.]*

## 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) Convention, 1992 (No. 173) (ratification: 2006)**

### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Convention No. 131 (minimum wage) and Conventions Nos 95 and 173 (protection of wages) together.

The Committee notes the observations of the Confederation of Free Trade Unions of Ukraine (KVPU), received on 31 August 2023.

The Committee notes the extremely difficult situation in the country since 24 February 2022.

*Legislative developments.* The Committee notes that the Government refers in its report to several draft laws introducing amendments to existing legislation in the field of labour that could have an impact on the application of the wages Conventions. The Government indicates that the consideration of draft laws on the settlement of problems in the field of remuneration has been suspended due to the difficult situation in the country. In its observations, the KVPU indicates that several provisions of draft laws regulating wage matters are not in compliance with the Convention. It also indicates that the draft Law on Labour did not take into consideration the technical recommendations provided previously by the Office. **While acknowledging the difficult situation in the country, the Committee requests the Government to provide its comments in this respect. The Committee reiterates its hope that in the framework of the revision process regarding the existing legislation on wages, its comments will be considered and that the requirements of the wages Conventions will be fully met. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard. The Committee requests the Government to continue to provide information on the developments in its labour law reform, including by providing a copy of any amendments to labour legislation regulating wage issues, once adopted.**

*Article 3 of Convention No. 131. Criteria for determining the level of the minimum wage.* In its previous comments, the Committee noted the observations of the KVPU and the FPU expressing their concern that in setting the minimum wage the Government does not take into account a series of factors. In this respect the Committee requested the Government to take the necessary measures to ensure that both the needs of workers and their families as well as economic factors are taken into consideration in determining the level of minimum wage. The Government has not replied to the Committee's previous request and reiterates that it has prepared a draft Law "on Amendments to Certain Legislative Acts of Ukraine on Remuneration", which aims at improving the procedure for determining the minimum wage. The Government provides information on the minimum wage that was set for 2022 and 2023 and its adjustments in relation to the State Budget for these years, pointing to the impact of the martial law regime on these decisions. It indicates that the State Budget for 2023 instructed the Cabinet of Ministers to reassess the issue of increasing expenditures, including the minimum wage for 2023, after the



termination of martial law. In its observations, the KVPU indicates that Draft Law No. 3515 “On Amendments to Certain Legislative Acts of Ukraine Regarding the Settlement of the Issues of Formation of the Subsistence Minimum and Creation of Prerequisites for Its Increase” is not in compliance with Article 3 of the Convention, as it eliminates the requirement that the minimum wage should not fall below the subsistence minimum for able-bodied individuals, removes existing safeguards for determining the minimum wage of employees in entities financed by the State Budget and considers the “financial capabilities of the state budget” as a criterion for setting the minimum wage. **While noting the information provided by the Government concerning the impact of the martial law, the Committee nonetheless requests the Government to provide its comments in this respect. The Committee reiterates its request that the Government takes the necessary measures to ensure that, so far as possible and appropriate in relation to national practice and conditions, both the needs of workers and their families and economic factors are taken into consideration in determining the level of minimum wage, as provided in Article 3 of the Convention. It requests the Government to provide information in this respect, including on the progress made on the adoption of the draft legislation.**

*Article 4(2). Full consultation with employers’ and workers’ organizations.* The Committee notes that the Government has not provided information on tripartite consultations held in the framework of setting the minimum wage for 2022 and 2023. The Government indicates that in May 2023, the Ministry of Economy of Ukraine held a meeting of the joint working commission to prepare proposals to establish the minimum wage for 2024. According to the Government, the employers, the Trade Union Party and the Executive Committee expressed divergent perspectives and proposals at that meeting, pointing to different economic, political, and martial law-related factors. The Committee notes that the Government has not provided information about whether the participants reached a final result or agreement regarding the minimum wage for 2024. **The Committee requests the Government to provide specific and detailed information on the content and outcome of the tripartite consultations held in the framework of the revisions of the minimum wage for 2022 and 2023 mentioned by the Government, as well as in the framework of future revisions. With regards to the minimum wage for 2024, the Committee requests the Government to provide information on the outcome of the consultations referred to by the Government.**

*Article 5. Enforcement.* In its previous comments, the Committee took note of the KVPU observations concerning the lack of proper inspections and the complicated procedure to authorize them. It requested the Government to take appropriate measures to ensure the effective application of all provisions relating to minimum wage. The Committee notes that the Government does not provide information in this respect. It indicates that the work of the State Labour Service on monitoring the provision of the minimum wage by employers has been affected by the current situation in the country since 24 February 2022. In this respect, the Committee notes that the martial law regime has imposed a series of restrictions on labour inspection activities, which are examined, together with the relevant KVPU observations, under its comments on the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129). **Therefore, the Committee requests the Government to refer to its comments adopted in 2023 on the application of Convention No. 81 and Convention No. 129.**

*Article 12 of Convention No. 95. Wage arrears situation in the country.* For several years, the Committee examined the situation of wage arrears in the country and previously noted with deep concern the increasing amounts of wage arrears. In this regard, the Government indicates that the elimination of wage arrears remains one of its main priorities. It reports on a series of relevant initiatives. However, the Committee notes with **deep concern** that, according to the statistics provided by the Government, the amount of wage arrears in the country continued to increase between 2021 and 2023. The Government indicates that the main reason for the increase is the difficult economic situation and military actions taking place in the territory of Ukraine, which influence, inter alia, the functioning of enterprises. In this respect, the KVPU also continues to refer to long-standing problems

with regards to settling wage arrears, indicating that this remains one of the most acute social and labour problems, which has been further exacerbated by the current situation. It refers to draft Law No. 9510 “On Amendments to Certain Laws of Ukraine Regarding Strengthening the Protection of Workers’ Claims payment of salary arrears, including in case of insolvency of the employer”, which aims to ensure the rights of employees to receive wages in full and in a timely manner. It indicates however that the draft Law is proposed to enter into force only on 1 January 2025, which would prolong the uncertainty for employees until that date. **The Committee requests the Government to provide its comments in this respect and provide information on any relevant legislative developments.**

The Committee will examine the application of *Article 12* in practice in relation to its 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 delayed payment (see the [2003 General Survey on the protection of wages](#), paragraph 368).

Regarding efficient control and supervision, in reply to the Committee’s previous request, the Government provides detailed information on the situation of wage arrears, including their extent, their accumulation in specific regions and enterprises and the number of workers concerned. The Committee notes that the monitoring of wage arrears is carried out by the State Labour Service solely on the basis of operational information of regional military administrations and central executive authorities regarding the state of repayment of wage arrears at enterprises. In this context, the Government indicates that it adopted Resolution No. 1037 of 16 September 2022 “On the introduction of special monitoring of repayment by enterprises, institutions and organizations of wage arrears”. According to the Resolution, other central executive bodies as well as regional, Kyiv city and district state administrations, in addition to other entities responsible for the management of state property are obliged to ensure the special monitoring of the repayment of wage arrears at enterprises, institutions and organizations that belong to the sphere of their management or are located in their relevant territory. This is in addition to the work of temporary commissions on the repayment of wage arrears and the monitoring of information about wage arrears submitted in electronic form by enterprises, institutions and organizations. In its observations, the KVPU indicates that the State Statistics Service of Ukraine has stopped publishing statistical information on wage arrears since 24 February 2022. **The Committee requests the Government to provide its comments in this respect. It requests the Government to continue to provide information on the number of workers concerned and the extent of wage arrears. The Committee requests the Government to refer to its comments under Conventions Nos 81 and 129 and continue to take the necessary measures to ensure efficient control and supervision of regular wage payment in the country and to indicate its results.**

Regarding the imposition of appropriate sanctions, the Government reiterates that it is preparing draft amendments to the existing legislation with a view to strengthening the protection of workers’ rights to the timely payment of wages. In its observations, the KVPU indicates that the current draft Law on Labour has not reviewed the amount of penalties for delayed wage payments, as demanded by the KVPU. **The Committee requests the Government to provide its comments in this respect and to refer to its related comments under Conventions Nos 81 and 129. It requests the Government to pursue its efforts to strengthen the penalties in national legislation to ensure full application of the requirements of the Convention, indicate the measures taken in this respect and the impact of these measures, including the amount of penalties imposed on violators, and whether there has been a reduction in the number of workers affected by arrears in the payment of their wages.**

Regarding means to redress the injury caused, the Government has not provided information on the number of enterprises that have paid wage arrears to workers during the reporting period. In this respect, the Government indicates that the collection of operational information on the state of repayment of wage arrears, especially with respect to business entities of private ownership, has been complicated due to the martial law regime. It indicates that the Law “On the protection of the interests of reporting entities and other documents during the period of martial law or the state of war” provides

for the possibility for business entities to submit information on the payment of wages within three months after the abolition of martial law or the termination of the state of war. The Government once again refers to the work of temporary commissions on wage payment, which includes the issuing of warnings to heads of enterprises regarding disciplinary punishments. The Committee notes that the Interdepartmental working group on the repayment of salary arrears (financial support), which was established in October 2020, was revived in May 2023 and meets on a weekly basis. Furthermore, the Committee notes the Government's indication that it has prepared draft legislation aiming to increase the amount of compensation for a delay in wage payment. In its observations, the KVPU reiterates that the compensation mechanism provided for in the current legislation fails to compensate workers adequately for all losses in the event of wage arrears. It highlights the need to adopt changes to the legislation that would strengthen the employer's responsibility for delayed wages, ensure adequate legal protection of the employee's right to receive timely remuneration for work, and guarantee the priority receipt of owed wages by employees together with adequate monetary compensation for damages incurred as a result of the violation of the terms of payment, in addition to the satisfaction of any monetary claims of employees in the event of insolvency of the employer. ***The Committee requests the Government to provide its comments in this respect and to pursue its efforts to remedy the persisting wage arrears situation.***

*The practice of "envelope wages".* The Committee notes with **regret** that the Government once again does not provide relevant information. ***In the absence of a response from the Government on this issue, the Committee once again requests the Government to provide information on the progress made regarding the elimination of the practice of "envelope wages", according to which workers are forced to agree to the undeclared payment of wages.***

*Articles 5–8 of Convention No. 173. Workers' claims protected by a privilege.* For a few years the Committee has been noting that section 2(4) of the Code of Bankruptcy Procedure excludes state-owned enterprises and has been requesting the Government to indicate how workers' claims are protected in the case of state-owned enterprises. The Committee notes with **regret** that the Government has not provided information in this respect. ***The Committee once again requests the Government to clarify how workers' claims are protected in the case of state-owned enterprises, given that section 2(4) of the Code of Bankruptcy Procedure excludes state-owned enterprises from its application.***

In its previous comments the Committee noted that the Government was preparing legislative amendments to strengthen the protection of workers' claims concerning the payment of wage arrears in the event of an employer's insolvency, as well as a draft law introducing protection of workers' claims with the assistance of a guarantor institution. In this respect, the Committee takes note of the Government's indication that there have been no further developments due to the martial law regime. The Government indicates that there is an increase in the share of bankrupt and liquidated enterprises whose employees do not receive payment due to the insufficiency of liquidation property. In its 2023 observations, the KVPU indicates that employees of bankrupt and liquidated enterprises are the most unprotected, despite the fact that the law provides for the protection of their wage claims. According to KVPU, the protection of employees by means of a privilege is not guaranteed in practice, since in the case of insufficient liquidation property, claims regarding wage arrears are recognized as repaid even if not actually paid. This results from section 64(7) of the Code of Bankruptcy, which indicates that claims that are not repaid due to the insufficiency of remaining property are considered to be extinguished. In this respect, the KVPU highlights the need to create a guarantor institution to meet the monetary claims of employees in the event of the employer's insolvency. ***The Committee requests the Government to provide its comments in respect of these observations. It requests the Government to keep it informed of any legislative developments aimed to strengthen the protection of workers' claims concerning the payment of wage arrears in the event of an employer's insolvency, including through the creation of a guarantor institution.***

## Bolivarian Republic of Venezuela

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1944)

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1982)

#### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

The Committee notes the observations concerning Convention No. 26 made by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 1 September 2023. The Committee also notes the observations made by the Confederation of Autonomous Trade Unions (CODESA), the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the Independent Trade Union Alliance Confederation of Workers (CTASI), the National Union of Workers of Venezuela (UNETE), the United Federation of Workers of Venezuela (CUTV) and the General Confederation of Labour (CGT) regarding Conventions Nos 26 and 95, received on 30 August 2023.

#### Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

##### A. *Minimum wage*

*Article 3 of Convention No. 26. Participation of the social partners in minimum wage fixing.* With regard to its previous comment, the Committee notes the discussions at the 347th and 349th Sessions (March and November 2023) of the Governing Body on the follow-up report on further developments concerning the Social Dialogue Forum and the implementation by the Government of the Bolivarian Republic of Venezuela of the agreed plan of action to give effect to the recommendations of the Commission of Inquiry, as well as the corresponding decisions adopted. In particular, the Committee notes that: (i) the third session of the social dialogue forum was held between 30 January and 1 February 2023 with ILO technical assistance, chaired by the Minister of Popular Power for the Social Process of Labour, with the participation of the following employers' and workers' organizations: FEDECAMARAS, the Venezuelan Federation of Craft, Micro, Small and Medium-Sized Business Associations (FEDEINDUSTRIA); the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), the CTASI, the CTV, and the CGT; during this meeting, the follow-up to and updating of the agreed plan of action to give effect to the recommendations of the Commission of Inquiry in respect of Conventions Nos 26, 87 and 144 was adopted; (ii) between 16 February and 24 August 2023, 13 tripartite meetings were held, with the support of the ILO, to address the question of determining methods for fixing minimum wages; (iii) from 3 to 7 October an ILO mission to the Bolivarian Republic of Venezuela took place, with a view to participating in the fourth session of the forum, and to promote dialogue but, due to a series of communications sent by various employers' and workers' organizations to the Government, the latter considered that conditions were not conducive to the holding of the session; both the ILO delegation and the Minister held, each in turn, bilateral meetings with the employers' and workers' organizations; (iv) on 6 October, a private tripartite meeting was held at the headquarters of the Ministry of the People's Power for the Social Process of Labour and attended by the employers' and workers' organizations cited above. The meeting agreed that the fourth session of the forum would be held at the beginning of February 2024.

The Committee notes that at the 349th Session of the Governing Body, the Government indicated that, with the firm intention of formulating a consensual proposal on the method of fixing the minimum wage, a meeting was held on 19 October 2023 with the participation of FEDCAMARAS, FEDEINDUSTRIA, the CBST-CCP, the CTASI, the CTV and the CGT, and explanations of the proposal were given. The

Government states that the main issue elucidated at the meeting was the selection of the spokespersons for the employers and workers, whose organizations, based on their autonomy, would develop the necessary agreements, and share information to complement the method. The Government also indicates that it provided these organizations with the final text and concept note of the method and that, to date, no comments thereon have been received, which will allow further progress in consolidating this important method.

The Committee notes that the Governing Body is to return to the consideration of progress made by the Government to give effect to the recommendations of the Commission of Inquiry at its 350th Session (March 2024).

Furthermore, pursuant to its previous comments on this subject, the Committee notes that the Government, in its report: (i) indicates that it has been complying with each of the agreed activities in the action plan, as updated in February 2023, with the participation of the different organizations of employers and workers; (ii) indicates that a tripartite technical body was constituted to draw up the proposed method of consultation to fix the minimum wage. That body finished its work at its thirteenth meeting, thus completing the task of formulating the proposal, which would be taken up at the highest level; and (iii) reiterates its commitment to continue to progress with the agreements adopted in the social dialogue forum, and to continue working with the timetable of activities, which so far have allowed significant progress to be made between the parties, given the serious impact that the unilateral coercive measures had on workers' wages.

The Committee observes that the updated plan of action adopted by the social dialogue forum in February 2023 includes: (i) the establishment of a technical body on the wage-fixing machinery and on effective consultation procedures; and (ii) the determination by the technical body of the dynamic method for fixing the minimum wage (taking account of the relevant economic and social and labour indicators and variables and the external factors already referred to in the text of the statement).

The Committee notes that FEDECAMARAS, in its observations, indicates: (i) at two tripartite meetings with remote ILO technical assistance, held on 15 and 24 August 2023, the document sent by the Ministry entitled "method for fixing the national minimum wage", including the Ministry's observations on the proposed methodology for consideration in the final document, was discussed and revised; and (ii) the final document, containing the definitive ministerial proposal which was to have been submitted on 25 and 28 August 2023 for final review and adoption, has not been received. FEDECAMARAS indicates that although a proposal formulated by the Ministry already exists, but is yet to be approved, the dialogue process needs to be more effective and structured, and requires permanent follow-up, since the technical body has now been functioning for seven months, yet the official economic and social and labour indicators including external factors, have still not been presented, although they were included in the social dialogue forum's plan of action and are fundamental to speeding up the social dialogue process for fixing the minimum wage.

The Committee also notes, from the joint observations submitted by the CODESA, the CTV, the FAPUV, the CTASI, the UNETE, the CUTV and the CGT, that those organizations agree that outside the formal sessions of the forum, the activities to which the Government refers, which were intended to provide a greater understanding of the consultation method for fixing a minimum wage, were carried out and did reach agreement. In this regard, those organizations regret that: (i) in 2023, the hoped-for increase in the minimum wage did not materialize, a fact made more painful by the daily fall in its value resulting from the continuous devaluation of the bolívar and that (ii) on 1 May 2023 there was an increase in the "socialist cestaticket" benefit, and the approval of a "bonus against the economic war", with no consultation of the social partners, as these were non-wage payments; and (iii) the Government has not delivered the economic, social and labour indicators called for by all the confederations and which are essential to progress towards the objectives identified by the technical body required for determining the method of fixing the minimum wage.

While duly noting the statements from the Government, as well as the activities and tripartite meetings held throughout the year, with ILO assistance, which addressed the question of establishing the method for fixing the national minimum wage, the Committee notes with **concern** that it has still not been possible to establish this method. In this context, the Committee **regrets** that 2023 did not see a wage increase, preceded by a consultation process. Finally, the Committee **regrets** the rescheduling of the fourth session of the social dialogue forum, while duly noting the continued agreement of the Government and the social partners to participate in social dialogue and that the fourth session of the forum will take place in early 2024.

***The Committee firmly hopes that, in the framework of the opportunities opened up by the process set in motion with the establishment and follow-up of the social dialogue forum, that all the measures envisaged in the plan of action updated in February 2023, as well as the timetable of activities presented by the Government will be implemented and that the fourth session of the social dialogue forum will take place as planned. It also hopes that those measures will yield tangible progress in the development and application of methods for fixing the minimum wage, as required by the Convention and as follow-up to the recommendations of the Commission of Inquiry. In particular, the Committee requests the Government, at the next increase of the minimum wage in the country, to take the necessary measures to ensure that the increase is preceded by a thorough consultation process, conducted sufficiently in advance, within a framework of structured, informed and effective discussions, in which due account is taken of the proposals made on this matter by the employers' and workers' organizations. The Committee requests the Government to report on all developments in this regard.***

#### B. Protection of wages

Article 4 of the Convention No. 95. *Payment in kind. "Socialist cestaticket"*. With regard to its previous comments, the Committee notes the Government's indication that: (i) the value of the "Socialist Cestaticket" was increased as of 1 May 2023, and will be adjusted each month, on the basis of the exchange rate published by the Banco Central de Venezuela; (ii) roundtables have been set up for collective bargaining with the active participation of employers' and workers' organizations, and these have reached agreements regarding these benefits and further benefits, such as canteens, the provision of food for the basic food basket and other allowances.

The Committee also notes that the CODESA, the CTV, the FAPUV, the CTASI, the UNETE, the CUTV, and the CGT indicate in their joint observations that: (i) payment of wages with bonuses of various sorts, or provision of food, is common in the public and private sector, which makes it hard for workers to determine the exact amount of their real wage, and also to keep the wage constant; (ii) the Government refuses to refer to wages, but uses the term "comprehensive minimum income", which includes the minimum wage and the socialist cestaticket; (iii) many workers do not receive the cestaticket in cash, as do the public administration workers, while some enterprises have adopted the measure of providing one meal a day to comply with the food allowance; and (iv) the organizations are unaware of the bargaining to which the Government refers, indicating that, in the public sector, the State suspended collective bargaining on the promulgation of Memorandum No. 2792 of 11 October 2018. In this regard, the Committee once again **regrets** that on the basis of the information presented by the Government, and the observations of the abovementioned workers' organizations, it cannot be concluded that progress has been made in resolving this issue. ***While referring back to the analysis it has made in previous years on this matter (see in particular the observation adopted in 2017), the Committee once again requests the Government to take the necessary measures without delay, through dialogue with the representative organizations of the employers and workers, to find solutions that allow the full application of Article 4 of the Convention.***

Articles 5 and 14. *Electronic payment of wages. Information on constituent elements of wages.* The Committee notes that, in response to its previous comment, the Government indicates that: (i) unilateral

coercive measures affected the flow of bolivars, obliging the Government to develop technological platforms to ensure that workers were able to access their wages, but that this situation is now resolved; (ii) many public and private enterprises have digitalized their wage slips, enabling workers to access this information by any electronic means at any time; and (iii) in cases where it is difficult for workers to have access to their wage slips, employers were under an obligation to provide such information in tangible form, under penalty of sanctions, as provided by section 106 of the Basic Act concerning labour and male and female workers. The Committee also notes that the CODESA, the CTV, the FAPUV, the CTASI, the UNETE, the CUTV and the CGT indicate that: (i) the electronic payment of wages has made difficulties for workers receiving their wages in localities without banking facilities or which are not covered by internet, and these difficulties are compounded by frequent interruptions in digital banking services; (ii) it has become complicated for workers to obtain detailed and precise information on their wages and their composite elements; (iii) payroll management through the “906istema patria”, a platform used by the Government to pay its employees, but which was created and used for purposes other than wage payment, presents difficulties in respect of the calculation and proof of payment of wages, and makes it impossible to claim for discrepancies or omissions at the moment of payment; the Government should explain the legal regime and scope of the 906istema patria and provide a copy of its regulatory texts. The Committee once more **regrets** that no progress has been made regarding this issue. **The Committee again requests the Government, in consultation with the social partners, to take effective measures to address both the question of electronic payment of wages, and that of providing information to workers concerning the constituent elements of their wages, in conformity with the Convention, and to provide information in this respect.**

*Article 12. Delayed payment of wages.* The Committee notes that the CODESA, the CTV, the FAPUV, the CTASI, the UNETE, the CUTV and the CGT indicate with regard to the health sector, that there have on various occasions been: (i) delays in the payment of wages, which have been explained by the human resources department, as arising from weaknesses in the “906istema patria” and (ii) repeated non-payment of certain elements, such as night work, holidays and Sundays worked, among others. **Recalling the importance of the payment of wages at regular intervals, the Committee requests the Government to communicate its comments in this regard.**

**[The Government is asked to reply in full to the present comments in 2024.]**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 26** Canada, Congo, Paraguay, Peru, Senegal, Sierra Leone, Sudan **Convention No. 95** Central African Republic, Congo, Dominican Republic, Egypt, Eswatini, France (New Caledonia), Philippines, Poland, Romania, Senegal, Sierra Leone, Solomon Islands, Somalia, Sri Lanka, Sudan **Convention No. 99** Cook Islands, Paraguay, Peru, Poland, Senegal, Sierra Leone **Convention No. 131** Cuba, Egypt, El Salvador, Eswatini, Portugal, Romania, Sri Lanka.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 26** Fiji **Convention No. 95** Cuba, Panama, Paraguay, Saint Vincent and the Grenadines **Convention No. 99** El Salvador **Convention No. 131** Central African Republic, France (New Caledonia), North Macedonia.

## Working time

### Chile

**Hours of Work (Industry) Convention, 1919 (No. 1)** (ratification: 1925)

**Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)** (ratification: 1935)

#### Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1 (hours of work in industry) and 30 (hours of work in commerce and offices) together.

*Articles 6(1)(b) and 2 of Convention No. 1 and Articles 7(2), (3) and (4) and 8 of Convention No. 30. Temporary exceptions. Circumstances, limits and compensation.* The Committee recalls that for many years it has been drawing the Government's attention to the fact that sections 31 and 32 of the Labour Code allow the performance of overtime hours in circumstances that go beyond those set out in the Conventions. In particular, these sections provide that, where there is a need to deal with a temporary requirement or situation in an enterprise, workers and their employer may agree on a maximum of two hours' overtime a day to be performed in jobs which, by their nature, are not harmful to the health of the workers. The Committee recalls the importance of restricting recourse to exemptions from normal hours of work to cases of clear, well-defined and limited circumstances, such as accidents, actual or threatened, force majeure or urgent work to plant or machinery (2018 [General Survey concerning working-time instruments](#), paragraph 119). The Committee also recalls that Convention No. 30 requires the determination of a reasonable limit for additional hours, not only in the day, but also in the year. ***Under these conditions, the Committee requests the Government to take the necessary measures to guarantee that: (i) recourse to additional hours is restricted to clear and well-defined circumstances; and (ii) the maximum number of additional hours that may be authorized in a year is fixed.***

The Committee also notes that the amendment to section 32 of the Labour Code, which will enter into force in April 2024, introduced by Act No. 21,561 of 26 April 2023, provides that the parties may agree in writing that additional hours shall be compensated by two additional days of holiday. In such a case, up to five additional working days of rest a year may be agreed, which must be used by the workers within six months following the period in which the overtime originated. The compensation of overtime hours by additional days of holiday shall be subject to the same higher rate as for their pay, that is each hour of overtime shall be compensated by one-and-a-half hours of holiday.

The Committee recalls the need to ensure, in all circumstance, the payment for additional hours at a rate of no less than one-and-a quarter times the regular rate, in accordance with *Article 6(2)* of Convention No. 1 and *Article 7(4)* of Convention No. 30, irrespective of any compensatory rest granted to the workers concerned.

***The Committee considers that within the framework of the amendments introduced by Act No 21,561 of 2023, account could have been taken of the comments that it has been making for several years. Under these conditions, the Committee firmly hopes that all the necessary measures will be taken to bring the national legislation into conformity with these provisions of the Conventions. The Committee reminds the Government that, in this process, it may have recourse to the technical assistance of the Office if it considers it necessary.***

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



## Cook Islands

### Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 2015)

#### [Previous comment](#)

*Article 2 of the Convention. Weekly rest entitlement.* Further to its previous comments, the Committee notes the Government's indication in its report that an amendment of the Employment Relations Act of 2012 (ERA), to include a weekly rest provision, is planned as part of the Decent Work Country Programme (DWCP) 2019–22; however, no legislative amendments have been adopted in this regard in the last two years due to the COVID-19 pandemic. ***The Committee requests the Government to take the necessary measures to ensure that both in law and in practice the whole of the staff employed in any industrial undertaking, public or private, or in any branch thereof, enjoy in every period of seven days a period of rest comprising at least 24 consecutive hours, as required by the Convention.***

## Dominican Republic

### Night Work Convention, 1990 (No. 171) (ratification: 1993)

#### [Previous comment](#)

*Articles 3, 4, 6, 7, 9 and 10 of the Convention. Protective measures for night workers.* The Committee notes the Government's reiteration that a review process to update the Labour Code and bring it into line with ratified international standards is under way in the Labour Advisory Council. The Committee once again emphasizes the need to adopt specific protective measures, in law and practice, to give effect to the Convention. ***Under these conditions, the Committee firmly hopes that during the review of the Labour Code that has already been announced or by any other method, the Government will take measures ensuring a minimum level of protection for night workers according to the specific requirements set out in Articles 3 (specific protective measures), 4 (free medical assessment), 6 (workers certified as unfit for night work), 7 (maternity protection), 9 (social services) and 10 (consultation of workers' representatives concerned) of the Convention.***

## France

### New Caledonia

#### Weekly Rest (Industry) Convention, 1921 (No. 14)

#### Holidays with Pay Convention, 1936 (No. 52)

#### Holidays with Pay (Agriculture) Convention, 1952 (No. 101)

#### Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)

[Previous comment on Convention No. 14](#)

[Previous comment on Convention No. 52](#)

[Previous comment on Convention No. 101](#)

[Previous comment on Convention No. 106](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on working hours, the Committee considers it appropriate to examine Conventions Nos 14 (weekly rest in industry), 106 (weekly rest in commerce and offices), 52 (holidays with pay) and 101 (holidays with pay (agriculture)) together.

## A. Weekly rest

*Article 5 of Convention No. 14 and Article 8(3) of Convention No. 106. Compensatory rest.* In response to the Committee's previous comment concerning section Lp. 231-9 of the Labour Code, the Government indicates in its report that, where weekly rest is deferred under this section, compensatory rest is generally taken within a rolling period of eight days, even though, in theory, it is possible for an employer to have their employees work 12 consecutive days without rest. The Government specifies that enterprise agreements determine the arrangements for the duration of work in the form of work cycles, specifying the periods for taking weekly rest. In workplaces that operate continuously, the work cycle is usually established as four days of work followed by four days of rest, with weekly rest within a rolling period of one week maximum. The Committee notes this information, which responds to its previous request.

In addition, the Committee notes that, in response to its previous comment concerning section Lp. 221-5 of the Labour Code, the Government indicates that replacement compensatory rest provided for in this section is an alternative to overtime pay. With regard to section Lp. 231-5 of the Labour Code, section 22 of the Territorial Occupational Agreement for the mining and quarrying industries, and section 22 of the Occupational Agreement of the commercial and allied sector, the Committee notes that the Government does not provide any new relevant information. In this regard, the Committee recalls that: (i) section Lp. 231-5 of the Labour code provides that industries that process perishable goods, or that have to respond at certain times to an exceptional increase in workload, have, under certain conditions, the possibility of suspending employees' weekly rest and that the hours worked on the days of weekly rest are considered overtime; (ii) section 22 of the Territorial Occupational Agreement for the mining and quarrying industries provides that for hours worked on the day of weekly rest, in addition to the usual hours, particularly to do an urgent job, a 75 per cent supplement for inconvenient hours shall be paid, including the overtime pay; and (iii) section 22 of the Occupational Agreement of the commercial and allied sector provides that, for hours worked exceptionally on the day of weekly rest, a 75 per cent supplement shall be paid where such work cannot be compensated by rest. In addition, the Committee notes that, under section 52 of the Territorial Occupational Agreement, where shift work requires overtime work on a Sunday, the pay is increased by 50 per cent of the usual rate. The Committee notes that the above provisions are not in conformity with *Article 5* of Convention No. 14 (each Member shall make, as far as possible, provision for compensatory periods of rest for exceptions, in the form of suspensions or diminutions, under the principle of weekly rest) and *Article 8(3)* of Convention No. 106 (where temporary exemptions are made the persons concerned shall be granted compensatory rest of a total duration at least equivalent to 24 consecutive hours within each 7-day period). ***The Committee therefore requests the Government to take the necessary measures to ensure the full application of Article 5 of Convention No.14 and Article 8(3) of Convention No. 106 in national law and practice, and to provide detailed information on all measures taken or envisaged in this regard.***

***Furthermore, the Committee requests the Government to provide information concerning compensation for hours worked, in accordance with section Lp. 231-6 of the Labour Code, on the weekly day of rest for workers in ports, landing stages and stations engaged in the loading and unloading of goods.***

Lastly, the Committee notes that in the absence of a legal framework on the working hours for public service workers, a study is under way of a draft regulation defining, inter alia, the terms of compensation or otherwise for hours worked on a Sunday. ***The Committee requests the Government to provide information on any measure taken or envisaged with a view to adopting a regulation defining the terms of compensation for hours worked on a Sunday in the public sector.***

## B. Annual holiday with pay

*Articles 2(3)(b) of Convention No. 52 and 5(d) of Convention No. 101. Exclusion of interruptions of attendance of work due to sickness from the annual holiday with pay.* In its previous comment, the Committee noted that section 72(2) of the Territorial Inter-Occupational Agreement and section 46(2) of the Occupational Agreement of the agricultural branch, which provides that, should a worker fall ill during his or her holiday, no change is made to the latter because of the sickness and the holiday cannot be either extended or deferred, or give rise to additional compensation from the employer, are not in conformity with *Article 2(3)(b) of Convention No. 52 and Article 5(d) of Convention No. 101*, respectively. The Committee notes that the Government's reports do not contain any new information on this matter. ***The Committee requests the Government to take the necessary measures to ensure the full application of Article 2(3)(b) of Convention No. 52 and Article 5(d) of Convention No. 101 in national law and practice, and to provide detailed information on all measures taken or envisaged in this regard.***

*Article 4 of Convention No. 52 and Article 8 of Convention No. 101. Invalidity of any agreement to forgo a holiday with pay.* Further to its previous comments, the Committee notes that the Labour Code still does not contain provisions on the invalidity of any agreement to forego holiday with pay. The Committee recalls that *Article 4 of Convention No. 52 and Article 8 of Convention No. 101* provide that any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday, shall be void, it being understood that this principle applies to annual holiday with pay as established by each Member State having ratified the Conventions, whatever its duration. ***The Committee requests the Government to take the necessary measures to bring its legislation into conformity with the above Articles of Conventions Nos 52 and 101, and to provide detailed information on any measures taken or envisaged in this regard.***

## Haiti

**Hours of Work (Industry) Convention, 1919 (No. 1)** (ratification: 1952)

**Weekly Rest (Industry) Convention, 1921 (No. 14)** (ratification: 1952)

**Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)** (ratification: 1952)

**Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)** (ratification: 1958)

### [Previous comment](#)

While noting the difficult situation in the country, the Committee observes that the Government's reports on the application of Conventions Nos 1, 14, 30 and 106, which have been due since 2020, have not been received. In view of the urgent appeal that it made to the Government in 2022, the Committee will proceed with the examination of the application of these Conventions on the basis of the information at its disposal.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1, 14, 30 and 106 in a single comment.

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2023.

*Legislation.* The Committee notes the adoption of the Decree of 7 June 2023 withdrawing the Act of 17 to organize and regulate work over a 24-hour period, divided into three eight-hour segments. In accordance with section 2 of the Decree, sections 96 to 108 of the Labour Code, respecting hours of work, and sections 120 to 122, defining and regulating night work, are brought back into force and are applicable. In this regard, the CTSP indicates in its observations that, in view of the absence of Parliament, the Government decided to adopt the Decree after consulting the most representative

workers' and employers' organizations. The CTSP adds that as the Decree has only been adopted recently, it is not yet possible to evaluate objectively the real application of the legislation on working time.

The Committee notes with *regret* that, since the adoption of the conclusions of the Committee on the Application of Standards of the International Labour Conference at its 107th Session in 2018, the Government has not yet provided information on the specific measures adopted to ensure compliance with certain of the provisions of these Conventions. ***While welcoming the adoption of the Decree of 7 June 2023, the Committee requests the Government to provide information on the measures adopted to ensure compliance with the working time Conventions, including through the application of the above Decree. It once again requests the Government to take immediate measures to strengthen the labour inspection services and other relevant enforcement mechanisms with a view to ensuring that workers benefit from the protection set out in these Conventions.***

***The Committee hopes that the Government will take the above comments into consideration and will provide updated information in good time on the measures adopted for this purpose.***

## Panama

### Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1959)

#### [Previous comment](#)

*Article 7(3) and (4) of the Convention. Temporary exceptions. Annual limit on the number of additional hours and overtime pay.* The Committee recalls that it has been requesting the Government for many years to take measures to ensure the harmonization of the legislation in force with the articles of the Convention. The Committee notes the information provided by the Government in its report that the amendment of section 36(4) of the Labour Code is on the agenda of the Harmonization Committee of the committees established under the Panama tripartite agreement which has itself come to a standstill due to disagreement over workers' representation. The Government also indicates the presentation of a draft bill for the establishment of a Higher Labour Council, which would include the committees under the Panama tripartite agreement. In addition, regarding the adoption of a regulation on additional hours for the public sector, it indicates that discussions on this matter have also been suspended for the same reasons. ***In this regard, the Committee once again requests the Government to take the necessary measures to ensure full compliance with Article 7(3) and (4) of the Convention. The Committee recalls that the Government may, if it so wishes, avail itself of ILO technical assistance in this regard.***

## Paraguay

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1966)

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1966)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1966)

Holidays with Pay Convention, 1936 (No. 52) (ratification: 1966)

Holidays with Pay (Agriculture) Convention, 1952 (No. 101) (ratification: 1966)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1966)

[Previous comment on Convention No. 1](#)

[Previous comment on Convention No. 14](#)

[Previous comment on Convention No. 30](#)

[Previous comment on Convention No. 52](#)

[Previous comment on Convention No. 106](#)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1 (hours of work industry), 14 (weekly rest in industry), 30 (hours of rest in commerce and offices), 52 (holidays with pay), 101 (holidays with pay in agriculture) and 106 (weekly rest in commerce and offices) together.

#### A. Hours of work

*Article 6(1)(b) and (2) of Convention No. 1 and Article 7(2) and (3) of Convention No. 30. Temporary exceptions. Limits on authorized overtime.* The Committee notes the reference made by the Government in its report to the current legislation, indicating that it does not set a limit on the maximum number of overtime hours that may be authorized each year. **The Committee requests the Government to take the necessary measures to bring its legislation into conformity with the Conventions, by providing for the annual limit of additional hours which is required to be set in relation to temporary exceptions in conformity with the provisions of Article 7(3) of Convention No. 30.**

#### B. Weekly rest

*Articles 4 and 5 of Convention No. 14 and Article 7 of Convention No. 106. Special weekly rest schemes. Compensatory rest.* **While noting the lack of information in response to its previous request concerning continuous processes, the Committee requests the Government to take the necessary measures to ensure that workers who are asked to work on a weekly rest day receive compensatory rest of at least 24 hours.**

#### C. Paid leave

*Article 1 of Convention No. 52. Scope of application – Homeworkers.* In response to the Committee's previous comment concerning the exclusion of homeworkers from the provisions on paid annual leave, the Government indicates that under article 61 of the Labour Code, duties and obligations may also be set out in the contract of employment. **While noting, once again, the lack of legislative provisions in this regard, the Committee requests the Government to take the necessary measures to guarantee homeworkers' right to paid annual leave.**

*Article 2(3) of Convention No. 52 and Article 5(d) of Convention No. 101. Exclusion of absence due to sickness from annual leave.* **While noting the lack of information in this regard, the Committee requests the Government to take the necessary measures to ensure that interruptions of work due to illness are not included in the calculation of paid annual leave.**

*Article 2(4) of Convention No. 52 and Article 6 of Convention No. 101. Postponement of annual holidays.* **While noting the lack of information in this regard and recalling that only the fraction of paid leave exceeding the minimum period laid down in Convention No. 52 may be deferred, the Committee requests the Government to take the necessary measures to bring articles 223 and 224 of the Labour Code into conformity with Article 2(4) of the Convention.**

## Peru

**Hours of Work (Industry) Convention, 1919 (No. 1)** (ratification: 1945)

**Weekly Rest (Industry) Convention, 1921 (No. 14)** (ratification: 1945)

**Holidays with Pay Convention, 1936 (No. 52)** (ratification: 1960)

**Holidays with Pay (Agriculture) Convention, 1952 (No. 101)** (ratification: 1960)

**Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)** (ratification: 1988)

[Previous comment on Convention No. 1](#)

[Previous comment on Convention No. 14](#)

[Previous comment on Convention No. 52](#)

[Previous comment on Convention No. 101](#)

[Previous comment on Convention No. 106](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1 (hours of work, industry), 14 (weekly rest, industry), 52 (holidays with pay), 101 (holidays with pay, agriculture) and 106 (hours of rest, commerce and offices) in a single comment.

The Committee notes the observations of the National Confederation of Private Business Institutions (CONFIEP) on the application of Conventions Nos 1 and 52, received on 31 August 2023, and the observations of the Autonomous Workers' Confederation of Peru (CATP) on the application of Conventions Nos 1, 14, 52, 101 and 106, received on 1 September 2023.

The Committee notes the [decision](#) by the tripartite committee set up to examine the two separate representations made in 2020 under article 24 of the Constitution of the ILO by the Federation of Mineworkers of the Shougang Hierro Peru and Others and the Santa Luisa de Huanzalà Mineworkers Union. The Committee notes that the tripartite committee did not find violations of Convention No. 1 in relation to the alleged violation of working time limits during COVID-19. The Committee also notes that, taking into account the context of the acute health crisis caused by the COVID-19 pandemic during which the representations were made, the tripartite committee emphasized the importance of engaging in broad social dialogue with all representative organizations of workers and employers in the relevant sectors when taking action to find effective and sustainable solutions to crises (such as the crisis caused by the COVID-19 pandemic), as well as in the context of collective bargaining. The tripartite committee also recalled the impact of excessive working hours on the health and safety of workers and emphasized the fundamental nature of the occupational safety and health Conventions, as recently recognized by the ILO.

### A. Hours of work

*Article 2(b) of Convention No. 1. Averaging of hours of work within the weekly limits.* In its previous comments, the Committee noted the lack of conformity with the Convention of section 2(1)(b) of the single consolidated text of Legislative Decree No. 854 on hours of work, overtime hours and work, as amended by Act No. 27,761 (Presidential Decree No. 007-2002-TR of 4 July 2002), which allows employers to adopt an uneven distribution of working hours in the same week, without establishing maximum limits for daily hours of work. The Committee notes that the Government has not provided information on this subject. The Committee recalls that the Convention establishes an overall daily limit of nine hours in the case of the variable distribution of working hours within a week. **The Committee requests the Government to take the necessary measures to bring section 2(1)(b) of the single consolidated text of the Act on working time and overtime hours and work into conformity with Article 2(b) of the Convention with a view to guaranteeing that, in the case of the variable distribution of**

**working hours within a week, an overall daily limit of nine hours is established in addition to the weekly limit of 48 hours. The Committee requests the Government to provide information on the measures adopted or envisaged to ensure the application of this provision in practice.**

Article 6(1)(b) and (2). *Overtime hours. Circumstances in which temporary exceptions may be permitted. Overtime pay and maximum number of hours permitted.* With reference to its previous comments, the Committee notes the Government's indication that overtime hours are of an exceptional nature in accordance with section 9 of the single consolidated text of the Act on hours of work and overtime hours and work. However, the Committee notes that section 9 provides that overtime work shall be voluntary and shall only be compulsory in cases of unforeseen circumstances or force majeure. The Committee also notes that the CATP, in its observations, indicates that in certain sectors the limits on working time are exceeded and that, for example in the context of subcontracting, workers have to accept very long working days. **The Committee requests the Government to take the necessary measures to ensure that overtime hours are only worked in exceptional cases of unforeseen pressure of work and are only allowed to enable enterprises to cope with unforeseen cases of pressure of work, in accordance with Article 6(1)(b) of the Convention.**

Furthermore, in its previous comments, the Committee noted the absence of conformity of section 10 of the single consolidated text of the Act on hours of work and overtime hours and work, as it allows overtime pay to be replaced by compensatory rest. The Committee notes that the Government has not provided any further information on this subject. The Committee also notes the absence of legislative provisions establishing the maximum number of overtime hours that may be allowed in each case. **With reference to compensation for overtime hours, the Committee requests the Government to take the necessary measures to bring section 10 of the single consolidated text of the Act on hours of work and overtime hours and work into conformity with Article 6(2) of the Convention in order to guarantee that overtime hours are paid at a rate of not less than 125 per cent of the regular rate, irrespective of any compensatory rest afforded to workers. The Committee also requests the Government to indicate the maximum number of additional hours that may be allowed in practice.**

## B. Weekly rest

Article 5 of Convention No. 14 and Article 8(3) of Convention No. 106. *Compensatory rest.* In relation to its previous comments, the Committee notes that the Government refers in its report to section 3 of Legislative Decree No. 713 of 8 November 1991, which consolidates the legislation on paid leave for workers subject to the labour regulations governing the private sector, but does not provide additional information, and indicates that the national legislation is in conformity with the provisions of the Conventions. In this regard, the Committee notes the CATP's indication that section 3 of Legislative Decree No. 713 has still not been amended, in contravention of the provisions of the Conventions on weekly rest. It adds that this situation not only endangers the health and life of workers, but also the well-being of their families. The Committee recalls that the rationale for compensatory rest is the need to protect the health and well-being of workers and emphasizes the importance that any financial compensation is in addition to, and not in lieu of, the requisite compensatory rest (2018 General Survey concerning working-time instruments, paragraph 267). **The Committee requests the Government to take the necessary measures to bring section 3 of Legislative Decree No. 713 into conformity with the Conventions with a view to ensuring that workers who are subject to exceptions to the principle of weekly rest are entitled to compensatory rest of not less than 24 consecutive hours in each period of seven days, irrespective of any financial compensation.**

## C. Holidays with pay

Article 4 of Convention No. 52 and Article 8 of Convention No. 101. *Monetary compensation for leave not taken. Partial relinquishment of holidays.* In relation to its previous comments, the Committee notes that the Government refers to section 23 of Legislative Decree No. 713, which establishes the remuneration and compensation which shall be received by workers in the event that they do not take

their holidays within the year following that in which they became due. The Committee recalls that *Article 4* of Convention No. 52 and *Article 8* of Convention No. 101 provide that any agreement to relinquish the right to annual holiday with pay, or to forgo such holiday, shall be void. **The Committee therefore requests the Government to take the necessary measures to bring section 23 of Legislative Decree No. 713 into conformity with the Convention in order to ensure that workers benefit effectively from the right to annual holidays with pay in the form of a period of rest and leisure that is sufficiently long to preserve their health and well-being.**

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

## Portugal

### Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1928)

#### Previous comment

The Committee notes the observations of the General Confederation of Portuguese Workers-National Trade Unions (CGTP-IN) communicated with the Government's report.

*Articles 2 and 5 of the Convention. Exceeding normal hours of work. Calculating hours of work as an average. Compressed working week. Time banking.* Following its previous comments, the Committee notes the information provided by the Government that the Labour Code implemented the provisions of the Working Time Directive 2003/88/EC, issued by the European Parliament and Council on 4 November 2003, which anticipates various mechanisms for organizing working time that diverge from the eight-hour per day and 40-hour per week framework, allowing for the adjustment of work schedules to meet the needs of the undertaking. The Government also informs that flexibility and time-banking arrangements are schemes for the redistribution of working hours, aimed at simplifying the organization of work schedules, with a specific number of hours designated as the standard daily and/or weekly working hours, while not altering the overall average of the standard working time. The Committee notes the observation of the CGTP-IN which points out that these systems fail to adhere to the provisions of the Convention, particularly when considering the limited scenarios in which the Convention permits deviations from the prescribed maximum working time limits. CGTP-IN further asserts that national legislation does not confine the application of these systems to exceptional situations, nor does it restrict their implementation through collective agreements. Additionally, CGTP-IN indicates that these systems typically pose a substantial impediment to balancing the professional and personal/family lives of employees. The Committee wishes to emphasize that going beyond the daily and weekly limits established by the Conventions is likely to affect the health and well-being of workers and their work-life balance (2018 General Survey on working-time instruments, paragraph 74). **Therefore, the Committee requests the Government to take the necessary measures to ensure that the implementation of flexible working-time arrangements, such as averaging hours of work, compressed work-weeks or time banking, is in compliance with the provisions of the Convention and the limits to daily and weekly working hours established by the Convention.**

## Romania

### Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1921)

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

*Articles 2-5 and 6(1) of the Convention. Daily hours of work. Uneven distribution of weekly hours of work. Cases in which overtime is authorized.* The Committee recalls its previous comments relating in particular to section 115 of the Labour Code, which allows daily hours of work to be increased to 12 hours and regarding which the Committee emphasized that the daily limit of eight hours established by the Convention may only be exceeded in the specific cases referred to in *Articles 3-6* of the Convention. The Committee also referred



to section 113(2) of the Labour Code which, combined with the national collective agreement, allows the uneven distribution of weekly hours of work, increasing daily working time to a maximum of ten hours on certain days. The Committee drew the Government's attention to the fact that *Article 2(b)* of the Convention only authorizes the uneven distribution of weekly hours of work if daily working time does not exceed nine hours. Finally, the Committee referred to section 120(2) of the Labour Code, which does not provide a restrictive list of the situations in which overtime may be authorized, except for cases of force majeure or where the work needs to be done urgently. The Committee recalls once again that, except for the two abovementioned cases, *Article 6(1)(b)* of the Convention only authorizes overtime work to enable the employer to deal with exceptional cases of pressure of work. ***In view of the lack of new information on these points in the Government's report, the Committee again asks the Government to take the necessary steps as soon as possible in order to give full effect to the provisions of the Convention and to inform the Office of any developments in this regard.***

*Article 6(2). Overtime pay.* The Committee notes that the Government's report does not contain any new information on measures taken or contemplated to ensure that overtime is paid at a rate at least 25 per cent higher than the normal rate, whether or not compensatory rest is granted, as required by *Article 6(2)* of the Convention. In fact, section 123(2) of the Labour Code only provides for a higher rate of pay when compensation in the form of paid time off is not possible within 60 days following the period of overtime. ***Recalling the December 2010 conclusions of the European Committee of Social Rights that went along similar lines, the Committee asks the Government once again to take the necessary measures as soon as possible to give full effect to this Article of the Convention.***

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

## Sierra Leone

### Holidays with Pay (Agriculture) Convention, 1952 (No. 101) (ratification: 1961)

#### Previous comment

*Articles 1 and 8 of the Convention. Right to annual holidays with pay. Prohibition to forgo annual holiday.* For several years the Committee has been requesting the Government to amend section 12(a) of Government Notice No. 888 of 5 December 1980, which permits the deferral of annual leave for a period of up to two years or for longer with both the employee's and the union's consent. The Government indicates in its report that it is in the process of revising section 12(a) of Government Notice No. 888 of 5 December 1980. At the same time, the Committee notes that under section 71(5) of the new Employment Act 2023 when a worker is prevented or restrained from taking annual leave by an employer because of the exigencies of work, the worker shall be entitled to one and half month of his basic salary in lieu of his annual leave entitlement or as prescribed by collective agreements or other better terms. The Government indicates that the Employment Act allows for annual leave not to be taken on account of the exigencies of the work of the employer but provides as a balance to this the payment of extra compensation. The Government also indicates that if the staff is unionized, the union's consent would be sought. In this respect, the Committee recalls that *Article 8* of the Convention prohibits any relinquishment of the right of annual holiday with pay. ***The Committee requests the Government to take the necessary measures to ensure that the workers covered by the Convention effectively enjoy a period of annual holiday with pay every year, independently of any monetary compensation. In this respect, the Committee requests the Government to provide information on any progress made with respect to the revision of section 12(a) of Government Notice No. 888 of 5 December 1980. Furthermore, the Committee requests the Government to indicate the measures taken or envisaged to bring section 71(5) of the Employment Act 2023 in compliance with Article 8.***

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** *Canada, Chile, Comoros, Cuba, Djibouti, Dominican Republic, Egypt, Pakistan, Peru, Syrian Arab Republic* **Convention No. 14** *Canada, Central African Republic, Cuba, Democratic Republic of the Congo, Denmark, Djibouti, Egypt, Eswatini, Ethiopia, North Macedonia, Pakistan, Portugal, Romania, Saint Lucia, Senegal, Slovenia, Solomon Islands* **Convention No. 30** *Chile, Cuba, Egypt, Syrian Arab Republic* **Convention No. 52** *Central African Republic, Comoros, Cuba, Djibouti, Dominican Republic, Egypt, Peru* **Convention No. 89** *Comoros, Djibouti, Egypt, Eswatini, Malawi, Pakistan, Panama, Paraguay, Romania, Rwanda, Senegal, Syrian Arab Republic* **Convention No. 101** *Central African Republic, Cuba, Djibouti, Egypt, Eswatini, Peru, Poland, Saint Lucia, Saint Vincent and the Grenadines, Sierra Leone* **Convention No. 106** *Cuba, Denmark, Djibouti, Dominican Republic, Egypt, Ethiopia, North Macedonia, Pakistan, Portugal, Slovenia, Sri Lanka* **Convention No. 132** *Belarus, North Macedonia, Portugal, Rwanda, Slovenia* **Convention No. 171** *North Macedonia, Portugal, Slovenia* **Convention No. 175** *Paraguay, Slovenia, Sudan.*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 14** *Estonia* **Convention No. 89** *France (New Caledonia).*

## Occupational safety and health

### Belize

#### Radiation Protection Convention, 1960 (No. 115) (ratification: 1983)

##### Previous comment

*Articles 3(1) and (2), 6 and 8 of the Convention. Effective protection of workers against ionizing radiation. Data collection. Determination and review of maximum permissible doses.* The Committee notes the Government's indication in its report that no regulation has been adopted concerning protection measures pursuant to section 94 of the Labour Act. Nevertheless, the Government indicates that a strategic plan for the implementation of the Radiation Safety and Security Act is being developed by the Department of Environment (DOE), with a primary focus on the establishment of the "Office of Radiation of Safety and Security" and the development of regulations related to facilities, setting standards for occupational safety, import and export. **The Committee requests the Government to take the necessary measures to ensure effective protection of workers, as it relates to their health and safety, against ionizing radiations, and to ensure that data essential for effective protection are made available in accordance with Article 3(1) and (2) of the Convention. The Committee also requests the Government to adopt the necessary measures in order to ensure that the maximum permissible doses or amounts are determined without delay. It also once again requests the Government to provide information on any mechanism ensuring the review of such dose limits.**

*Article 9. Warning of the presence of hazards from ionizing radiations and instructions for workers directly engaged in radiation work.* The Committee notes the information provided by the Government that section 42(2)(b) of the Radiation Safety and Security Act requires the licensee to take measures to provide for the safety of workers. The Act further provides that the Office of Radiation Safety and Security shall prescribe the required qualification and training for users of ionizing radiation in medical practices (section 45(a)). The Government also indicates that the application for a license (to use radiation sources for industrial, research and medical purposes) requires the submission of a radiation safety programme. This programme outlines responsibilities for workers' safety and includes a consent form for users to acknowledging the associated risks. However, the Committee also notes that the Act does not provide for the need of appropriate warnings to indicate the presence of hazards from ionizing radiations, as well as the need to provide adequate instructions to all workers directly engaged in radiation before and during such employment, and it observes an absence of information on what information or training is mandatory prior to the submission of a consent form. **The Committee requests the Government to adopt the necessary measures to ensure that (i) appropriate warnings are used to indicate the presence of hazards from ionizing radiations; and (ii) adequate instructions are provided to all workers directly engaged in radiation work before and during such employment.**

*Article 12. Medical examination.* The Committee notes the Government's information that there has been no change with respect to matters covered by *Article 12* since its previous report. **Therefore, the Committee once again requests the Government to take the necessary measures in order to ensure medical examinations prescribed and provided in practice to workers directly engaged in radiation work, including examinations prior to or shortly after taking up such work, and their subsequent examinations at appropriate intervals.**

*Article 13. Measures in case of irradiation or radioactive contamination.* The Committee notes the Government's indication that section 48 of Part VII of the Radiation Safety and Security Act requires establishments that apply for a license under section 42 to have and implement an emergency response plan as a condition for the granting of a license. However, the Committee also notes that the mentioned Act does not establish specific protection to workers directly engaged in radiation work. **The Committee**

**once again requests the Government to adopt the necessary measures for the protection of workers in case of exposure to ionizing radiations, as required by the Convention, including appropriate medical examination of affected workers, examination of the conditions in which workers' duties are performed and any necessary remedial action.**

*Article 14. Employment involving exposure to ionizing radiation contrary to medical advice.* The Committee notes the information provided by the Government that the only occupation in the country that exposes workers to ionizing radiation is the one of X-ray technician. In this respect, the Committee wishes to draw the Government's attention in particular to paragraph 40 of the [2015 general observation](#) on this Convention, which indicates that every effort should be made to provide the workers concerned (those whose continued employment in a particular job is inadvisable for health reasons) with suitable alternative employment, where continued assignment to work involving exposure is found to be medically inadvisable. **The Committee requests the Government to adopt the necessary measures to ensure that workers are not employed or engaged in work liable to expose them to ionizing radiations contrary to qualified medical advice, including measures for the provision of alternative employment.**

## Plurinational State of Bolivia

**Benzene Convention, 1971 (No. 136)** (ratification: 1977)

**Asbestos Convention, 1986 (No. 162)** (ratification: 1990)

**Safety and Health in Construction Convention, 1988 (No. 167)** (ratification: 2015)

[Previous comments: Conventions Nos 136 and 162](#)

[Previous comment: Convention No. 167](#)

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 136 (benzene), 162 (asbestos) and 167 (OSH in construction) together.

### A. Protection against specific risks

#### 1. *Benzene Convention, 1971 (No. 136)*

*Article 2 of the Convention. Replacement of benzene or of products containing it.* Further to its previous comments, the Committee notes that the Government once again refers in its report to provisions of the 1979 General Act on occupational safety, health and welfare, the 1951 Basic Regulations on industrial safety and health, the 1995 Regulations on activities involving hazardous substances, and Technical Safety Standard (NTS) 009/18 on the presentation and approval of OSH programmes. The Committee observes that these provisions do not specifically provide for the use of harmless or less harmful substitute products instead of benzene and hence do not give effect to this Article of the Convention. **The Committee requests the Government to take specific measures without delay to ensure the use of harmless or less harmful substitute products, wherever available, instead of benzene or products containing benzene.**

#### 2. *Asbestos Convention, 1986 (No. 162)*

*Articles 3 and 4 of the Convention. Legislation and consultation.* Further to its previous comments, the Committee notes that the Government once again refers to the content of OSH programmes and cites provisions of Supreme Decree No. 2936 of 2016, implementing Act No. 545 of 2014 on safety in construction. However, the Committee observes that neither the programmes nor the aforementioned legislation establish provisions relating to asbestos. The Committee notes with **deep concern** that the Government has still not adopted the necessary measures to bring the legislation into conformity with the requirements of *Article 3* of the Convention. In this regard, the Committee recalls once again that

the Resolution concerning asbestos, adopted by the 95th Session of the International Labour Conference in June 2006, 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 strongly urges the Government to take immediate action, in accordance with Article 3 of the Convention, to ensure that the national legislation prescribes specific measures to: (i) prevent and control health hazards due to occupational exposure to asbestos; and (ii) protect workers against such risks. The Committee also strongly urges the Government to consult the most representative organizations of employers and workers concerned with regard to such measures, in accordance with Article 4 of the Convention.**

*Articles 9, 10, 11 and 12. Measures by law or regulation to prevent or control exposure to asbestos, including replacement or prohibition. Prohibition of the use of crocidolite and spraying.* Further to its previous comments, the Committee notes that the Government also refers in general to the content of OSH programmes, which do not specifically mention asbestos. The Committee notes with **concern** that the Government has still not adopted the necessary measures to bring the legislation into conformity with the requirements of these Articles of the Convention. **The Committee urges the Government to take the necessary measures without delay to ensure that the national legislation gives effect to Articles 9 and 10 (measures by law or regulation for prevention or control), 11 (prohibition of crocidolite) and 12 (prohibition of spraying) of the Convention.**

*Article 15(3). Measures to prevent or control the release of asbestos dust and to ensure compliance with exposure limits.* Further to its previous comments, the Committee notes the Government's indication that: (i) section 7(7) of NTS-008/17 on demolition work provides that appropriate measures must be taken in all demolition work to avoid the production of dust, and Raschel netting or similar must be placed at the demolition perimeter, over the whole height, and debris must be dampened before evacuation to lower levels or to the loading area; and (ii) OSH technical inspections are carried out in services and industry, including construction, either routinely or following a complaint, and if in the course of these the inspector finds working conditions which represent an imminent danger to the life or health of the workers, he/she will order work to be stopped in accordance with section 26 of the 1979 General Act on occupational safety, health and welfare, irrespective of any corresponding fines imposed on the employer. **In view of the lack of information on the measures taken in this respect, the Committee requests the Government to take specific measures to ensure that exposure to asbestos is reduced to as low a level as is reasonably practicable. The Committee also requests the Government to indicate, if applicable, the specific measures taken by the labour inspectorate to ensure compliance in practice with asbestos exposure limits.**

*Article 15(4). Adequate respiratory protective equipment and special protective clothing.* Further to its previous comments, the Committee notes the Government's indication that Ministerial Decision No. 527/09, regulating the procedure for the supply of work clothing and personal protective equipment, provides that: (i) workers potentially exposed to occupational risks shall use appropriate work clothing, which must be the most suitable and best designed for the activity, be supplied free of charge by the employer and replaced by the latter in the event of wear and tear (section 4(I) and (VI)); (ii) when actions to eliminate or avoid hazards, undertake engineering controls or provide collective protection to minimize risks are not practicable, employers must provide their workers with personal protective equipment which must have national or other recognized certification and be replaced in the event of wear and tear (section 5(a) and (b)); and (iii) for protection of the respiratory system, respiratory protectors with filters for the type of pollutant concerned must be supplied, with renewal carried out according to a schedule or when the protectors are saturated (section 5(f)). The Committee also notes that sections 5(7) and 14(1) of NTS-008/17 provide that workers who carry out demolition work must use respiratory equipment for work that produces dust, and also use, as a minimum at all times, safety

footwear and helmet, gloves and mask to protect against dust. The Committee takes note of this information, which addresses its previous request.

*Article 16. Practical measures taken by the employer for the prevention and control of exposure.* The Committee notes the Government's reference, in reply to its previous comments, to the control and sanction measures adopted by the labour inspectorate with regard to OSH, but that it does not provide any information on the responsibility of each employer to establish and implement practical measures for the prevention and control of the exposure of the workers that they employ to asbestos, in accordance with *Article 16*. ***In view of the lack of information on actions taken to give effect to this Article of the Convention, the Committee requests the Government to take specific measures to ensure that employers are made responsible for the establishment and implementation of practical measures for the prevention and control of the exposure to asbestos of the workers they employ and for their protection against the hazards due to asbestos.***

*Article 17(1) and (3). Demolition of plants or structures containing asbestos, and removal of asbestos by employers or qualified contractors. Drawing up of a work plan in consultation with the workers or their representatives.* The Committee notes the Government's indication, in reply to its previous comments, that section 6 of Ministerial Decision No. 437/22 of 2022, approving regulations for the designation of coordinators and the setting up of joint committees on occupational health, safety and welfare, establishes the conditions for the appointment of a coordinator or OSH joint committee and section 4 provides that both must ensure compliance with the preventive measures implemented by the enterprise or establishment in strict adherence to the OSH regulations in force. However, the Committee notes that neither these nor the other provisions of the above-mentioned regulations give effect to *Article 17(1) and (3)* of the Convention and that no information has been received on any action taken by the Government in this respect. ***The Committee strongly urges the Government to take specific legislative or other measures without delay to ensure that: (i) demolition work and the removal of asbestos provided for under Article 17(1) of the Convention can only be undertaken by employers or contractors who are recognized by the competent authority as qualified to carry out such work (Article 17(1)); and (ii) the workers or their representatives are consulted on the work plan to be drawn up by the employers or contractors (Article 17(3)).***

*Article 20(2), (3) and (4). Keeping records of the monitoring of the working environment. Access to such records. Right to request the monitoring of the working environment.* Further to its previous comments, the Committee notes the Government's indication that OSH programmes, which include health studies and monitoring, must be updated periodically and have the prior approval of the coordinator or OSH joint committee for them to be presented, which shows that the latter are aware of their technical content. However, the Committee notes that this information does not give any evidence of the application of this Article of the Convention, which refers to records of the monitoring of the working environment and the right of workers to access and request such monitoring. ***The Committee strongly urges the Government to take specific legislative or other measures without delay to ensure that: (i) the records of the monitoring of the working environment and of the exposure of workers to asbestos are kept for a period prescribed by the competent authority (Article 20(2)); (ii) the workers concerned, their representatives and the inspection services have access to these records (Article 20(3)); and (iii) the workers or their representatives have the right to request the monitoring of the working environment and to appeal to the competent authority concerning the results of the monitoring (Article 20(4)).***

*Article 21(3) and (4). Information on medical examinations. Other means of maintaining income when assignment to work involving exposure to asbestos is inadvisable.* Further to its previous comments, the Committee notes the Government's reference to the contractor's obligation to cover the cost of medical examinations and ensure that workers undergo medical examinations according to the risks to which they are exposed in their work. The Committee observes that this information relates to the provisions of *Article 21(1) and (2)* but also notes the lack of information on the application of *Article 21(3) and (4)* of the Convention. ***The Committee requests the Government to adopt specific measures without delay to***

**ensure that: (i) 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 (Article 21(3)); and (ii) 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 (Article 21(4)).**

## B. Protection in specific branches of activity

### *Safety and Health in Construction Convention, 1988 (No. 167)*

*Article 12(2) of the Convention. Obligation of the employer to take immediate steps to stop the operation and evacuate workers.* The Committee notes that the Government, in reply to its previous comments, cites provisions of Supreme Decree No. 2936, implementing Act No. 545 on safety in construction, and of NTS-009/18, establishing obligations for employers and contractors in emergency situations. However, the Committee observes that these provisions do not impose a specific obligation to stop the operation and evacuate workers where there is an imminent and serious danger to their safety. **The Committee requests the Government to adopt the necessary legislative or other measures to ensure that employers are specifically obliged to take immediate steps to stop the operation and evacuate workers as appropriate, where there is an imminent and serious danger to their safety.**

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

**[The Government is asked to reply in full to the present comments in 2024.]**

## Cambodia

### **White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1969)**

#### Previous comment

*Application of the Convention in law and in practice.* Following its previous comment, the Committee notes the Government's reference to the development of the Guideline on Chemical Safety in Workplaces, the draft Law on Occupational Safety and Health (OSH) and the third OSH master plan 2023-2027, developed with the technical assistance of the ILO. However, the Committee notes with **regret** that the Government does not provide any information on provisions prohibiting the use of white lead, in accordance with the Convention. **The Committee once again requests the Government to take the necessary measures to give full effect to the Convention in law by prohibiting the use of white lead and sulphate of lead and of all products containing these pigments in the internal painting of buildings, and to provide information on any progress made in this regard. It also requests the Government to provide information on the use of white lead in the country in practice, including any preventive and protective measures undertaken.**

## Canada

### **Asbestos Convention, 1986 (No. 162) (ratification: 1988)**

#### Previous comment

*Articles 3, 4, 10 and 11 of the Convention. Measures to be taken for the prevention and control of health hazards due to occupational exposure to asbestos. Periodic review in the light of technical progress and scientific knowledge. Consultation with the most representative organizations of employers and workers. Replacement of asbestos and the total or partial prohibition of the use of asbestos.* Following its previous comments, the Committee notes with **satisfaction** the indication in the Government's report regarding the adoption, in 2018, of the Prohibition of Asbestos and Products Containing Asbestos Regulations. The Committee notes that these Regulations prohibit the import, sale and use of asbestos and the manufacture, import, sale and use of products containing asbestos in Canada, subject to certain defined exclusions, such as the transfer of physical possession or control of asbestos or a product containing

asbestos to allow its disposal, or the import, sale or use of asbestos and products containing asbestos for display in a museum or for use in a laboratory. The Prohibition of Asbestos and Products Containing Asbestos Regulations also contain permit provisions in certain limited circumstances. The Committee takes note of this information, which addresses its previous request.

*Article 15(2). Exposure limits or other exposure criteria updated in the light of technological progress and advances in technological and scientific knowledge.* The Committee notes that, according to the Government, the exposure limit values for asbestos in the Yukon are established in Table 10 ("Mineral Dusts") of the Workplace Health Regulations of 1986. The Committee observes that the values under Table 10 appear to be higher than the value in other provinces and territories (0.1 fibres/cm<sup>3</sup> for airborne asbestos, based on threshold limit values established by the American Conference of Governmental Industrial Hygienists). **The Committee requests the Government to indicate the measures taken or envisaged to review and update the exposure limits or other exposure criteria in the Yukon, in the light of technological progress and advances in technological and scientific knowledge, in accordance with Article 15(2).**

*Article 17. Demolition work.* Following its previous comments, the Committee notes the information provided by the Government regarding the different legislative provisions in force regarding demolition work in the provinces and territories. The Committee observes, nevertheless, that up-to-date information on measures giving effect to Article 17 of the Convention has not been provided for all provinces and territories. **The Committee thus requests the Government to provide up-to-date information on the following points: (i) measures, including relevant legislative provisions, taken to give full effect to Article 17(1) (measures to ensure that demolition work is undertaken by employers or contractors who are recognised by the competent authority as qualified) in Nova Scotia and Saskatchewan; (ii) measures to give full effect to Article 17(2) in Alberta, New Brunswick, Nova Scotia, Ontario and the Yukon (measures taken to ensure that employers or contractors shall be required, before starting demolition work, to draw up a work plan specifying the measures to be taken); and (iii) measures to give full effect to Article 17(3) (measures to ensure that workers or their representatives shall be consulted on the work plan) in Alberta, New Brunswick, Newfoundland and Labrador, Ontario, Prince Edward Island, Quebec and the Yukon.**

*Article 20. Monitoring of the work environment and of the exposure of workers to asbestos.* **In the absence of up-to-date information on this issue, the Committee requests the Government to indicate the measures taken to give full effect to: (i) Article 20(2) (keeping records of the monitoring for a period prescribed by the competent authority) in New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nunavut, Nova Scotia, Ontario, Saskatchewan and the Yukon; (ii) Article 20(3) (giving workers concerned, their representatives and the inspection services access to these records) in New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nunavut, Nova Scotia, Ontario, Saskatchewan and the Yukon; and (iii) Article 20(4) (the right to request the monitoring of the working environment and to appeal the results of the monitoring) at the federal level, in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nunavut, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan and the Yukon.**

*Article 21. Notification of occupational diseases caused by asbestos and application of the Convention in practice.* Following its previous comments, the Committee notes the statistics provided by the Government, indicating that there were 555 fatalities due to mesothelioma, and 233 due to asbestosis, in the period 2018–20. The Government indicates that, for the 2018–20 period, asbestosis and mesothelioma were responsible for 83 per cent of time-lost injuries related to asbestos, and responsible for about 73 per cent of the 1,083 asbestos-related fatalities recorded. According to the Government, not all asbestos-related injuries and fatalities are reported to the Canadian Workers' Compensation Boards and Commissions, so the real numbers of asbestos-related injuries and fatalities may be higher. **The Committee requests the Government to provide up-to-date information on the measures taken to give effect to Article 21(2) in British Columbia, New Brunswick, and Newfoundland and Labrador**



*(measures to ensure that the monitoring of workers' health is free of charge and, as far as possible, during working hours). The Committee also requests the Government to provide up-to-date information on the measures taken to give effect to Article 21(3) in British Columbia, Manitoba, New Brunswick, Prince Edward Island, Saskatchewan and the Yukon (informing workers in an adequate and appropriate manner of the results of their medical examinations). The Committee further requests the Government to provide up-to-date information on the measures taken to give effect to Article 21(4) in British Columbia, New Brunswick, the Northwest Territories, Nunavut, Prince Edward Island and the Yukon (measures to provide workers concerned with other means of maintaining their income when continued assignment is medically inadvisable). Finally, the Committee requests the Government to provide up-to-date information on measures taken to give effect to Article 21(5) in New Brunswick, Nova Scotia and Ontario (measures to develop a system of notification of occupational diseases caused by asbestos).*

## Central African Republic

### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2006)

#### Previous comment

*Articles 4, 5 and 8 of the Convention. National policy. Spheres of action.* With regard to its previous comment, the Committee notes with **interest** the Government's indication that: (i) a process for the formulation of a coherent national policy on occupational safety and health (OSH) was launched in 2019, and this process takes account of the spheres of action set out in *Article 5*, with due respect for tripartism; and (ii) the OSH guidelines, which may be periodically reviewed, are also being developed. The Government adds that, to help it to finalize this project, it has requested the technical assistance of the Office. **While taking due note of this information, the Committee requests the Government to continue its efforts to finalize a coherent national policy on OSH, in consultation with the most representative organizations of employers and workers. The Committee notes the Government's request for technical assistance and hopes that this technical assistance will be provided in the near future.**

*Article 7. Periodic review of the situation regarding OSH and the working environment.* Further to its previous comment, the Committee notes the Government's information that the periodic review of the OSH situation is guaranteed under current legislation and advisory bodies, particularly the Standing National Labour Council (CNPT), a permanent advisory tripartite body on issues of work, employment, vocational training and, primarily, OSH. One mission of this tripartite body is to issue views and make recommendations on specific sectors with a view to determining effective ways of monitoring occupational hazards and proposing adequate measures. The Committee notes that, in accordance with section 7 of Decree No. 07.177 of 18 June 2007, on the organization and functioning of the CNPT, the latter should meet at least twice a year. **While noting the activities of the CNPT, the Committee requests the Government to take the necessary measures to ensure that the situation regarding OSH and the working environment is subject to an overall review at appropriate intervals.**

*Articles 13 and 19(f). Situation of imminent and serious danger to life or health.* Further to the Committee's previous comment, the Government refers to sections 143 and 144 of the Labour Code. The Committee notes that section 143 provides for the procedures for dismissal for economic reasons, and that section 144 provides for remedies in the case of unjustified dismissal. The Committee also notes the Government's information on the draft revised Labour Code, section 354 of which sets out that workers are bound to alert the employer, immediately and by any means, to a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health, as well as any shortcoming observed in the system of protection. In addition, the section establishes that the employer cannot require workers who have exercised their right to withdraw, to return to their activity in a work situation where there is continuing imminent and serious danger, resulting from, in particular, a shortcoming in the system of protection. The Committee recalls that

*Article 19(f)* of the Convention provides that an employer cannot require workers to return to a work situation where there is a continuing imminent and serious danger to life or health, and it observes that this would cover any such danger, and not only danger resulting from a shortcoming in the system of protection. The Committee further recalls that *Article 13* of the Convention provides that a worker who has removed themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health shall be protected from undue consequences in accordance with national conditions and practice. **The Committee requests the Government to take the necessary measures to ensure that section 345 of the draft revised Labour Code is adopted and gives full effect to Articles 13 and 19(f) of the Convention.**

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

## Comoros

### White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1978)

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

*Articles 1, 2 and 3 of the Convention. Prohibition of the use of white lead and sulphate of lead in the internal painting of buildings.* The Committee notes the information provided by the Government in its report that there are no specific provisions in national legislation applying the Convention, but that the Labour Code contains general indications in this respect. **The Committee hopes that the Government, in its next report, will be able to provide detailed information on the measures taken in law and practice to regulate the use of white lead and sulphate of lead and of all products containing these pigments, in accordance with the provisions of the Convention.**

*Application in practice.* The Committee notes the Government's indication that there is no report of the inspection services which would provide information on the manner in which the Convention is applied in practice or which would provide statistical data relating to it. **The Committee requests the Government to provide information when it is available on the application of the Convention in practice, including statistical information on cases of lead poisoning among working painters, indicating, in particular, morbidity and mortality due to lead poisoning.**

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

## Croatia

### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1991)

### Occupational Health Services Convention, 1985 (No. 161) (ratification: 1991)

### Asbestos Convention, 1986 (No. 162) (ratification: 1991)

#### Previous comments: observation and direct request

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 the Conventions Nos 155 (OSH), 161 (occupational health services) and 162 (asbestos) together.

#### A. General provisions

##### *Occupational Safety and Health Convention, 1981 (No. 155)*

*Application of the Convention in practice.* The Committee notes the data provided by the Government in its report related to notifications of accidents at work, including the total number of fatalities at work and the overall accident rate by branch of activity. The Committee notes that the total number of recorded cases of occupational diseases increased between 2020 and 2022, with 264 in 2020,

1,700 in 2021 and 1,370 in 2022. According to the information provided by the Government, the rise in occupational diseases in 2021 and 2022 was related to the COVID-19 pandemic, which corresponded to the cause of almost 95 per cent of recognized occupational diseases in the period. **The Committee requests the Government to pursue its efforts to ensure the application of ratified OSH Conventions and to continue to provide statistics on the occupational accidents and cases of occupational diseases.**

*Occupational Health Services Convention, 1985 (No. 161)*

*Article 5(a), (b), (c), (d), (e), (g), (h), (i) and (k) of the Convention. Functions of occupational health services.* The Committee notes with **interest** the information provided by the Government, concerning the adoption of ordinances concerning various risks, which set out the functions of occupational health services. The Ordinance on the protection of workers from exposure to dangerous chemicals at work, exposure limit values, and biological limit values (No. 91/18) stipulates that a risk assessment in workplaces where workers are exposed to hazardous chemicals should take into account, where possible, conclusions resulting from the health surveillance of workers to be carried out by an occupational health specialist. The Ordinance specifies that health surveillance includes a workplace tour. The Ordinance on the protection of workers from risks due to exposure to biological agents at work (No. 129/20) establishes conditions for mandatory health surveillance, to be conducted by the competent occupational health specialist or another authorized body, and specifies that the specialist or body should also propose all necessary protective or preventive measures for the workers covered by health surveillance. The Ordinance on the protection at work of workers exposed to stato-dynamic, psycho-physiological, and other efforts at work (No. 73/21) provides that when a major psycho-social risk has been assessed in the risk assessment, occupational health specialists and, if necessary, psychologists should participate in the development and implementation of preventive measures. These specialists should also participate in the education of workers on the prevention of such risks and should take appropriate measures when they notice signs and symptoms of diseases that may be caused by these risks. The Ordinance provides that, through a specialist in occupational medicine, the employer should ensure that workers are informed of certain health risks. **The Committee requests the Government to indicate if the specialists of the Occupational Medical Service perform any of the functions outlined in Article 5(d) (testing and evaluation of new equipment), (g) (adaptation of work), (h) (vocational rehabilitation) and (k) (analysis of accidents and diseases).**

B. Protection from specific risks

*Asbestos Convention, 1986 (No. 162)*

*Effective compensation of workers of the Salonit factory.* In response to the previous comment on the appeals lodged against the compensation claims by the workers of the Salonit factory, the Committee notes the Government's indication that the Commission for Settlement of Compensation Claims of Workers Suffering from Occupational Diseases Due to Exposure to Asbestos as of 13 July 2023 had received 2,028 compensation claims in total and settled all claims. The Committee notes this information, which responds to the question raised in its previous request.

*The Commission for Settling Claims for Compensation by Workers Suffering from Occupational Diseases Due to Exposure to Asbestos.* The Committee notes the information provided by the Government that the current Commission, appointed by the Government on 13 December 2018, received 297 requests, of which 260 were deemed to be well-founded, 34 deemed unfounded and 3 requests were withdrawn. It also notes the Government's indication that the website of the Croatian Health Insurance Fund contains instructions on how to submit a request for compensation. The Committee notes this information, which responds to the request made in the last comment.

*Application of the Convention in practice.* Following its previous comments, the Committee notes the information provided by the Government that, according to data collected between 2018 and 2022, the numbers of diseases related to exposure to asbestos is declining overall, from 57 cases in 2018 to

45 cases in 2022. **The Committee requests the Government to continue to provide information regarding the application in practice of the Convention, including the implementation of the prohibition on the usage of asbestos and asbestos-containing materials in Croatia and the number of occupational diseases reported.**

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

## Cuba

### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1982)

#### Previous comment

The Committee notes the observations on the application of Convention No. 155 presented by the Independent Trade Union Association of Cuba (ASIC) received in 2022, as well as the Government's response to those observations.

*Articles 7, 9, 11(d) and 19(e) of the Convention. Holding of inquiries where cases of occupational accidents appear to reflect serious situations. Enquiries by workers and their representatives, and their consultation on all aspects of OSH.* The Committee notes that, in its observations, ASIC alleges that: (i) OSH conditions at the Saratoga Hotel, including deteriorating infrastructure, resulted in an explosion that caused the deaths of a significant number of workers on 6 May 2022; (ii) the hotel managers avoided taking responsibility for the accident; and (iii) consultations were not held with the workers concerning OSH.

The Committee notes with **concern** the Government's indication that the accident resulted in the deaths of 32 hotel workers, as well as 16 passers-by and neighbours. The Committee also notes that the Government, in its reply to ASIC's observations, indicates that: (i) in accordance with section 192 of the Labour Code, Act No. 116 of 2013, the National Labour Inspection Office began investigating the accident just hours after it occurred; (ii) during the investigation, infringements of the current legislation were detected and the responsibility of the undertakings was established; (iii) in the accident investigation report, the National Labour Inspection Office delivered instructions to re-establish compliance with the legal provisions that had been breached and required that the appropriate persons were held accountable; (iv) those responsible provided the National Labour Inspection Office with the plan of measures to remedy the infringements detected; and (v) the facts related to the accident are being investigated by the competent authorities, and the outcome of this police investigation will lead to the adoption of the appropriate procedural decisions. **The Committee firmly hopes that the investigation into the accident that occurred more than one year ago will be concluded shortly and that this will make it possible to determine accountability and impose appropriate penalties. The Committee requests the Government to provide information in this respect. It also requests the Government to study the possibility of setting up a dialogue body with workers or their representatives in order to examine the necessary measures to be taken relating to OSH conditions, including in the hotel industry.**

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

## El Salvador

### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2000)

#### Previous comment

*Articles 4 and 8 of the Convention. Formulation, implementation and periodic review of the national policy in consultation with the most representative employers' and workers' organizations.* The Committee notes that the Government, in its report, indicates that with ILO technical assistance and following consultation with different sectors of the economy and public sector trade unions, proposals were

drawn up on a national policy on occupational safety and health (OSH) and a revised General Act on the prevention of occupational risks, and its four regulations. The Government adds that the national policy on OSH has not yet been subject to a tripartite consultation process and that therefore it is currently treated as an internal technical paper. The Committee notes the Government's information that the proposed national policy provides for the reactivation of the National Occupational Safety and Health Board (CONASSO), setting forth that it will be composed of representatives of public, workers' and employers' institutions, and that a regulation governing the Board must be established. ***In these circumstances, while welcoming the initiatives that have been taken, the Committee requests the Government to take the necessary steps to adopt the new policy on OSH in consultation with the most representative employers' and workers' organizations. In addition, noting that the draft national policy provides for the reactivation of CONASSO, the Committee would appreciate receiving information on any developments in this regard.***

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

## France

### New Caledonia

#### Radiation Protection Convention, 1960 (No. 115)

##### Previous comment

Articles 1, 3(1) and (2), 6, 7, 8, and 14 of the Convention. Legislation. Appropriate measures to ensure the effective protection of workers against ionizing radiations and maximum permissible doses of ionizing radiations. Discontinuation of assignment to work involving exposure to ionizing radiations further to medical advice. The Committee takes due note that, in the period 2018–2021 there were no reports of occupational accidents with absence from work further to a worker's sudden exposure to radiation. The Committee notes, however, that according to the Government, the regulations concerning radiation protection and, in particular, the maximum permissible doses, have not been updated for many years. The Government indicates that this is due to a lack of human resources and difficulties encountered in transposing the new regulations of metropolitan France into New Caledonian legislation. Nonetheless, the Committee notes with **regret** that the new regulation, which was due to be adopted in December 2016, has not yet been adopted. The Committee notes that the updating of Decision No. 547 of 25 January 1995, relating to the protection of workers against ionizing radiations, was scheduled for the first half of 2023 and that, ahead of this updating, the stakeholders (the enterprises and institutions involved) had decided that the above-mentioned decision would continue to be applied as it sets out the overriding principles of protection and management of workers' exposure; but with regard to its implementation, they referred to the regulation of metropolitan France. In this regard, the Committee wishes to once again draw the Government's attention to the following paragraphs of its [2015 general observation](#), paragraph 31 on a system of radiation protection; paragraphs 32 to 35 on the current recommendations for permissible dose limits; and paragraph 40 on discontinuation of assignment to work involving exposure to ionizing radiation pursuant to medical advice and alternative employment. The Committee also notes that 2023 was to be the year in which consideration was given to the establishment of a New Caledonian governmental department for radiation protection, responsible for liaising among all stakeholders. ***The Committee expects that the Government will spare no necessary efforts so that, in the light of the above-mentioned paragraphs of the 2015 general observation, a new regulation giving full effect to the Convention, particularly Article 3(1) and (2), and Articles 6, 7, 8 and 14, is adopted as soon as possible and in consultation with the employers' and workers' representatives concerned. In addition, the Committee requests the Government to provide information on any measures taken or envisaged with a view to the establishment of a New Caledonian governmental department for radiation protection.***

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

## Peru

### Occupational Cancer Convention, 1974 (No. 139) (ratification: 1976)

#### Previous comment

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2023.

*Article 1(1) and (3) of the Convention. Periodic determination of the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control.* The Committee notes the Government's indication in its report that Supreme Decree No. 015-2005-SA, approving a Regulation on threshold limit values (TLVs) for chemical agents in the workplace, is currently in force. The Committee notes the CATP's indication in its observations that this Regulation do not cover all carcinogens and the established exposure limits are significantly higher than those of other countries. **The Committee requests the Government to provide its comments in this respect. Furthermore, noting that Supreme Decree No. 015-2005-SA was adopted in 2005 and that it has not been revised since then, the Committee requests the Government to take the necessary steps to adopt and periodically revise: (i) the list of prohibited carcinogenic substances and agents; and (ii) the list of carcinogenic substances and agents which are subject to authorization or control. The Committee also requests the Government to indicate the manner in which the list of prohibited substances or agents is formulated and approved, and the manner in which the identified authorization or control is carried out.**

*Article 6(a). Requirement to take steps to give effect to the provisions of the Convention in consultation with the most representative employers' and workers' organizations concerned.* The Committee notes the Government's indication that the National Occupational Safety and Health Committee established the tripartite Standing Technical Committee on Occupational Cancer and Chemical Agents in the Workplace on 24 October 2018, with a view to taking action to promote, coordinate and supervise compliance with the Convention. The Committee notes the CATP's indication that the Ministry of Labour and Employment Promotion does not comply with the agreements of the above-mentioned Technical Committee and that this is counterproductive as regards promoting tripartite dialogue. In particular, the CATP indicates that at session No. 12 of the Technical Committee, agreement was reached on the proposal to update the Regulations on the prevention and control of occupational cancer, adopted by Supreme Decree No. 039-93-TR and published on 28 June 1993. This proposal received scientific approval from experts of the National Institute for Neoplastic Diseases, who have also participated in the Technical Committee since it was first established. However, as at 15 August 2023, the CATP has expressed concern at the lack of information on the status of the update of the Regulations. **The Committee requests the Government to provide its comments in this respect. The Committee also requests the Government to take the necessary steps to ensure tripartite social dialogue in the context of the Standing Technical Committee on Occupational Cancer and Chemical Agents in the Workplace.**

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

## Philippines

### Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 1998)

#### Previous comment

*Application of the Convention in practice and legislative developments.* The Committee notes the information provided by the Government on the follow-up given to the conclusions of the Conference Committee on the Application of Standards during the 104th International Labour Conference in 2015

in relation to the application of ILO Convention No. 176. In particular, the Committee notes the establishment of platforms and mechanisms such as the Multi-Partite Monitoring Team (MMT) responsible for conducting quarterly environmental monitoring, including audits of mining companies' operations. Further, under section 26 of Act No 11058 of 17 August 2018, the Secretary of Labour and Employment is required to institute new and updated programs to ensure safe and healthy working conditions in all workplaces, especially in hazardous industries such as mining. Regarding coal mining operations, the Committee notes with **interest** the revision conducted by the Department of Energy of the 1978 Coal Safety Rules and Regulations and the subsequent adoption of the new Coal Mine Safety And Health Rules and Regulations (Department Circular No. DC2018-12-0028 Series of 2018). Regarding the application of the Convention in practice, the Committee notes the information provided by the Government concerning the number of mining and quarrying activities inspected (122 in 2022 and 78 from January to June 2023) and that the 2022 inspections noted a compliance rate of 69.67 per cent with Occupational Safety and Health Standards. The committee further notes the statistics available on the Philippines Statistics Authority website which indicates that the total number of occupational injuries in the mining sector has decreased from 528 in 2015, 486 in 2017 and 244 in 2019. **The Committee requests the Government to continue its efforts to strengthen the application of the Convention and to continue to provide information on the measures taken in this respect, including any programs adopted for mining under section 26 of Act No 11058. It also urges the Government to provide updated information on the number of accidents and cases of occupational disease in the mining sector and requests the Government to continue to provide information on the number of inspections and their outcome.**

*Article 5(5). Plans of workings.* Regarding plans of working, the Government refers to the obligation of companies under the Republic Act No. 7942, Philippine Mining Act of 1995, to submit, detailed plans and work programmes prepared by a competent person. The Government further refers to the obligation of the permittee/contractor/lessee to submit progress reports of their activities and the possibility for a contractor to make changes, under certain conditions, to an approved Work Program. The Committee notes that submission of a work program under section 24, a plan or map under section 12, or a work program under section 69 of Act No. 7942, is required before the start of mining operations but does not address the obligation related to the responsibility of the employer to ensure that, in the event of any significant modification, such plans/maps/work programs are brought up to date periodically and kept available at the mine site. The Committee also notes that the Department of Environment and Natural Resources (DENR) is revising section 21, rule 21.11 of DENR Administrative Order No. 2000-98, Mines and Safety Health Standards (DENR administrative Order No. 2000-98). In this respect, the Government indicates that the proposed amendment contains requirements that the employer includes all plans of workings in the 3-year Work Program to be evaluated and approved by the Mines and GeoSciences Bureau. The plan of workings and all updates due to significant modifications would be maintained and made readily available at the mine site. **The Committee urges the Government to pursue its efforts to give effect to Article 5(5) of the Convention to ensure that in the event of any significant modification, an employer in charge of the mine has an obligation to update plans of workings and, that such plans are brought up to date periodically and kept available at the mine site, including in coal mining operations. In this respect, it requests the Government to provide information on the revision of section 21, rule 21.11 of DENR Administrative Order No. 2000-98.**

*Article 10(c). Measures and procedures to establish a recording system of the names and probable locations of all persons who are underground.* Regarding coal mines, the Committee notes the obligation of operators in coal mines under chapter I, section 1, rule 8(n) of Circular No. DC2018-12-0028 which requires the establishment of a check-in and check-out system to provide positive identification of every person underground, and to provide an accurate record of the persons in the mine. Regarding non-coal mine operations, the Government refers to general requirements of underground mining rules set under Chapter VI, sections 13–39, Rules 56-357, of DENR Administrative Order No. 2000-98. It further refers to existing practices used for the identification of names and locations of all persons who are

within the mine site, including the work distribution board and QR codes. Recalling the Government's previous indication regarding plans to amend section 21(5) of the DENR Administrative Order No. 2000-98 to implement *Article 10(c)*, the Committee notes the Government's reiteration that the DENR is in the process of revising the DENR Administrative Order No. 2000-98 and DENR Administrative Order No. 2010-21, the Revised Rules and Regulations of R.A. 7942, to effectively enforce the provisions of the Convention. ***The Committee requests the Government to take measures to ensure that employers are required to establish a recording system of the names and probable locations of all persons who are underground in all mines, including non-coal mines. The Committee requests the Government to provide information on any progress made in the revision of administrative orders, rules and regulations undertaken by DENR in that respect.***

*Article 12. Two or more employers.* Regarding coal mines, the Committee notes the obligation and responsibility of operators under Rule 8(o) of Circular No. DC2018-12-0028 to ensure full coordination with sub-contractors for the implementation of all measures concerning the safety and health of workers. Regarding non-coal mines operations, the Committee notes the reference made by the Government to section 4(7)(d) of Republic Act No. 11058, which only requires collaboration between two or more undertakings engaged in activities simultaneously in one workplace, but does not attribute primary responsibility to one person in particular. ***The Committee requests the Government to provide information on the measures taken to ensure that whenever two or more employers undertake activities at the same non-coal mine, the employer in charge of the mine shall coordinate the implementation of all measures concerning the safety and health of workers and shall be held primarily responsible for the safety of the operations.***

*Article 13(2)(f). The right of workers' representatives to receive notice of accidents and dangerous occurrences.* Regarding coal mines, the Committee notes the right of a Safety and Health Representative in coal mines to receive notice of accidents and dangerous occurrences, under Rule 13(g) of Circular No. DC2018-12-0028. Regarding non-coal mines, the Committee notes reference made by the Government to section 6, Rule 23(2) and (3) of DENR Administrative Order No. 2000-98 and to section 5 of Department of Labour and Employment Order No. 198, series of 2018, which only provides for the rights of employees to obtain information on workplace hazards. ***The Committee requests the Government to take measures to ensure that workers' safety representatives in non-coal mines have the right to receive notice of accidents and dangerous occurrences.***

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

## Portugal

**Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1985)**

**Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2002)**

**Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2017)**

[Previous comment on Convention No. 155 and its Protocol of 2002](#)

[Previous comment on Convention No. 176](#)

[Previous comment on Convention No. 187](#)

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 Convention No. 155 and its 2002 Protocol (OSH), 176 (safety and health in mines), and 187 (promotional framework for OSH) together.

The Committee notes the observations of the General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN), the General Workers' Union (UGT) and the observations of



Confederation of Portuguese Business (CIP) on Conventions Nos 155, 176 and 187, transmitted with the Government's report.

The Committee notes the [decision](#) of the tripartite Committee set up to examine the representation submitted under article 24 of the ILO Constitution by the Trade Union of Labour Inspectors (SIT) alleging non-observance by Portugal of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155).

#### A. General provisions

*Occupational Safety and Health Convention, 1981 (No. 155), Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)*

*Article 4(1) of Convention No. 155 and Article 3 of Convention No. 187. National policy on OSH and the working environment.* Further to its previous comment, the Committee notes the information provided by the Government on the results achieved under the National Strategy for Safety and Health at Work 2015-2020 (ENSST 2015-2020), including: (i) the creation of forums in the construction, manufacturing and agriculture sectors to analyse accidents, identify specific needs and adopt concrete measures in these sectors; (ii) the provision of tools to support OSH risk assessments; (iii) the development of OSH training on protection against specific risks and in certain branches of economic activity; (iv) the approval of the OSH action plan for the public administration by Council of Ministers Resolution No. 28 of 2019; and (v) the development of OSH campaigns, including the dissemination of information on OSH legislation and best practices.

It also notes the observations submitted by the CIP, the UGT and the CGTP-IN on the evaluation of the ENSST 2015-2020, alleging that the objective of reducing the total number of occupational accidents and diseases was not achieved during the period under review. The UGT adds that there has been a significant increase in the number of reported occupational diseases, particularly diseases caused by physical agents, from 3,565 in 2015 to 12,571 in 2020. The UGT further indicates that the preparation of a new national strategy for safety and health from 2022-27 was suspended due to a lack of political will. ***The Committee requests the Government to strengthen its effort to prevent occupational diseases and to provide information on the reasons for the increase of diseases due to physical agents. It also requests the Government to provide information on the measures taken to ensure the formulation, implementation and periodic review, in consultation with the most representative organizations of employers and workers, of subsequent OSH strategies, including the measures taken to prevent occupational accidents and diseases, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment, the interim evaluations of the strategies and the results achieved in this respect.***

*Article 11(e) of Convention No. 155, Article 3 of the Protocol and Article 4(3)(f) of Convention No. 187. Measures to improve the reporting of occupational accidents and diseases and mechanisms for the collection and analysis of data on occupational injuries and diseases.* Further to its previous comment, the Committee notes the information provided by the Government on: (i) the collection of information on occupational diseases through the compulsory occupational disease reports; and (ii) the adoption of Decree Law No. 106 of 2017, which regulates the collection, publication and dissemination of official statistical information on occupational accidents. Pursuant to Decree Law No. 106 of 2017, employers are required to report occupational accidents to insurers, which in turn shall send this information to the government department responsible for labour statistics, which shall ensure the production and dissemination of official statistics on accidents at work (sections 3 and 6).

The Committee further notes the observations of the UGT indicating that there continue to be unsustainable levels of underreporting of occupational diseases and that the statistical sources of

occupational accidents are outdated. The Committee notes that in their observations, the CGTP-IN and the UGT allege that the level of underreporting of occupational diseases in the country is very high and, as a result, many cases of occupational diseases are not diagnosed as such, but as natural diseases. The CIP also indicates that there is a need to improve the national systems for reporting occupational diseases and for collecting statistical data. **The Committee requests the Government to pursue its efforts to improve the systems for the reporting, collection and analysis of occupational accidents and diseases. It also once again requests the Government to indicate how effect is given to Article 3(a)(ii) of the Protocol of 2002 concerning the responsibility of employers to provide appropriate information to workers and their representatives on the systems for recording occupational accidents and diseases. With respect to the reporting of occupational diseases, the Committee refers to its comments addressed directly to the Government regarding Articles 3 and 5 of the Occupational Cancer Convention, 1974 (No. 139), and Article 21(5) of the Asbestos Convention, 1986 (No. 162).**

## B. Protection in specific branches of activity

### *Safety and Health in Mines Convention, 1995 (No. 176)*

*Article 3 of the Convention. Policy on safety and health in mines.* With reference to its previous comment, the Committee notes that the Government indicates that: (i) the Directorate General of Energy and Geology (DGEG), in cooperation with other competent authorities, including the ACT, initiated the revision of Decree Law No. 162 of 1990, establishing the General Regulations on Safety and Health at Work in Mines and Quarries; and (ii) the DGEG periodically sends circulars to mine managers to reassess possible risk situations in mines.

The Committee also notes the observations of the CGTP-IN and UGT alleging that the extractive industries sector has one of the highest incidence rates of occupational accidents in the country (with an incidence rate of 18.2 accidents per 100,000 workers) and that despite inadequate health and safety conditions in the mines, companies do not invest in the protection of workers. The UGT further indicates that in the period 2020–22, nine workers have lost their lives and 85 cases of occupational diseases have been recorded in the mining sector. **The Committee requests the Government to take measures to strengthen the implementation of the Convention with a view to ensuring safety and health in mining. It once again requests the Government to provide information on the formulation, implementation and periodic review, in consultation with the most representative organizations of employers and workers concerned, of a coherent policy on safety and health in mines, including the measures taken to address the incidence rate of occupational accidents and cases of occupational diseases in the sector.**

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

## Rwanda

### **Safety Provisions (Building) Convention, 1937 (No. 62) (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 of the Convention. New legislation and regulations.* The Committee notes the Government's indication that the Rwanda Building Control Regulations, established in May 2012 by the Ministry of Infrastructure in collaboration with the Rwanda Housing Authority, contain many provisions of the repealed Ordinance No. 21/94 of 23 July 1953 regulating occupational safety in the building industry, and that any remaining legal voids will be addressed through the ongoing review of Act No. 13/2009 regulating labour in Rwanda and its application orders, and of Ministerial Order No. 02 of 17 May 2012 determining general conditions for occupational safety and health. However, the Committee notes that the Government does not indicate the specific provisions of the Building Control Regulations which give effect to the Convention and is therefore unable to effectively appreciate if these Regulations address the legal voids concerned. **The Committee requests the Government to indicate the specific provisions of the legislation in force, and to**

**provide information on any other measures, which ensure the application of the general rules set forth in Parts II to IV of the Convention. It also requests the Government to take immediate action to fill the legal voids still remaining following the abrogation of Ordinance No. 21/94 and to provide information on any developments in this regard.**

*Articles 4 and 6. Labour inspection and statistical information. Application in practice.* The Committee notes the Government's indication that a comprehensive exercise for the establishment of a country profile on occupational safety and health was concluded in 2012. It further notes that, despite the Government's indication, the 2013 report on labour inspection and the report containing updated statistical information on occupational accidents have not been provided. The Committee also refers the Government to its comments relating to the application of the Labour Inspection Convention, 1947 (No. 81). **The Committee therefore once again reminds the Government of its obligations under Article 6 of the Convention and requests the Government to ensure that its next report includes statistical information relating to the number and classification of accidents occurring to persons occupied in work within the scope of this Convention, and any other information relevant to the application of this Convention in practice. The Committee also requests the Government to provide further information on the 2012 country profile on occupational safety and health and to communicate a copy with its next report.**

**The Committee hopes 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)

#### Previous comment

*Part II and Article 17 of the Convention. Prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery. Scope of application.* For a number of years, the Committee has drawn the Government's attention 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 national laws do not apply to certain branches of activity, such as sea, air or land transport, and mining. The Committee notes the Government's reference in its report to the draft Occupational Safety and Health (OSH) Act. The Committee notes that the draft OSH Act has a general scope of application and provides for general duties of designers, manufacturers, importers and suppliers with regard to any article for use at work (section 37). **The Committee requests the Government to take the necessary measures to ensure that the OSH Act is adopted in the near future and that it will contain provisions giving full effect to Part II and Article 17 of the Convention. It requests the Government to provide information on any progress made in this regard.**

## Slovenia

### White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1992)

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

*Article 3(1) of the Convention. Prohibition of the employment of young persons and women.* The Committee notes that the Government's report repeats the information provided in both 2004 and 2009 on provisions which prohibit the employment of young people on the basis of a risk assessment undertaken by the employer, taking into account the use of lead and its compounds; and provisions which provide protection for pregnant workers and workers who have recently given birth and are breastfeeding. **The Committee once again refers the Government to its previous comments with regard to this Article, and reiterates its request that the Government provide information on measures taken or envisaged to prohibit the employment of men under the age of 18 years and of all women in any painting work of industrial character involving the**

**use of white lead or sulphate of lead or other products containing these pigments. The Committee also asks the Government to provide further information on the risk assessment to be undertaken by employers under section 6 of the rules on the protection of health at work of children, adolescents and young people, with particular reference to a risk assessment related to employment involving the use of lead and its compounds.**

*Article 5(I)(a). Prohibition against the use of white lead.* The Committee notes that the Government refers to the information already provided in its previous report, indicating that section 8(1) and (2) of the regulation on the protection of workers from risks of exposure to chemical substances at work require an employer to remove, or reduce to the least possible extent, the risk of hazardous chemical substances to the safety and health of workers at work. **The Committee reiterates its request that the Government take the necessary measures to ensure that use of white lead, sulphate of lead, or products containing these pigments is prohibited in painting operations, except in the form of paste or of paint ready to use.**

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

## Uganda

### Asbestos Convention, 1986 (No. 162) (ratification: 1990)

#### Previous comment

*Articles 3–12, 14–16, 18 and 20–21 of the Convention. Regulations to implement the Convention.* The Committee notes the Government's indication in its report that it is currently developing a draft Hazardous Substances Regulation, with specific parts addressing the handling and disposal of asbestos. The Government indicates that the draft is currently an internal document within the Occupational Safety and Health Department of the Ministry of Gender, Labour and Social Development, but that it will be subsequently discussed in a tripartite forum with the social partners. The Government further indicates that it has faced a delay in the development of this legislation due to financial constraints and need for further technical support in drafting. **The Committee urges the Government to take the necessary measures to ensure the finalization of regulations addressing occupational exposure to asbestos in the near future, in accordance with Article 3 of the Convention. It requests the Government to ensure that these regulations give full effect to Articles 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 20 and 21 of the Convention with a view to ensuring the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos.** The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard. **Lastly, it requests the Government to provide information on the consultations held with the most representative organizations of employers and workers in this respect.**

*Articles 5 and 22. Enforcement, information and education.* The Committee notes the Government's statement that the Occupational Safety and Health Department, as well as the National Environment and Management Authority (NEMA), address hazardous materials, including asbestos, in the course of inspections. The Government states that where work activities are detected that involve the handling of asbestos, the Department, working with NEMA inspectors, will share the NEMA safe work procedures on asbestos handling and disposal. The Government further states that while inspectors will educate workers in the course of inspections, there have been no organized arrangements for education and information dissemination on work with asbestos. In addition, the Government states that the Department previously produced information sheets for distribution to districts and held seminars on a regular basis, but that this has not been possible in the last decade due to budget cuts. **The Committee urges the Government to take measures to strengthen the implementation of the Convention with a view to protecting workers against health hazards due to occupational exposure to asbestos. It requests the Government to take measures to promote the dissemination of information and the education of all concerned with regard to health hazards due to exposure to asbestos and to methods of prevention and control, in accordance with Article 22 of the Convention.**

*Article 17(1). Demolition and asbestos removal work.* The Committee notes the Government's statement that the OSH Department has been informed of cases where contractors undertake the removal of asbestos from buildings or structures without the competence required by the NEMA and without providing notification prior to the work commencing. The Government indicates that in these cases, there had also been no work plan for the protection of workers, no procedures for limiting and controlling asbestos emission into the air and no proper disposal arrangements. **The Committee urges the Government to take the necessary measures to ensure that the removal of asbestos shall only be undertaken by employers or contractors who are recognized by the competent authority as qualified to carry out such work, in accordance with Article 17. It further requests the Government to ensure that such employers or contractors are required, before starting demolition work, to draw up a work plan specifying the measures to be taken, including to: (i) provide all necessary protection to the workers; (ii) limit the release of asbestos dust into the air; and (iii) provide for the disposal of waste containing asbestos.**

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

## Ukraine

**Radiation Protection Convention, 1960 (No. 115) (ratification: 1968)**

**Occupational Cancer Convention, 1974 (No. 139) (ratification: 2010)**

**Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2012)**

**Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2011)**

### Previous comments

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 115 (radiation protection), 139 (occupational cancer), 155 (OSH) and 176 (safety and health in mines) together.

The Committee notes the observations of the Confederation of Free Trade Unions of Ukraine (KVPU), received on 31 August 2023, concerning the application of Convention No. 155.

*Application of Conventions Nos 115 and 155 in practice. Nuclear power plant workers.* The Committee notes that the report presented to the Governing Body at its 349th Session, October–November 2023 (GB.349/INS/15) titled “Report on developments in the application of the resolution concerning the Russian Federation’s aggression against Ukraine from the perspective of the mandate of the International Labour Organization” noted persisting concerns about the safety of workers in the occupied Zaporizhzhya Nuclear Power Plant (ZNPP). The Report noted concerns with respect to the deteriorating working conditions and the safety of workers, which is mainly due to potential increased exposure to radiation and the potential risk of a nuclear accident, related to an unstable supply of electricity. The Committee further notes with **concern** the indications of the Director General of the International Atomic Energy Agency (IAEA), in the “Statement on Situation in Ukraine” (update 191), released on 27 October 2023, that nuclear safety and security remain potentially precarious in Ukraine at the ZNPP and certain other nuclear power plants. Concerning the conditions of the operating staff at the Chornobyl site, the IAEA Director-General further indicated, in update 193 of 13 November 2023, that the site’s conditions were taking a toll on the physical and mental health of the operating staff, and that the situation was not sustainable in the longer term. The Committee also notes the measures aimed at the safe and secure operation of nuclear facilities and activities involving radioactive sources outlined in the IAEA’s report “Nuclear Safety, Security and Safeguards in Ukraine” of 14 September 2023. **The Committee reiterates its concern and once again urges that all necessary measures be taken to protect the safety and health of nuclear power plant workers. In particular, it urges the strengthening of the**

**implementation of Convention No. 115 to ensure the effective protection of workers against ionizing radiations in the course of their work.**

A. General provisions

*Occupational Safety and Health Convention, 1981 (No. 155)*

*Application of the Convention in practice and impact of the conflict on the safety and health of workers.*

The Committee notes with **concern** the statement of the KVPU that, since the beginning of the armed aggression of the Russian Federation until 26 January 2023, the State Labour Service (SLS) recorded 571 workers that were injured, of which 221 died, from injuries incurred during the performance of work duties that were the result of bombings, missile and artillery attacks, the mining of territories and premises, capture, and other illegal actions. In this respect, the Committee notes the Government's indication that the cause of death in 46 per cent of the fatal work-related accidents in 2022 was determined to be related to the conflict and illegal actions by third parties. **Noting the difficult situation in the country since 24 February 2022, the Committee requests the Government to continue to provide available information on the impact of the conflict on the safety and health of workers in the country.**

*Articles 4, 7 and 8. National OSH policy and legislative reforms.* In response to its previous comments on the implementation of the Framework for the reform of the labour protection management system and Plan of Action approved by Decree No. 989, the Government refers to the development and review of various OSH regulations and indicates that it will be possible to develop drafts of relevant bylaws once the new OSH Draft Law is adopted. In this respect, the Committee notes that the new OSH Draft Law No. 10147 was presented to Parliament on 13 October 2023 and is currently under consideration. The Committee further notes that a new ILO project for the adoption of a new labour code to promote compliance with International Labour Standards (ILS) and other pending pieces of labour legislation on OSH has been undertaken.

The Committee takes note of the observations of KVPU that the OSH Draft Law, No. 10147 is not in conformity with Convention No. 155, and in particular, *Articles 4, 5(e), 8, 10, 13* (protection for a worker that has removed themselves from a dangerous work situation) and *Article 19* (arrangements at the level of the undertaking relating to rights and duties of workers and their representatives, and cooperation). The KVPU indicates that the OSH Draft Law, No. 10147 will significantly narrow the content and scope of existing guarantees and rights of employees related to safe and healthy working conditions. The KVPU also states that trade unions did not approve the OSH Draft Law, No. 10147 which will remove the right to benefits and compensation for work in difficult and harmful working conditions, established under the current legislation, and that the Draft does not stipulate minimum funding for preventive measures. In addition, KVPU reiterates that the Draft Law on Labour is not in conformity with Convention No. 155, with respect to *Articles 4* (consultation with the most representative organizations of employers and workers in the development, implementation and review of the national OSH policy), *5(e)* (the protection of workers and their representatives from disciplinary measures), *8* (implementation of the national policy in consultation with the representative organizations of employers and workers concerned) and *10* (measures to provide guidance to employers and workers). **The Committee, once again, requests the Government to provide its comments with respect to the observations of the KVPU. It also requests the Government to take all necessary measures to ensure that the new legislation on safety and health complies with the requirements of OSH Conventions. Recalling, once more, the importance of consultations with the representative organizations of employers and workers in the implementation of Convention No. 155, the Government is requested to provide information on the manner in which the views of organizations of employers and workers have been taken into consideration in the development of the Draft Law on Labour and the OSH Draft Law, No. 10147.**

*Article 5(e). Protection of workers and their representatives from disciplinary measures.* Following the Committee's previous comments on protection against disciplinary measures, the KVPU indicates that OSH Draft Law No. 10147 does not include the requirement of *Article 5(e)* on the protection of workers

and their representatives from disciplinary measures as a result of actions properly taken by them. In this respect, the Committee notes that section 26(11) of the OSH Draft Law No. 10147 provides for protection from harassment or disciplinary measures, but only to employees and solely for reporting an accident, occupational disease or dangerous event. **Noting the ongoing review of OSH Draft Law No. 10147, the Committee requests the Government to take the necessary measures to ensure that the new OSH legislation protects both workers and their representatives against disciplinary measures as a result of actions properly taken by them to secure their safety in conformity with the national OSH policy and in compliance with Article 5(e).**

*Article 11(c) of the Convention. Notification of occupational accidents and diseases.* Following its previous comments with respect to the application of Decision No. 337 of the Cabinet of Ministers of Ukraine of 17 April 2019, the Committee notes changes introduced through several amendments, including, Resolution No. 1 of 5 January 2021, which provides for notification and investigation of occupational accidents and death of medical workers related to COVID-19 infection (section 141). Regarding the obligation of employers on recording and notification of accidents and occupational diseases, the Committee notes section 141(18) and (19) of the Resolution on Amendments to the Procedure for Investigation and Registration of Accidents, Occupational Diseases and Accidents at Work, dated 20 January 2023, No. 59, and measures envisaged under sections 6(2), (8) and 25(22) of the OSH Draft Law, No. 10147. **The Committee requests the Government to take all necessary measures to ensure that full effect is given to the requirements of Article 11 (c) and to provide updated information on the progress made with respect to the review of the OSH Draft Law No. 10147 and on any other measures taken to ensure the notification of occupational accidents and diseases by employers.**

## B. Specific risks

### *Occupational Cancer Convention, 1974 (No. 139)*

*Articles 2, 3 and 4 of the Convention. Replacement of carcinogenic substances and agents, measures to be taken to protect workers, record keeping, and provision of information.* The Committee welcomes the information provided by the Government in response to its previous request, including the adoption of regulations for the permissible content of chemical and biological substances in the air of the working environment approved by the Order of the Ministry of Health of Ukraine No. 1596, of 14 July 2020 and to the Order of the Ministry of Health of Ukraine, No. 1054, approving the Regulation “List of Substances, Products, Production Processes, Domestic and Natural Factors Carcinogenic to Humans” of June 2022. In this respect, the Committee notes that Order No. 1054 provides for the replacement and/or elimination of carcinogenic substances and agents (Part II, sections 1 and 2), measures to protect workers and monitoring (Part II, sections 3 to 5) and the right of workers to receive information on the dangers involved and the measures to be taken (Part II, sections 6 and 7). **The Committee requests the Government to take all the necessary measures to ensure the application in practice of Order No. 1054 and to provide information on any progress made in this regard.**

## C. Specific branches of activity

### *Safety and Health in Mines Convention, 1995 (No. 176)*

*Articles 5(1), (2)(e) and 16 of the Convention. Supervision of safety and health in mines, suspension of mining activities, corrective measures and enforcement.* In response to Committee's previous comments on the power of the competent authorities, the Government indicates that under section 39 of the Labour Protection Law No. 2694-12, 1992 (OSH Law), officials of the SLS are invested with the power to, among others, prohibit, suspend, terminate, restrict the operation of enterprises. However, the Committee notes with **concern** the Government's indication that pursuant to section 5 of the Act No. 877-V of 2007 on Fundamental Principles of State Supervision and Monitoring of Economic Activity, scheduled state inspection is carried out, including in coal enterprises that are classified as high risk, only once every two years. In this respect, the Committee notes that pursuant to paragraph 1 of

Resolution of the Cabinet of Ministers of Ukraine of 13 March 2022 No. 303 “On Termination of Measures of State Supervision (Control) and State Market Supervision in the Conditions of Martial Law”, scheduled and unscheduled state supervision (control) and state market supervision have been suspended for the period of martial law imposed by Decree of the President of Ukraine No. 64 dated 24.02.2022 “On the Introduction of Martial Law in Ukraine”, which has been extended until February 2024. The Committee further notes the statistics provided in the Government’s report regarding inspections conducted in two coal mining companies in October 2021, during which 1370 violations of regulations were identified, 56 officials were found administratively liable for fines, and a petition was filed with the administrative court to stop work due to violations. **Referring to its comments adopted in 2023 under the Labour Inspection Convention, 1947 (No. 81), and the Inspection (Agriculture) Convention, 1969 (No. 129), the Committee requests the Government to take all the necessary measures to ensure the effective implementation of these provisions of the Convention and the provision of appropriate inspection services to supervise safety and health in mines. The Committee requests the Government to continue to provide updated statistics on violations detected during inspections, and the measures taken by inspectors in such cases, including the penalties imposed, the petitions filed for the suspension of work and the outcome of these petitions.**

Articles 5(2)(c) and (d), 7 and 10(d). Measures to eliminate or minimize the risks to safety and health in mines. Procedures for investigating fatal and serious accidents and the compilation and publication of statistics. Appropriate remedial measures and measures taken to prevent future accidents by employers as a result of investigations. Further to its previous comments on the high rate of occupational accidents and diseases in the mining sector, as well as their underestimation, the Committee notes an absence of updated statistical information on the mining sector. **The Committee once again requests the Government to provide information on measures taken or envisaged to ensure that full effect is given to Article 5(2)(c) on reporting and investigating fatal and serious accidents, dangerous occurrences and mine disasters, Article 5(2)(d) on the compilation and publication of statistics on accidents, occupational diseases and dangerous occurrences, Article 7 on measures taken to eliminate or minimize the risks to safety and health in mines and Article 10 on obligation of employers, in particular as regards investigation of accidents and remedial actions (Article 10(d)).**

Article 5(2)(f). Rights of workers and their representatives to be consulted on and participate in OSH measures. Further to its previous comments on procedures to implement the rights of workers and their representatives to be consulted on and participate in OSH measures (Article 5(2)(f)), the Committee notes that section 25 (11 and 12) of the OSH Draft Law No. 10147 provides for consultation and involvement of employees and/or their representatives at the level of the undertaking, in particular with regard to decision-making related to safety and health at work. **The Committee urges the Government to take the necessary measures to ensure the implementation of the rights of mine workers and their representatives to be consulted on OSH matters, and to participate in measures, relating to their safety and health at the workplace in accordance with the provisions of the Article 5(2)(f).**

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** Central African Republic, Cuba, Djibouti, North Macedonia, Romania **Convention No. 45** Croatia, Cuba, Dominican Republic, Egypt, Eswatini, Fiji, North Macedonia, Pakistan, Panama, Papua New Guinea, Portugal, Sierra Leone, Singapore, Somalia **Convention No. 62** Central African Republic, Egypt, France, Peru, Poland, Switzerland **Convention No. 115** Czechia, Denmark, Djibouti, Egypt, France, France (New Caledonia), Paraguay, Poland, Portugal, Sri Lanka, Syrian Arab Republic, Ukraine **Convention No. 119** Central African Republic, Dominican Republic, North Macedonia, Paraguay, Poland, Slovenia, Ukraine **Convention No. 120** Central African Republic, Cuba, Djibouti, France (New Caledonia),



*Paraguay, Poland, Portugal, Senegal, Ukraine* **Convention No. 127** *France, France (New Caledonia), Panama, Peru, Poland, Portugal* **Convention No. 136** *Bolivia (Plurinational State of), Cuba, North Macedonia, Slovenia* **Convention No. 139** *Croatia, Denmark, Egypt, France, North Macedonia, Peru, Portugal, Slovenia, Syrian Arab Republic, Ukraine* **Convention No. 148** *Croatia, Cuba, Egypt, France, North Macedonia, Poland, Portugal, San Marino, Slovenia* **Convention No. 155** *Belize, Central African Republic, Croatia, Cuba, Czechia, Denmark, El Salvador, Fiji, North Macedonia, Portugal, Rwanda, Senegal, Sierra Leone, Singapore, Slovenia, Syrian Arab Republic, Ukraine* **Convention No. 161** *Croatia, Czechia, North Macedonia, Poland, San Marino, Senegal, Slovenia, Ukraine* **Convention No. 162** *Bolivia (Plurinational State of), Croatia, Denmark, North Macedonia, Portugal, Slovenia, Switzerland, Uganda* **Convention No. 167** *Bolivia (Plurinational State of), Denmark, Dominican Republic, Mongolia, Panama* **Convention No. 170** *Dominican Republic, Poland, Syrian Arab Republic* **Convention No. 174** *Estonia, Slovenia, Ukraine* **Convention No. 176** *Belarus, Czechia, Peru, Philippines, Poland, Portugal, Ukraine* **Convention No. 184** *Fiji, Portugal, Sao Tome and Principe, Ukraine* **Convention No. 187** *Canada, Cuba, Czechia, Denmark, Dominican Republic, France, France (New Caledonia), North Macedonia, Philippines, Portugal, Rwanda, Senegal, Sierra Leone, Singapore, Slovenia.*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 13** *Senegal* **Convention No. 139** *Czechia.*

## Social security

### General observation on gendered language of the Social Security (Minimum Standards) Convention, 1952 (No. 102)

#### Background context

The Committee recalls that at its sixth meeting in 2021, the Standards Review Mechanism Tripartite Working Group (SRM TWG) discussed the question of the implications of gendered and outdated terms in all international labour standards, including in the social security instruments.<sup>1</sup> This led the Governing Body to request the Office to prepare a background paper in this regard for its consideration at its 352nd Session in November 2024.<sup>2</sup>

The Committee further recalls that in 2011, at its 100th Session, the International Labour Conference (ILC) made a number of decisions on gender-related language in the ILO social security instruments. The most relevant decision, in relation to the Social Security (Minimum Standards) Convention, 1952 (No. 102) (hereinafter Convention No. 102), concerned the recognition by the ILC of the “need for a pragmatic solution that would enable its interpretation in a gender-responsive way without revising the instrument itself or weakening the prescribed levels of protection and population coverage”.<sup>3</sup>

In this context, the Committee wishes to underline that Convention No. 102 does not seek to define a conceptual family model but rather establish internationally agreed minimum standards for social protection systems adaptable to any national context. ***The Committee emphasizes its remaining commitment to monitoring the application of Convention No. 102 in a gender-responsive manner while upholding the minimum level of protection.***

#### Continued relevance of Convention No. 102

The Committee recalls that Convention No. 102 is considered as a “key reference for the definition of the content of the right to social security” under the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 and the European Charter of the Council of Europe of 1961.<sup>4</sup>

The Committee also underlines that Convention No. 102 is the sole international treaty that addresses social security in a comprehensive manner, referring to nine social security contingencies<sup>5</sup> for which it sets the minimum standards of protection for States to progressively achieve universal coverage, comprehensive, and adequate social protection systems.

The Committee recognizes that the wording of Convention No. 102 remains marked by language which is a product of its time<sup>6</sup> and may seem out of step with the realities of employment and

<sup>1</sup> SRM TWG sixth meeting, GB.343/LILS/1.

<sup>2</sup> SRM TWG seventh meeting, GB.346/LILS/1.

<sup>3</sup> Conclusions of the Committee for the Recurrent Discussion on Social Protection, paras 30 and 38. The ILO Governing Body was in consequence invited “to consider, in light of the resolution concerning gender equality and the use of language in legal texts in the ILO, the question of gender-sensitive language in ILO social security standards”. In addition, the ILC urged the Office to “proactively and consistently mainstream gender in its activities relating to social security,” and to “further strengthen Member States’ capacities to design, implement and monitor social security systems that are responsive to challenges including changing demographic trends [...]”.

<sup>4</sup> General Survey of 2011, para. 81; see also paras 70 and 71, 154–160 and table 5.

<sup>5</sup> The need for medical care and benefits in the event of sickness, unemployment, old age, employment injury, family responsibilities, maternity, invalidity and survivorship.

<sup>6</sup> General Survey of 2019, para. 754.

contemporary egalitarian values. It nevertheless wishes to emphasize that the standards of this Convention are perfectly suited to an implementation based on gender equality not only due to their exhaustiveness and relevance, but also because of the universality of the right to social security. Their formulation makes them applicable to both female and male workers and the derived rights by which they provide additional protection to women are perfectly compatible with the application that is more gender-responsive and better adapted to current employment, family and social protection realities. ***The Committee encourages governments and social partners to ensure gender equality in the implementation of social security rights and to use language adequate to this objective.***

### Universality

As regards coverage, Convention No. 102 gives States flexibility in applying its benchmarks to different types of mechanisms, cognizant that there are many ways to provide social security. Minimum coverage thresholds are framed around “categories of employees”, “categories of economically active population”, and “residents”.<sup>7</sup> Women’s social protection coverage can be assessed as persons protected in their own right, in relation to their employment or residency status, and not to their gender.

### Comprehensiveness

With respect to the nine social contingencies covered by Convention No. 102, there are two gender-specific benefits. The first pertains to “pregnancy and confinement and their consequences” (*Article 47*) underlining the importance of maternity cash and health benefits for the well-being of pregnant and nursing women and their children.

The second concerns survivors’ benefits, for which Convention No. 102 provides that the contingency covered shall include the loss of income support suffered by the dependent widow and children as a result of the death of the breadwinner (*Article 60*). The Committee notes that many national legislations still provide survivors’ benefits to widowers under more restricted conditions.<sup>8</sup> Additionally, in practice, the large majority of adult survivors’ pensions are still received by women,<sup>9</sup> which can be partially explained due to the fact that women still have longer life expectancies, partner with men who are older than they are, earn lower incomes, and are less likely to meet the conditions for contributory pensions. On the contrary, men are more likely to be excluded from survivors’ schemes that are pension-tested. In this respect, the Committee notes that today the national law upholds such distinction in only one fifth of the 51 countries that have accepted Part X (Survivors’ Benefits) and that the countries that ratified Convention No. 102 in the last decade have legislation that allows both widows and widowers to qualify for survivors’ benefits on similar terms.<sup>10</sup> ***The Committee therefore considers that the acceptance of Part X (Survivors’ Benefits) of Convention No. 102 has neither served as an impediment to the evolution of the social protection system nor as a reason to revise conceptual family models or reduce existing protections. The Committee also wishes to emphasize that Convention No. 102 constitutes a minimum standard, and therefore a State can grant better protection, for instance through additional benefits to widowers.***

### Adequacy

#### *Determination of a reference wage*

Convention No. 102 prescribes the minimum level of cash benefits which shall be assessed against the reference wage of a “standard beneficiary”. More specifically, Convention No. 102 sets out different

<sup>7</sup> Articles 9, 15, 21, 27, 33, 41, 48, 55, and 61 of the Convention.

<sup>8</sup> In over 30 countries. See for example latest date available online information in [ISSA Social Security Around the World – Country Profiles](#).

<sup>9</sup> Based on estimates of the World Social Protection Database.

<sup>10</sup> Except for 4 countries out of 17.

options to determine the reference wage which refers to either the earnings of the “skilled manual male employee” or the “ordinary male labourer”.<sup>11</sup> The Committee notes that some of the statistical options to establish the said *reference wage* are gender neutral, like those that refer to earnings equalled to or greater than the earnings of 75 per cent of all the persons protected or earnings equalled to 125 per cent of the average earnings of all the persons protected. These reference wages determine the minimum and maximum benefits, expressed as percentages of the ordinary male laborer’s and skilled manual male employee’s wages, respectively. These limits apply equally to men and women. ***In this context, the Committee wishes to recall that these references are used as statistical benchmarks to assess benefit levels, and not to establish a family model that national legislations must adhere to. Furthermore, the reference to men’s wages is used as an arithmetical proxy for setting the level of all cash benefits, including maternity benefits, that member States should achieve in order to ensure the adequacy of benefits, without promoting discrimination against women or endorsing a specific family arrangement.***

#### *Breadwinner model*

The Committee recognizes the significant advances in the labour market and family structures over the past 50 years, particularly in high-income countries. Despite these advances, challenges remain, such as the persistence of the gender wage gap worldwide, where women earn on average 20 per cent less than men.<sup>12</sup> This reality has implications for international social security standards, since using instead the earnings of “skilled manual female employees” as a reference wage would ultimately lead to reduced minimum and maximum benefit levels in most countries. While the Convention employs a family model presented as a man supporting a wife and two children, it is crucial to note that Convention No. 102 explicitly states that benefits for other beneficiaries should be determined in a manner reasonably related to the standard beneficiary.<sup>13</sup> For instance, this provision applies to scenarios like that of a divorced employed mother raising her children alone. ***As such, despite the use of outdated language, the Committee has insisted that the “gender biased” statistical reference point established by Convention No. 102 still has the effect of reaching higher levels of protection applicable to both male and female workers, given the persistent gender pay gaps.***<sup>14</sup>

#### *Identifying gender biases in national benefit formulas*

The Committee notes that member States, fulfilling reporting obligations, shall provide statistical information on benefit levels for both a “standard beneficiary” (i.e., man with a wife and two children) and a “woman employee” across accepted branches of Convention No. 102.<sup>15</sup> This entails demonstrating how benefits for a standard beneficiary meet minimum levels, but also how benefits for women employees earning the same wage as the standard beneficiary compare to these levels. This comparative statistical information is crucial for evaluating whether the national social protection system protects such women employees from receiving lower benefits. The Committee observes that few countries have submitted statistical information regarding women employees, and some that did, reported no distinction between men and women. ***The Committee points out that the Convention is cognizant of gender inequalities and recognizes the potential of social security systems in addressing these disparities.***

<sup>11</sup> Articles 65(6) and 66(4).

<sup>12</sup> ILO Global Wage Report 2022/23.

<sup>13</sup> Articles 65(5) and 66(3).

<sup>14</sup> ILO, General Survey of the Reports relating to the Social Security (Minimum Standards) Convention (No. 102), 1952, the Invalidity, Old-Age and Survivors’ Benefits Convention (No. 128) and Recommendation (No. 131), 1967, in so far as they apply to old-age benefits, Report III (Part 4B), International Labour Conference, 76th Session, Geneva, 1989.

<sup>15</sup> Report form on Convention No. 102, under articles 65 and 66, Title V.

## Conclusions and challenges ahead

While recognizing the use of outdated concepts, the Committee considers that the value of Convention No. 102 cannot be denied in establishing internationally agreed minimum standards for social protection systems adaptable to any national context.

Additionally, the Committee observes positive developments, noting that some countries previously concerned about the gendered language in Convention No. 102 have either ratified it or taken significant steps in that direction.

Finally, the Committee wishes to underline that social protection policies are crucial for enhancing gender equality and realizing women's rights.<sup>16</sup> The Committee therefore wishes to recall that social protection systems based on international social security standards enhance women's enjoyment of the human right to social security. **Accordingly, the Committee encourages all ILO constituents to avail themselves of ILO technical assistance to implement a gender-responsive approach to social protection, guided by the benchmarks and principles outlined in Convention No. 102. To this effect, the Committee wishes to highlight the importance for member States to address data gaps insofar as possible, to enhance understanding of the scope of women's social protection. It calls on the Office to actively assist the constituents in this undertaking to the extent requested, enhancing existing social protection methodologies and data collection endeavors, and to support Member States in shaping gender-responsive social protection policies, aligned with international social security standards.**

## Central African Republic

### Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) (ratification: 1964)

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. List of recognized occupational diseases.* With reference to its previous comments, the Committee once again notes with **concern** that the list of occupational diseases envisaged in section 91 of the Social Security Code of 2006 and section 81 of Decree No. 09-116 of 27 April 2009, on the application of the Social Security Code, has still not been adopted by the Ministers responsible for social security and public health. The Government indicates in this regard that in 2013 a national delegation participated in the work of the technical committee responsible for finalizing the harmonized list of occupational diseases at the Inter-African Conference on Social Insurance (CIPRES) and that the committee responsible for preparing the list has taken up its work once again. The recurrent crises experienced by the country in recent years have however prevented the Government from finalizing the process of the preparation of the list of occupational diseases. The Committee wishes to emphasize that, without a list of occupational diseases, it is impossible to implement not only compensation, but also the prevention of such diseases. **The Committee therefore once again expresses the hope that the technical committee responsible for the adoption of the list of occupational diseases will be in a position to complete its work in the very near future and that the Ministries concerned will be able to adopt the schedules of occupational diseases envisaged in the Social Security Code and Decree No. 09-116, taking duly into consideration the Schedule annexed to the Convention.** In this regard, the Committee draws the Government's attention to the List of Occupational Diseases Recommendation, 2002 (No. 194), which contains the most up-to-date list of occupational diseases at the international level.

*Recommendations of the Standards Review Mechanism.* The Committee notes that, according to the recommendations made by the Tripartite Working Group of the Standards Review Mechanism, as approved by the ILO Governing Body, member States which have ratified the Convention are encouraged to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI, as the

<sup>16</sup> General Survey of 2019, para. 120; see also paras 598–600.

most up-to-date instruments in this subject area (GB.328/LILS/2/1). The Committee reminds the Government of the possibility of having recourse to ILO technical assistance in this regard.

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

## **Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1964)**

Previous comments: observation and direct request

*Compatibility of national legislation with the provisions of the Convention.* The Committee notes the Government's indication in reply to its previous comments that the ongoing reform of the Code of Social Security and the amended draft of Decree No. 09-115, of 27 April 2009, establishing the National Social Security Fund, will introduce changes to the national legislation to give full effect to the Convention. The Committee recalls that, for the past ten years, it has been drawing the Government's attention to the need to bring national legislation into line with the provisions of *Articles 4, 5, 6, 7 and 8* of the Convention, especially with regard to the provisions of social security benefits under conditions of residence and payments of social security benefits abroad. ***In light of this, the Committee requests the Government to provide information regarding the progress made in the reform of the Code of Social Security and the National Social Security Fund, and firmly hopes that the provisions of the Convention will be fully taken into account during the course of this reform.***

## **Chile**

### **Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1931)**

### **Sickness Insurance (Agriculture) Convention, 1927 (No. 25) (ratification: 1931)**

Previous comment

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 in a single comment.

*Article 7(1) of the Conventions. Contribution to the establishment of the sickness insurance fund.* The Committee notes the information provided by the Government in its report with regard to the requirement for employers to pay monthly contributions for their workers, under the terms of Act No. 16744 of 1968, establishing provisions respecting employment injury and occupational diseases. The Committee also notes the presentation of a proposal to reform the pensions system which is currently before Parliament and includes the establishment of a mixed system to replace the scheme created by Legislative Decree No. 3500 of 1980, for which the contributions envisaged are paid by the employer. The Committee once again recalls the importance of complying with the basic principle set out in *Article 7(1)* of the Conventions, in accordance with which the insured persons and their employers shall share in providing the financial resources of the sickness insurance system. ***In this context, the Committee trusts that the Government will take the opportunity of the framework of the current reform of the pensions system, in consultation with the social partners, to give full effect to the principle set out in these Articles of the Conventions, and that will provide information on this subject.***

The Committee notes that, according to the Government, progress in the examination and subsequent implementation of the new mixed system of pensions could open the possibility of envisaging progress in the ratification of new international instruments in the field of social security. In this context, the Committee recalls that the ILO Governing Body, at its 343rd Session (November 2021), upon the recommendation of the Tripartite Working Group of the Standards Review Mechanism, confirmed the classification of Conventions Nos 24 and 25 as outdated and has included an item for their derogation or withdrawal on the agenda of the 118th Session of the International Labour Conference (2030). The Governing Body requested the Office to take follow-up measures to encourage

actively the ratification of Conventions Nos 102 (Parts II and III) and 130, the most up-to-date instruments on medical care and cash sickness benefits. ***The Committee therefore encourages the Government to give effect to the decision of the Governing Body adopted at its 334th Session (November 2021) approving the recommendations of the Tripartite Working Group of the Standards Review Mechanism and to envisage the ratification of the most up-to-date instruments in this field.***

## China

### Macau Special Administrative Region

**Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (notification: 1999)

**Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)**  
(notification: 1999)

**Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)**  
(notification: 1999)

[Previous comment on Convention No. 17](#)

[Previous comment on Convention No. 18](#)

[Previous comment on Convention No. 19](#)

In order to provide an overview of issues relating to the application of ratified social security Conventions, the Committee considers it appropriate to examine Conventions Nos 17, 18, and 19 together.

*Article 5 of Convention No. 17. Compensation in the form of periodical payments in the event of permanent incapacity.* The Committee takes note of the information provided by the Government in reply to its previous comments that, the Judiciary, as competent authority, establishes compensation in the cases of permanent incapacity or death due to work-related injuries only in the form of lump sum. The Committee also takes note of the Government's information that it will continuously seek to improve the pertinent regulations and keep the Committee informed in this regard. The Committee wishes to remind the Government that the compensation of victims of occupational injuries who suffer permanent disability or of their dependents should aim at protecting them throughout the contingency period, which is best achieved through periodic payments regularly adjusted to accommodate substantial changes in the cost of living, such as to maintain the value of benefits throughout the payment period. ***In view of the above, and observing the absence of sufficient guarantees for the competent authority to be satisfied that the lump sum be properly utilized, the Committee requests the Government to make the necessary amendments to the national regulation(s) as to ensure that: (i) compensation paid to injured workers and their survivors is provided preferably in periodical payments; and (ii) in cases in which it is provided in the form of a lump sum, criteria is established so that the competent authority is satisfied that it will be properly utilized, to ensure full conformity with this provision of the Convention.***

*Article 6 of Convention No. 17. Waiting period.* The Committee notes that, in response to its previous request, the Government confirms that, as per paragraph 2 of section 52 of Decree-Law No. 40/95/M, amended by Law No. 6/2015, from the day the responsible party for the payment receives the attestation of temporary incapacity for work, it must pay compensation to the injured worker every 15 days during the contingency. The Committee observes that, in practice, the injured worker will be paid compensation as from the fifteenth day after the receipt of the documentation that substantiates the incapacity to work. ***In light of the above and observing that the first payment is guaranteed later than the fifth day of the attested incapacity, the Committee requests the Government to make the necessary amendments to bring national regulation(s) into conformity with Article 6 of the Convention, so as to***

**ensure that payments related to compensation concerning work-related accidents are guaranteed as of the fifth day from the beginning of the incapacity for work.**

*Article 7 of Convention No. 17. Additional compensation for the constant help of another person.* The Committee takes note of the information provided by the Government in reply to its previous comments that, under section 14 of the Decree-Law No. 40/95/M, if the worker, who is temporarily incapacitated due to a work-related injury, requires constant help from another person, the accompanying person can receive a transportation allowance. The Committee also takes note of the Government's indication that it will continue to review the compensation mechanism for occupational accidents and diseases to improve the support provided to injured workers. While taking note of that, the Committee recalls that *Article 7* of the Convention requires the payment of additional compensation in all cases where the injury results in incapacity of such a nature that the injured worker must have the constant help of another person. **The Committee therefore requests the Government to ensure that all injured workers, including those with partial permanent or temporary incapacity, are provided with additional compensation when the constant help of another person is required and to provide information on the measures taken to this effect.**

**The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.**

## Croatia

### Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1991)

#### Previous comment

*Articles 14(3), (4) and (5) of the Convention. Periodical payments in case of partial permanent incapacity.* The Government indicates in its report that compensations for physical impairment and disability pension are not related, and are calculated and paid independently. The Committee observes that, according to sections 39 and 56 of the Pension Insurance Act, a disability pension due to a permanent partial disability resulting from an employment injury is paid only when a minimum degree of incapacity of at least 51 per cent is attained and is calculated in a percentage applied to the worker's previous insured earnings. The Government further indicates that, on the other hand, compensation allowance is paid monthly due to a physical impairment of at least 30 per cent, caused by an occupational injury or disease, regardless of whether it led to the onset of a permanent disability. According to the table established by section 63 of the Pension Insurance Act, such compensation is calculated based on the degree of the impairment. The Committee takes note of the information that workers entitled to compensation due to physical impairment of 30 per cent, 50 per cent and 70 per cent would receive, respectively, €29.85, €49.74, and €69.64, considering a calculation base of €248.72 in 2023, defined by law. The Committee therefore observes that workers who have suffered an employment injury and hold a partial permanent loss of earning capacity less than 51 per cent are not entitled to partial disability pension and, in case they qualify for a compensation due to physical impairment, may only receive this allowance when a minimum of 30 per cent of loss of faculty is assessed.

The Committee concludes that: (i) compensation for physical impairment (loss of faculty) paid when a minimum of 30 per cent of loss of faculty is assessed, is calculated at amounts below the parameters established by *Articles 14(3), (5) and 20* of the Convention, related to its Schedule II; (ii) partial permanent disability pension is paid only when a minimum degree of 51 per cent of loss of earning capacity is assessed; and (iii) workers with permanent disability or physical damage assessed at less than 30 per cent do not seem to be entitled to any type of compensation for physical impairment or disability pension.



The Committee wishes to highlight that, according to *Article 14(3) and (5)* of the Convention, the minimum prescribed degree of partial permanent loss of earning capacity or of faculty, that enables the right to receive periodical cash benefits, shall be prescribed as to avoid hardship, while the level of cash benefits shall represent a suitable proportion of the periodical payment established by *Article 20* and *Schedule II*, in relation to the total permanent incapacity for a standard beneficiary. Moreover, the Committee previously observed that incapacity assessed below 25 per cent could be regarded as not substantial and therefore could be compensated by lump-sum payments. ***In this context, the Committee requests the Government to take the necessary measures to ensure that workers with loss of earning capacity or corresponding loss of faculty between 30 per cent and 51 per cent, resulting from an employment injury, are entitled to periodical cash benefits calculated in accordance with Articles 14, 20 and Schedule II of the Convention, representing a suitable proportion of cash benefits guaranteed in case of total permanent incapacity. The Committee further requests the Government to state whether any compensatory payments are provided for physical impairment or partial disability assessed at less than 30 per cent, with a view to extending protection to cases of partial but not substantial loss of capacity or faculty, and to ensure that workers suffering such incapacity avoid hardship, in accordance with Articles 14(4) and (5), and 20 of the Convention.***

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

## Denmark

### Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1955)

#### Previous comment

*Part VI (Employment injury benefit), Article 36(3) of the Convention. Conversion of the periodical benefit into a lump sum.* The Committee notes the Government's reference in its report to the Government's previous indications provided under Article 36(3) of the European Code of Social Security of the Council of Europe (Code) which has the same provisions on the conversion of periodical cash benefits due to employment injury into a lump-sum payment. In particular, in its 45th report of 2018 on the application of the Code, the Government indicates that different financial support measures are available to injured persons in addition to a lump-sum payment, which is provided to persons who: (a) have a loss of earning capacity for up to 50 per cent; or (b) have a loss of earning capacity above 50 per cent but requested a lump sum for the loss of earning capacity up to 50 per cent (section 27 of the Occupational Injury Insurance Act of 2017, No. 216). In particular, the Government indicates that injured persons may be entitled to various periodical cash benefits, including benefits provided under the sickness benefits scheme or unemployment benefits scheme. The Government points out that considering the different financial support measures available to injured persons under the social security system, the rules for the provision of lump-sum payments due to employment injury under section 27 of the Occupational Injury Insurance Act of 2017, No. 216, are in line with *Article 36(3)* of the Convention.

The Committee recalls that *Article 36(3)* of the Convention allows the conversion of a periodical payment in case of permanent incapacity for work into a lump sum only: (a) where the degree of incapacity is slight; or (b) where the competent authority is satisfied that the lump sum will be properly utilized. The Committee further recalls that periodical cash benefits which may be provided to injured persons in addition to a lump sum shall meet the requirements of Part VI of the Convention (including as regards the level of benefits, duration of payment and an absence of the qualifying period) to be considered for the purpose of the application of the Convention. ***The Committee therefore requests the Government to take the necessary measures to ensure that the provision of a lump-sum payment instead of periodical cash benefits due to employment injury under section 27 of the Occupational Injury Insurance Act of 2017, No. 216, is in conformity with Article 36(3) of the Convention.***

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

## France

### Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1974)

#### Previous comment

*Article 4(2)(b) of the Convention. Supplementary invalidity allowance.* The Committee notes the Government's indication in its report that, in order to be able to benefit from a supplementary invalidity allowance, an applicant for the allowance who is of foreign nationality must have been in possession of a residence permit authorizing them to work uninterruptedly for at least ten years from the date of the effect of the benefit claimed (section L816-1(1) of the Social Security Code). The Committee recalls that, under the terms of *Article 4(2)(b)* of the Convention, the grant of invalidity benefits, such as the supplementary invalidity allowance, may be made subject to the condition that the beneficiary has resided on the territory of the Member for a period which shall not exceed five consecutive years immediately preceding the filing of the claim. In this regard, the Committee observes that the provisions of section L816-1(1) of the Social Security Code affect the entitlement to supplementary invalidity allowances of the nationals of Members which have ratified Convention No. 118, namely Bangladesh, Barbados, Plurinational State of Bolivia, Brazil, Cabo Verde, Central African Republic, Democratic Republic of the Congo, Ecuador, Egypt, Guatemala, Guinea, India, Iraq, Israel, Jordan, Kenya, Libya, Madagascar, Mauritania, Mexico, Pakistan, Philippines, Rwanda, Suriname, Syrian Arab Republic, Tunisia, Türkiye, Uruguay and Bolivarian Republic of Venezuela. **The Committee requests the Government to take the necessary measures to ensure the provision of the supplementary invalidity allowance to the nationals of Members which have ratified Convention No. 118 who have been resident in France for a period no longer than five consecutive years, in accordance with Article 4(2)(b) of the Convention.**

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

## French Polynesia

### Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)

### Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)

### Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)

### Unemployment Provision Convention, 1934 (No. 44) (ratification: 1974)

Previous comment: [Convention No. 37](#)

Previous comment: [Convention No. 38](#)

Previous comment: [Convention No. 42](#)

Previous comment: [Convention No. 44](#)

In order to provide a comprehensive overview of the issues relating to the application of the ratified social security Conventions, the Committee considers it appropriate to examine Conventions Nos 37 (invalidity insurance, industry), 38 (invalidity insurance, agriculture), 42 (occupational diseases) and 44 (unemployment provision) together in a single comment.

*Article 9(1)(a) of Conventions Nos 37 and 38. Disqualification from entitlement to benefits.* For many years, the Committee has been indicating to the Government that section 34(1) of Resolution No. 74-22 of 14 February 1974, which provides for the possibility of the disqualification of an insured person from entitlement to benefits in the event that the invalidity is the result of inexcusable misconduct, exceeds the cases of disqualification set out in *Article 9(1)(a)* of the Conventions. *Article 9(1)(a)* of the Conventions provides that the right to benefits may only be forfeited or suspended in whole or in part if the person concerned has brought about the invalidity by a criminal offence or wilful misconduct.

In its report, the Government indicates that the Social Welfare Fund has been informed of the Committee's comments. The Committee notes with **concern** that section 34(1) of Resolution No. 74-22 of 14 February 1974 has not been amended. **The Committee therefore urges the Government to take all the necessary measures without delay to amend section 34(1) of Resolution No. 74-22 of 14 February 1974 in order to bring it into conformity with Article 9(1)(a) of the Conventions.**

*Article 2 of Convention No. 42. Diseases considered to be occupational diseases.* For many years, the Committee has been drawing the Government's attention to the need to update the schedules of occupational diseases established by Decree No. 925 CM of 8 July 2011 to ensure full compliance with *Article 2* of the Convention. The Committee notes the Government's indication that the procedure for the revision of the schedules is under consideration. In this regard, the Committee recalls that, in order to ensure full compliance with *Article 2* of the Convention, the Government needs to adopt measures to: (a) ensure that the diseases and types of poisoning listed in the schedule in *Article 2* of the Convention are not limited by the symptoms and pathological manifestations appearing in the left-hand column of the schedules contained in Decree No. 925 CM of 8 July 2011; (b) consider as occupational diseases those resulting from poisoning by all the halogen derivatives of hydrocarbons of the aliphatic series (Schedule No. 12); and (c) include among the types of work likely to cause primary epitheliomatous cancer of the skin any processes involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances (Schedules Nos 16bis and 36bis).

The Committee notes with **concern** that the amendment of the schedules of occupational diseases contained in Decree No. 925 of 8 July 2011 is a longstanding issue. **The Committee urges the Government to take all the necessary measures without delay to ensure that the national legislation is in full conformity with Article 2 of the Convention.**

*Article 1(1) of Convention No. 44. Establishment and implementation of a system of unemployment protection.* For many years, the Committee has been drawing the Government's attention to the need to establish a system of protection against involuntary unemployment with a view to giving effect to *Article 1(1)* of the Convention. In this regard, the Committee notes that, under the terms of clause 4 of the agreement to bring an end to the dispute concluded by the unions and the President of French Polynesia on 29 November 2021, the Government undertook to establish on 1 January 2023 an assistance fund for employed persons who have involuntarily lost their employment. **The Committee expresses the firm hope that the Government will continue to adopt the necessary measures to establish and maintain an unemployment protection scheme which provides persons who are involuntarily unemployed with a benefit or an allowance, or a combination of a benefit and an allowance, as envisaged in Article 1(1) of the Convention. The Committee requests the Government to provide information on the progress made in the establishment of the assistance fund for workers who have involuntarily lost their employment.**

The Committee has been informed that, on the basis of the recommendations of the Tripartite Working Group of the Standards Review Mechanism (the SRM Tripartite Working Group), the Governing Body has decided that Member States that are currently bound by Conventions Nos 37 and 38 should be encouraged to ratify the most recent instruments, namely the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and accept the obligations of Part II, or the Social Security (Minimum Standards) Convention, 1952 (No. 102), accepting Part IX (see GB.328/LILS/2/1). Moreover, Member States currently bound by Convention No. 42 should be encouraged to ratify the Employment Injury Benefits Convention [Schedule I amended in 1980], 1964 (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI. Finally, Member States which are currently bound by Convention No. 44 should be encouraged to ratify the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part IV. **The Committee therefore encourages the Government to give effect to the decision adopted by the Governing Body at its 328th Session (October–November 2016) approving the recommendations of the**

**SRM Tripartite Working Group and to consider the ratification of Conventions Nos 102 (Parts IV, VI and IX) or 121, 128 (Part II) and 168, which are the most up-to-date instruments in this field.**

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

## Lebanon

**Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1977)**

**Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)  
(ratification: 1977)**

### Previous comment

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 Conventions Nos 17 (accidents) and 19 (equality of treatment) together.

The Committee notes the observations of the General Confederation of Lebanese Workers (CGTL) received on 10 August 2023. **It requests the Government to provide its comments in this respect.**

The Committee takes note of the information provided by the Government that the examination of the ratification of Part VI of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and of the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) is currently on hold owing to the exceptional circumstances affecting the country.

*Convention No. 17. Application of the Convention in practice.* The Committee takes due note of the information provided by the Government that a draft of the Labour Act was submitted to the Council of Ministers on 11 April 2022, containing, in its Part V of Chapter Two, provisions relating to accidents at work and occupational diseases. The Committee also notes that, according to section 143 of the draft, these provisions would be, after their adoption, in force until the implementation of the Occupational Accident and Occupational Disease Insurance Branch of the National Social Security Fund (NSSF). **While taking note of this information, the Committee requests the Government to provide information on the progress made: (i) in adopting the amendments to the Labour Act concerning compensation for work-related accidents; and (ii) in implementing the Occupational Accidents and Diseases branch of the National Social Security Fund (NSSF). The Committee hopes that the amendments to the Labour Act will bring national legislation into line with the provisions of the Convention.**

*Article 1(1) and (2) of Convention No. 19. Equality of treatment for survivors.* The Committee notes the Government's information that section 157 of the new draft of the Labour Act will provide, if adopted, for the payment of compensation due in case of an accident at work to foreign workers and, in the event of death, to their dependants, even if they do not reside in Lebanon. **In this context, the Committee requests the Government to provide information on the progress made in adopting the amendments to the Labour Act with regard to equal treatment between national and non-national workers and their dependants, in particular as regards to payments made abroad of compensation due to injuries resulting from an accident at work.**

**Seafarers' Pensions Convention, 1946 (No. 71) (ratification: 1993)**

### Previous comment

*Articles 2 to 4 of the Convention. Pension scheme for seafarers.* The Committee notes the Government's information that the National Social Security Fund (CNSS) has prepared a bill for submission to Parliament, amending section 9 of the Social Security Act to make it compulsory for seafarers to be entitled to a retirement pension. In addition, the Committee notes the information that Parliament is currently considering a bill establishing a pension scheme in line with international social security standards to replace the end-of-service allowance scheme. The Committee takes due note of the information concerning the replacement of the end-of-service -allowance scheme. However, the

Committee notes with **concern** that, over the past 20 years, the Government has provided similar information in respect of the adoption of regulations to establish a compulsory pension scheme for seafarers but has not indicated any follow-up measures to ensure their adoption and that, to date, seafarers are still not entitled to a retirement pension. **In this context, the Committee urges the Government to take the necessary measures to give effect to the provisions of the Convention and requests the Government to provide full details of steps taken or envisaged in this regard, in particular the finalization and adoption of national regulations to establish a compulsory pension scheme for seafarers.**

*[The Government is asked to reply in full to the present comments in 2026.]*

## Panama

### Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1958)

#### Previous comment

*Article 7 of the Convention. Provision of additional compensation to workers suffering employment injury when their condition requires the constant help of another person.* The Committee notes the Government's indication in its report that, under section 188 of Act 51 of 27 July 2005, amending the Basic Act on the Social Security Fund and establishing other provisions, social security beneficiaries cannot receive more than one pension or form of compensation at a time. The Committee recalls that, given its nature, the additional compensation envisaged in *Article 7* of the Convention may suppose an increase in the pension initially awarded for incapacity arising from employment injury, and not only the provision of a new or different pension. **The Committee therefore once again requests the Government to take the necessary measures to enable the provision of additional compensation to workers suffering employment injury when their condition requires the constant help of another person.**

The Committee also draws the Government's attention to the recommendation of the Standards Review Mechanism Tripartite Working Group (SRM TWG), approved by the ILO Governing Body at its 328th Session (October-November 2016), 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 to accept the obligations in Part VI of the Social Security (Minimum Standards) Convention, 1952 (No. 102). The Committee notes that the tripartite Higher Labour Council is due to be established in the future, with functions that include recommending the ratification of ILO Conventions. **The Committee encourages the Government to take advantage of the potential momentum created by the establishment of the Higher Labour Council and to contemplate the possibility of 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.**

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

## Peru

### Unemployment Provision Convention, 1934 (No. 44) (ratification: 1962)

### Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1961)

#### Previous comments: observation and direct request

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 1 September 2023. **The Committee requests the Government to provide its comments in this regard.**

*Article 1 of Convention No. 44. Establishment of an unemployment insurance system.* The Committee notes the information provided by the Government in its report indicating that since 2020 a project has

been under development entitled “Strengthening social protection in relation to unemployment in Peru”, which is executed by the ILO with the participation of the Ministry of Labour and Employment Promotion. According to the Government, ILO technical assistance is intended to promote the design and development of a complete protection system for unemployment, by improving the protection of workers in the event of the loss of their jobs and supporting the development of a new policy to improve employability. Finally, the Committee observes that on 3 July 2023 Bill No. 05510/2022-CR respecting the Unemployment Insurance Act was submitted to the Congress of the Republic. ***In this context, the Committee welcomes the efforts made, trusts that an unemployment insurance system will soon be established in conformity with the Convention, and requests the Government to provide information on the progress achieved in this respect.***

*Part XIII (Common provisions). Article 72(1) of Convention No. 102. Participation of insured persons in management. Health system. The Committee once again requests the Government to adopt the necessary measures to guarantee the right of insured persons to participate in a consultative capacity in the management of private institutions providing health services, in conformity with the requirements of the Convention.*

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

## Saint Lucia

### Workmen’s Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1980)

The Committee notes that the Government’s report has not been received despite its urgent appeal in 2019. It is therefore bound to repeat its previous comments.

The Committee notes with **deep concern** that the Government’s report, due since 2016, has not been received. In light of its urgent appeal launched to the Government in 2019, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Article 7 of the Convention. Additional compensation for the constant help of another person.* For many years, the Committee has been noting that no provision is made in national legislation for the payment of additional compensation for injured workers requiring the constant help of another person. The Committee notes with **concern** that the legislative texts regulating the provision of compensation in case of work accident, particularly the National Insurance Corporation Act No. 18 of 2000 and the National Insurance Regulations of 2003, have not been amended in this respect. ***Recalling that Article 7 of the Convention requires that all injured persons whose incapacity is of such nature that they need the constant help of another person be provided with additional compensation, the Committee requests the Government to take the necessary measures, without further delay, to bring the national legislation in line with Article 7 of the Convention.***

*Articles 9 and 10. Medical, surgical and pharmaceutical aid, artificial limbs and surgical appliances free of charge.* Since the adoption of the National Insurance Regulations of 2003, the Committee has been noting that, under its section 68(2), the compensation for medical, surgical or pharmaceutical expenses is limited to 20,000 East Caribbean dollars, whereas no such ceiling is foreseen in *Articles 9 and 10* of the Convention in case of work accident. The Committee notes with **concern** that the provision of section 68(2) of the National Insurance Regulations of 2003 remains the same. ***Recalling that pursuant to Articles 9 and 10 of the Convention, necessary medical, surgical and pharmaceutical aid as well as the artificial limbs and surgical appliances shall be provided free of charge to the victims of work accidents, without limitation of cost, the Committee requests the Government to take the necessary measures, without further delay, to bring the national legislation in full compliance with Articles 9 and 10 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. 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 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 Convention No. 121 or Convention No. 102 (Part VI) as the most up-to-date instruments in this subject area.*

*The Committee hopes 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)

#### Previous comment

The Committee takes due note of the information provided by the Government in its report that the ratification process of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and of the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), has not yet been concluded. The Committee also takes note of the information that, simultaneously, a new Workmen's Compensation Act is being drafted. ***The Committee requests the Government to provide information on progress made in this regard and hopes that the new Workmen's Compensation Act will be in compliance with the ratified international labour standards concerning employment injury protection at the time of its adoption. The Committee recalls that the Government can avail itself of the ILO technical assistance in this regard..***

*Article 1 of the Convention. Ensuring the coverage and effective protection of workers in case of industrial accidents.* The Committee notes that no information has been provided on measures taken to broaden the coverage to guarantee compensation to workers and their dependents as set out in the Convention. The Committee also notes the indication that statistical data on persons protected is not available due to budgetary constraints and that the Government is seeking funding to improve data collection. The Committee notes with **concern** that the number of workers engaged in informal employment is particularly high in Sierra Leone, achieving ninety-three percent of the workforce in 2018 (see ILOSTAT), which prevents most workers from accessing compensation in the event of work-related accidents. ***In light of the above, the Committee urges the Government to take the necessary measures for the progressive extension of the coverage in case of work-related accidents to ensure that all victims of work-related accidents, or their dependents in case of death, are compensated as set out in the Convention. In addition, the Committee hopes that the Government will be soon in a position to provide comprehensive statistical data on the current coverage and benefits afforded within the workmen's compensation scheme.***

*Article 5. Compensation in case of permanent incapacity for work or death.* The Committee takes note of the information that courts are the institutions responsible for conducting the review of the circumstances of work accidents and assessing whether the appropriate compensation has been paid and will be properly utilized. Moreover, according to section 13 of the current Workmen's Compensation Act, workers must rely on the courts in order to properly receive compensation due to a work-related accident, where procedures can be lengthy and costly. The Committee recalls that *Article 5* of the Convention provides that, in principle, compensation shall be paid in the form of periodical payments and only authorizes the conversion into a lump sum when the competent authority is satisfied that it will be properly utilized. ***The Committee requests the Government to provide information on: (i) the number of workers who have received work-related accident compensations in the period under review; and (ii) the number of judicial decisions in this regard. Furthermore, the Committee encourages the Government to ensure that the Workers' Compensation Act currently being drafted fully complies with the provisions of Article 5 of the Convention concerning periodical payments in the case of compensation payable to workers in the event of work-related accidents.***

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** Colombia, Democratic Republic of the Congo, Eswatini, France, Madagascar, Malawi, Morocco, Panama, Peru, Poland, Portugal **Convention No. 17** Central African Republic, China - Macau Special Administrative Region, Colombia, Morocco, Panama, Poland, Portugal, Sierra Leone **Convention No. 18** China - Macau Special Administrative Region, Colombia, Pakistan, Portugal **Convention No. 19** China - Macau Special Administrative Region, Colombia, Dominican Republic, Egypt, Eswatini, Malawi, Malaysia (Malaysia - Peninsular), Malaysia (Malaysia - Sarawak), Morocco, Pakistan, Panama, Peru, Poland, Portugal, Saint Lucia **Convention No. 24** Colombia, Peru **Convention No. 25** Colombia, Peru **Convention No. 42** France (French Polynesia), Morocco, Poland, Solomon Islands **Convention No. 102** Chad, Croatia, Democratic Republic of the Congo, Denmark, Dominican Republic, Morocco, Paraguay, Peru, Poland, Portugal, Saint Vincent and the Grenadines, Senegal, Sweden **Convention No. 118** Democratic Republic of the Congo, Egypt, France, Madagascar, Pakistan **Convention No. 121** Croatia, Democratic Republic of the Congo, Senegal, Slovenia, Sweden **Convention No. 128** Sweden, Switzerland **Convention No. 130** Denmark, Sweden **Convention No. 168** Sweden.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 19** Estonia, Fiji, Senegal **Convention No. 102** France, Switzerland **Convention No. 118** Denmark, Philippines.



## Maternity protection

### Panama

#### Maternity Protection Convention, 1919 (No. 3) (ratification: 1958)

##### Previous comment

*Article 3(d) of the Convention. Nursing breaks.* The Committee notes with **interest** the information provided by the Government in its report regarding the promulgation of Act No. 135 of 23 March 2020, which reforms Act No. 50 of 1995, and defines appropriate conditions for establishing breastfeeding facilities, expanding the entities that compose the National Commission for Promoting Breastfeeding (CONFOLACMA) and establishing further guidelines and conditions to protect, support and promote breastfeeding. The Committee also notes the statistical information regarding the establishment of breastfeeding facilities in 16 workplaces.

### Romania

#### Maternity Protection Convention, 2000 (No. 183) (ratification: 2002)

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

*Article 2 (atypical forms of dependent work) read in conjunction with Article 6(2) of the Convention (benefits securing a suitable standard of living).* The Committee notes that, according to information available from Eurostat, in 2011, Romania has one of the highest rates of persons at risk of poverty or social exclusion in the European Union – 40 per cent of the population, with a relatively high proportion of employed persons at risk of poverty (18.9 per cent). According to Eurostat, among part-time workers, the in-work at-risk-of-poverty rate was 61 per cent in 2012. In this situation, the Committee welcomes the fact that the minimum threshold of maternity benefit reported by the Government (600 Romanian new lei (RON) per month) exceeds the at-risk-of-poverty threshold established by Eurostat at 60 per cent of median equivalized income, that is to say, RON448 per month. The Committee notes also the medical benefits package granted to women earning income lower than the national minimum gross wage. **Taking into account that maternity benefit represents 85 per cent of the previously insured earnings, which in certain cases may be lower than the national minimum wage, the Committee would like the Government to specify whether all employed women have the right to receive maternity benefit at the guaranteed minimum level and, if not, what additional forms of protection were provided to ensure that the amount of cash maternity benefit remains at a level allowing maintenance of the mother and child with a suitable standard of living, especially as regards women employed in atypical forms of dependent work, including part-time, temporary and domestic women workers.**

*Article 4(1). Minimum qualifying period for entitlement to maternity leave. Recalling that the Convention does not authorize the right to maternity leave to be made subject to the completion of a qualifying period, the Committee again asks the Government to explain whether a woman who has not been affiliated to the social security system for a minimum of one month would still be granted the right to maternity leave, regardless of whether she qualifies for cash maternity benefits during the duration of such leave.*

*Article 6(5)(6). Social assistance. Please indicate the maximum amount of benefits paid out of social assistance funds under the Emergency Government Ordinance No. 158/2005 to women who do not qualify for contributory cash maternity benefit.*

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

## Sri Lanka

### Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1993)

#### Previous comment

The Committee notes with **regret** that since the adoption of the conclusions of the Committee on the Application of Standards, at its 100th Session in 2011, the Government has not yet provided information on concrete measures adopted to ensure compliance with certain provisions of the Convention. **The Committee therefore expresses the firm hope that the Government will take its comments below into consideration and provide up to date information on the measures taken in this respect in due course.**

*Article 1(1) and (4) of the Convention. Coverage. Domestic and agricultural workers.* The Committee recalls the Government's previous indication that it would initiate the discussions at the tripartite forums of the National Labour Advisory Council (NLAC), regarding the extension of coverage to subsistence agricultural workers, workers employed on plantations and domestic workers, in the terms guaranteed by the Convention. The Committee observes, however, that no information has been provided concerning effective actions taken in this regard. **In this context, the Committee urges the Government to ensure the effective coverage of women engaged in domestic work and in the agricultural sector, including subsistence and plantation workers, under the terms guaranteed by the Convention. In addition, the Committee requests the Government to provide updated statistical information on the number of women currently working in these sectors.**

*Article 3(3). Compulsory post-natal leave of at least six weeks.* The Committee takes note that the Government has not provided information concerning amendments to the legislation or measures adopted so as to extend from four to six weeks the compulsory post-natal maternity leave. **In this context, the Committee requests the Government to take the necessary measures to ensure that a compulsory period of post-natal maternity leave of not less than six weeks is established in the national legislation, in line with Article 3(3) of the Convention.**

*Article 4(1), read in conjunction with Article 3(4), (5) and (6). Leave and cash benefits in case of sickness resulting from pregnancy or childbirth.* The Committee takes note that no information has been provided by the Government as to the amendment of national legislation to ensure paid leave in case of sickness resulting from pregnancy or confinement, or in case of earlier or delayed confinement. The Committee wishes to highlight that, according to *Article 4(1)* of the Convention, any extension of maternity leave resulting from the application of *Article 3(4), (5) and (6)* must qualify for cash benefits. **The Committee urges the Government to adopt as soon as possible the necessary measures to ensure that, in case of earlier/delayed confinement or sickness resulting from pregnancy or confinement, women are provided with appropriate leave and cash benefits under the terms of the Convention.**

*Article 4(4) and (8). Employers' liability scheme.* The Committee takes note of the Government's information that the replacement of the employers' liability scheme by a social insurance system to provide maternity benefits will be discussed. The Committee recalls that, following up on the Committee on the Application of Standards' conclusions in 2011, a technical report was commissioned by the ILO in 2013, to examine, among other non-conformity issues, the feasibility of the establishment of a maternity social insurance scheme to progressively replace the employers' liability system. The Committee also recalls that a tripartite workshop was held in 2014 to discuss the conclusions of the technical report and envisage measures to be adopted in this regard. In this context, the Committee wishes to highlight that the direct payment of maternity benefits by employers imposes a financial burden on them and may create a potential source of discrimination against women. **Stressing once again that employers should not be individually responsible for the payment of maternity cash benefits, the Committee urges the Government to indicate, as soon as possible, the measures taken or**

***envisaged to ensure that maternity cash benefits are provided through compulsory social insurance or from public funds.***

*Article 6. Protection against dismissal during maternity leave.* The Committee takes note that protection against dismissal during pregnancy and maternity leave is provided to female workers covered by the Shop and Office Employees Act, by its section 18E. Moreover, the Committee observes that section 10 of the Maternity Benefits Ordinance also provides protection in this regard, but it does not specify whether it is extended to women employed in the public sector covered by the Establishments Code. The Committee takes note that the Government does not provide information on amendments to the national legislation that would expressly provide for protection against dismissal or notice of dismissal to public employees during pregnancy and maternity leave. ***The Committee therefore requests the Government to indicate any measures taken or envisaged aimed at extending protection against dismissal in the context of pregnancy and maternity leave to women employed in the public sector, under the terms of Article 6 of the Convention.***

*Part V of the report form. Application in practice.* ***The Committee requests the Government to provide information on the implementation of the Convention, including statistical data on the total number of women receiving maternity benefits as well as the total amount of benefits paid on an annual basis.***

***[The Government is asked to reply in full to the present comments in 2026.]***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 3** *Central African Republic, Colombia, Cuba* **Convention No. 103** *Papua New Guinea, Poland* **Convention No. 183** *Cuba, Cyprus, Dominican Republic, Morocco, North Macedonia, Peru, Portugal, San Marino, Senegal, Switzerland.*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 103** *Tajikistan.*

## Social policy

### Democratic Republic of the Congo

#### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

##### [Previous comment](#)

*Articles 1 to 9 of the Convention. National framework governing labour clauses in public contracts.* For many years, the Committee has been drawing the Government's attention to the need to take all appropriate steps to give full effect to the principle of the Convention by incorporating it into the general administrative clauses set out in the specifications prescribed by Act No. 10/010 concerning public contracts (section 49). The Committee notes with **regret** that, in its last report, the Government merely reiterates that, according to the above-mentioned legislation and the implementing decree establishing the manual of procedures for the Act on public contracts, any bidder who has won a public contract is bound to apply the labour and social welfare legislation in force. The Committee recalls that the mere fact of the national legislation being applicable to all workers does not release the States which have ratified the Convention from the obligation to take the necessary steps to ensure that public contracts contain labour clauses that ensure that workers receive wages and enjoy other working conditions not less favourable than those established at the national level, including by way of collective agreements, for work of the same character in the trade or industry concerned in the district where the work is carried on. **The Committee notes, however, that the Government requests ILO technical assistance in order to bring its legislation and practice into conformity with the requirements of the Convention and hopes that the Office will be in a position to provide the technical assistance requested in the near future. The Committee recalls that the amendment of the national legal framework in order to comply with the Convention depends directly and essentially on the willingness of the Government to fulfil its international obligations. In this regard, the Committee requests the Government to act without further delay to give effect to the Convention. To this end, the Committee draws the Government's attention to several publications, including practical guides, which are high value-added tools for the purpose of effectively implementing the Convention, as they identify best practices in the area of public procurement with regard to the labour clauses contained in such contracts and the principle of the Convention. Therefore, in addition to the [General Survey on the Convention](#), which provides a global overview of the way in which labour clauses are governed in public contracts, the Committee also draws the Government's attention to the existence of a [practical guide on the application of Convention No. 94 and Recommendation No. 84](#), and the work of an interagency roundtable (ILO, UNCTAD and OECD) on corporate social responsibility in 2014, which focused on the topic of sustainable public procurement as a tool for promoting sustainable business practices, and which recognized the importance of ILO standards and the matter of labour clauses in public contracts.**

### Djibouti

#### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1978)

##### [Previous comment](#)

*Articles 1 to 9 of the Convention. National framework governing labour clauses in public contracts.* For many years the Committee has been drawing the Government's attention to the need to bring the national legislation and practice into conformity with the Convention by ensuring that public contracts to which the Convention applies contain labour clauses that guarantee to workers conditions of remuneration and other conditions of labour which are not less favourable than those established at national level for work of the same nature in the occupation or industry concerned in the same region. The Government has on several occasions encountered difficulties in applying the Convention and has

requested ILO technical assistance. In its latest report, the Government reiterates that in current practice some public contracts do not respect the labour legislation because employers consider the limited duration of the contracts to be a “discharging factor”. It once again undertakes to consult the competent authorities regarding the inclusion of labour clauses, conforming to the clauses provided under the Convention, in such contracts, then to submit the question to the National Council for Labour, Employment and Social Security (CONTESS). **While regretting the lack of progress made and the fact that the Office’s technical assistance has not yet been provided, the Committee wishes to note that certain necessary measures, such as the amendment of the national legislation to explicitly enshrine the principle of the Convention, depend essentially and directly on the will of the Government to fulfil its international obligations under the Convention. In this regard, while reiterating its request that the Office reply favourably to the Government’s request for technical assistance, the Committee requests the Government to act without delay to give effect to the principle of the Convention.** To do so, the Committee draws the Government’s attention to several publications, including practical guides, which are highly valuable tools for the correct implementation of the Convention, as they identify exemplary practices in including labour clauses and the principle of the Convention in public contracts. Thus, aside from the [General Survey on the Convention](#), which gives a global overview of how labour clauses are integrated into public contracts, the Committee draws the Government’s attention to the [practical guide](#) on implementation of Convention No. 94 and Recommendation No. 84, as well as to the work of an [inter-agency round table on Corporate Social Responsibility](#) co-organized by UNCTAD, ILO and OECD in 2014 which focused on the topic of sustainable public procurement as a tool for promoting responsible business, recognizing the importance of ILO standards and the question of labour clauses in public contracts.

## 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 2024, 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.**

## Republic of Moldova

### Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1996)

#### Previous comment

The Committee notes with **regret** that, once again, the Government's report does not contain a reply to the Committee's previous comments, initially made in 2014. It trusts that the next report will contain full information on each of the following points.

*Parts I and II of the Convention. Improvement of standards of living. The Committee once again invites the Government to submit information which would enable it to appreciate the manner in which the "improvement of standards of living" is treated as "the principal objective in the planning of economic development", as required under Article 2 of the Convention. In addition, the Committee once again invites the Government to provide information on the manner in which the family needs of workers have been taken into account in the framework of a social policy implemented in accordance with Articles 5 and 6 of the Convention.*

*Article 8(3). Transfer of part of wages and savings abroad. The Committee reiterates its request that the Government provide information on any agreements regulating matters arising in connection with the application of the Convention, including on any agreements including provisions that enable workers to remit their wages and savings.*

*Part IV. Remuneration. The Committee reiterates its request that the Government provide information on the measures taken or envisaged to give effect to the questions of principle referred to in Article 10(3) and (4) and Article 11(1) and (7).*

*Advances on the remuneration of workers. The Committee once again requests the Government to provide information on measures envisaged or adopted to determine the maximum amount and manner of repayment of advances on wages in accordance with Article 12.*

*Voluntary forms of thrift. The Committee reiterates its request that the Government provide information on measures taken or envisaged to encourage voluntary forms of thrift among wage earners and independent producers and to protect wage earners and independent producers against usury.*

**[The Government is requested to reply in full to the present comments in 2024.]**

## United Kingdom of Great Britain and Northern Ireland

### Bermuda

#### Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

#### Previous comment

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* In its previous comments, the Committee expressed the firm hope that the Government would take steps without delay to formulate standard bidding documents incorporating labour clauses in all public contracts (whether for construction works, goods or services) that are fully aligned with the requirements of *Article 2* of the Convention. The Committee notes with **regret** that no measures have yet been taken by the Government to give effect to the Convention in either law or practice. The Government once again reiterates that all contracts, including public employment contracts, are subject to the minimum standards set out in the Employment Act, 2000. The Government indicates that this prevents a fluctuation in standards for public and private contracts. While noting the Government's indication regarding the applicability of the Employment Act, 2000 to public contracts, the Committee once again recalls that the essential purpose of the Convention is to ensure that workers employed under public contracts enjoy the same conditions as workers whose conditions of employment are fixed not only by national legislation, but also by

collective agreements or arbitration awards, and that in many cases the provisions of the national legislation respecting wages, hours of work and other conditions of employment provide merely for minimum standards which may be exceeded by collective agreements. Thus, the mere fact of the national legislation being applicable to all workers does not release States which have ratified the Convention from the obligation to take the necessary steps to ensure that public contracts contain the labour clauses specified in *Article 2* of the Convention (see 2008 [General Survey on labour clauses in public contracts](#), paragraphs 40, 41 and 45). ***The Committee, therefore, and once again, expresses the firm hope that the Government will take steps without delay to formulate standard bidding documents incorporating labour clauses in all public contracts (whether for construction works, goods or services) that are fully aligned with the requirements of Article 2 of the Convention. It once again requests the Government to indicate progress made in this regard. The Committee also requests the Government to provide detailed updated information on the application in practice of the Convention, including summaries of inspection reports, information on the number and nature of infringements reported; and any other information which would enable the Committee to assess the manner in which the Convention is applied in practice.***

## United Republic of Tanzania

### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

#### [Previous comment](#)

*Articles 1 and 2, 4 and 5 of the Convention. Insertion of labour clauses in public contracts. Notice of working conditions. Inspections and sanctions.* For a number of years, the Committee has been requesting the Government to take the necessary measures for the insertion in all public contracts covered by this Convention of labour clauses consistent with the requirements of *Article 2* of the Convention, and for the enforcement of such clauses in the manner prescribed by *Articles 4* and *5* of the Convention. The Committee notes the Government's reference to Rule 12 of the Employment and Labour Relations (General) Regulations G.N 47/2017, which provides that the statements of employee's rights shall be in the manner prescribed in Form LAIF.9. The Committee notes, however, that Form LAIF.9 merely recalls the implementation of a set of rights covered under the Employment and Labour Relations Act, such as the right to exercise the rights to freedom of association, annual leave, payment for overtime work and night work allowances. The Committee therefore once again recalls that the mere fact that the general labour legislation is applicable to all workers does not release States that have ratified the Convention from their obligation to take the necessary measures to ensure that public contracts, whether for construction works, the manufacture of goods or the supply of services, include the labour clauses provided for in *Article 2(1)* of the Convention. This is because the general labour legislation only establishes minimum standards, which are often improved by means of collective bargaining or arbitration awards. If this is the case, under the Convention, the workers concerned must enjoy working conditions which are at least aligned with the most advantageous conditions set through collective agreement or arbitral award. The terms of the labour clauses must be determined after consultation with the employers' and workers' organizations concerned (*Article 2(3)*), must be brought to the knowledge of tenderers in advance of the selection process (*Article 2(4)*), and notices informing workers of their conditions of work must be posted at the workplace (*Article 4(a)(iii)*) (2008 [General Survey on labour clauses in public contracts](#), paragraph 45). In this respect, the Committee notes the Government's indication that it has noted the specific advice provided by the Committee in its comments on the Convention and that the insertion of labour clauses in public contracts will be addressed, following consultation with the social partners, in its upcoming expected review of the labour legislation. It adds that it will request ILO technical assistance in this respect to ensure that the amendments introduced to the labour legislation are aligned with the rules and principles enshrined in the Convention. The Committee further notes the information provided by the Government regarding the measures taken

to promote compliance with the Convention, including the launching of campaigns to raise awareness of the Convention which are aimed at stakeholders, such as contractors and subcontractors. Measures also include conducting workshops for all stakeholders on the requirements of the Convention and the national labour laws whenever the Government entities sign contracts for public works. With respect to labour inspection, the Government refers to the elaboration, in collaboration with the ILO Dar-es-Salaam Office of a labour inspection manual in 2020 covering various issues relating to international labour standards and the provision of capacity-building training on labour inspection and administration to labour officers. **The Committee expresses the hope that the Government will take the opportunity presented by the review of the labour legislation to bring its national legislation into full conformity with the provisions of the Convention, particularly with respect to the inclusion of a provision requiring the insertion in all public contracts covered by this Convention of labour clauses of a specific content and nature in compliance with the requirements of Article 2 of the Convention, as well as provisions to ensure the enforcement of such clauses in the manner prescribed by Articles 4 and 5 of the Convention. It requests the Government indicate any progress made in this regard. The Committee further expresses the hope that technical assistance from the Office will be available in the near future.**

## Yemen

### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (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.

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* The Government reports that a draft Labour Code has been prepared in coordination with the ILO, and that it is in compliance with international labour standards. The Government adds that issues raised in the Committee's previous comments with regard to the insertion of labour clauses in public contracts as prescribed by *Article 2* of the Convention will be brought to the attention of the Supreme Commission on Auctions and Bids. The Committee notes the Government's indication that it requires the technical assistance of the ILO in relation to the measures to be taken to ensure that all public contracts contain labour clauses that comply with the provisions of the Convention. **The Committee once again requests the Government to take the necessary measures to ensure that all public contracts contain labour clauses and hopes that the Government will be soon in a position to report progress in giving full effect to this core requirement of the Convention. The Committee encourages the Government to avail itself of the technical assistance of the Office in this regard.**

**The Committee 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. 82** United Kingdom of Great Britain and Northern Ireland (Anguilla), United Kingdom of Great Britain and Northern Ireland (British Virgin Islands) **Convention No. 94** Grenada, Kenya, Türkiye, United Kingdom of Great Britain and Northern Ireland (Anguilla), United Kingdom of Great Britain and Northern Ireland (British Virgin Islands) **Convention No. 117** Democratic Republic of the Congo, Guinea, Madagascar, Zambia.



## Migrant workers

### Albania

#### Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (ratification: 2006)

##### Previous comment

*Article 1 of the Convention. Basic human rights. Freedom of association.* The Committee notes with **concern** that the report of the Government does not provide information, in reply to its previous comments, on the protection of the right to organize of all foreign nationals. In this regard, it notes that the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) expressed concern at the fact that undocumented migrant workers cannot join trade unions (CMW/C/ALB/CO/2, 8 May 2019, paragraph 41). In this context, the Committee also refers to the comment it addresses to the Government on the application of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). **The Committee requests the Government to take action to ensure that all foreign workers, regardless of their immigration status, can exercise trade union rights, and to provide information in this regard.**

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

### Bahamas

#### Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1976)

##### Previous comment

In view of the short report sent by the Government, the Committee notes with **concern** that the questions raised previously about measures to combat misleading propaganda, equality of treatment, maintenance of residence in the event of incapacity for work and statistics on migration flows have not been addressed since 2013. The Committee reiterates that without the necessary information, it is not in a position to fully assess the effective implementation of the Convention, or any progress achieved since its ratification in 1976. **The Committee firmly hopes that the next report will contain full information on the points described below.**

*Article 1 of the Convention. Information on national policies, laws and regulations.* The Committee notes the Government's indication, in its report, that all legislation concerning the Convention was previously submitted and that no legislative amendments were made to the Constitution, the Immigration Act Chapter 191, the Employment Act 2001 Chapter 321A, the Employment Act (Amended) 2017, and the National Insurance Act Chapter 350. The Committee notes that, once again, the Government refers in a very general manner to the existing legislation without providing further details on how current trends in migration flows have affected the contents and implementation of its national immigration and emigration policy and legislation. The Committee once again recalls that under *Article 1* of the Convention, ratifying States undertake to make available on request information on national policies, laws and regulations relating to emigration and immigration; on special provisions concerning migration for employment and the conditions of work and livelihood of migrants for employment as well as general agreements and special arrangements concluded on these questions. **The Committee therefore reiterates its request to the Government to: (i) indicate for each of the Articles of the Convention and questions set out in the report form, the relevant provisions of the legislation, as well as any other policy measures taken or envisaged, taking into account current trends in international migration; and (ii) provide information on the working and living conditions of male and female migrant workers.**

**Article 3. Measures to combat misleading propaganda. Noting that the Government's report contains no information on this matter, the Committee again asks the Government to indicate the steps taken to protect migrant workers from any misleading propaganda and advertising, including information on any infringements detected and sanctions imposed.**

**Article 6. Equality of treatment.** The Committee notes that the Government does not provide information on this point. It notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), that the Government has failed to eliminate discrimination in the country, notably intersecting forms of discrimination, including against women of Haitian descent and migrant women (CEDAW/C/BHS/CO/6, 14 November 2018, paragraph 11). **The Committee asks the Government to: (i) take practical measures to ensure that male and female migrant workers are treated on an equal footing with nationals with regard to conditions of work, trade union rights, accommodation, taxes, social security and access to the justice system; and (ii) provide information on the measures taken or envisaged to this end. The Committee also reiterates its request to the Government to provide information on: (i) the activities of the Department of Gender and Family Affairs to address issues of equal treatment regarding the protection of women migrant workers; and (ii) any measures adopted with respect to Haitian migrant workers.**

**Article 8. Maintenance of residence in the event of incapacity for work. The Committee once again requests the Government to clarify whether sections 17 and 18 of the Immigration Act, relating to the revocation of a permanent residence certificate, apply in case of a migrant worker who is permanently admitted and who is unable to follow his or her occupation by reason of illness contracted or injury sustained subsequent to entry into the country.**

**Statistics on migration flows.** The Committee notes, that the Government does not provide any statistics on migration flows, and that the most recent data available is from the 2010 Census Migration Report, in which it is indicated that the immigration population represents 18.4 per cent of the total population and recent immigrants account for almost half (45 per cent) of total immigrants. **The Committee requests the Government to: (i) actively seek, collect and analyse statistical data, disaggregated by sex and nationality, on the number of migrant workers in the Bahamas and of Bahamian workers seeking employment abroad; and (ii) provide this information.**

**[The Government is asked to reply in full to the present comments in 2025.]**

## Mauritius

### Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1969)

#### Previous comment

**Legislative developments.** The Committee notes that the Immigration Act (Act No. 14 of 2022), repealed and replaced the Immigration Act, 1973, to adapt to the new realities and needs of the country with a view to strengthening the law and regulating the admission and stay of non-citizens in Mauritius.

**Article 4 of the Convention. Facilitate the departure, journey and reception of migrants for employment.** The Committee recalls that section 4 of the Recruitment Act, 1993, requiring the examination of the criminal record of a candidate for emigration for the past ten years does not conform with the Convention. The Government indicates in its report that: (1) a new bill, the Private Recruitment Agencies Bill, was introduced before the National Assembly in July 2023 to replace the Recruitment of Workers Act 1993 and redress the loopholes of such law; and (2) this Bill reflects ethical recruitment standards in line with the recommendations of the International Labour Organization (ILO) and the International Organisation for Migration (IOM). The Bill aims at consolidating and strengthening the law about the recruitment of Mauritius citizens both locally and abroad, and the recruitment of non-citizens. The Government also indicates that a free service was set up by the National Employment Department (NED) for job seekers interested in working overseas. The NED has also set up the National Employment

Dashboard, to ensure easy access, in a timely manner, to job vacancies and key labour market indicators. The Committee notes that the Bill was passed in the National Assembly on 17 October 2023. ***The Committee asks the Government to confirm that the requirement of examining the criminal record of candidates for emigration for the past ten years has been abolished by the new legislative provisions.***

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** *Albania, Algeria, Armenia, Belgium, Bosnia and Herzegovina, Burkina Faso, Malawi, Mauritius, Netherlands, Nigeria, Norway, Slovenia* **Convention No. 143** *Albania, Armenia, Bosnia and Herzegovina, Burkina Faso, Madagascar, Norway, Slovenia.*

## Seafarers

### Albania

#### Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2016)

##### Previous comment

The Committee recalls that in 2022, in the framework of the procedure of “urgent appeal”, it examined the implementation of the Convention by Albania on the basis of publicly available information given that the Government had failed to submit a first report for four consecutive years. The Committee welcomes the Government’s first report which was submitted in February 2023.

*Article I of the Convention. General questions on application. Implementing measures.* In its previous comments, the Committee noted that, while ratification of the Convention gave the force of law to its terms in Albania, further regulations were necessary for its implementation. The Committee notes the Government’s indication that while some legislation has been adopted in the area of medical care on board, further regulations implementing the requirements of the Convention have yet to be adopted, notably in what concerns minimum age, seafarers’ employment agreements, wages, shore leave, repatriation, accommodation and recreational facilities, health and safety and accident prevention, and enforcement. The Committee recalls that under *Article I* of the Convention, each Member which ratifies the Convention undertakes to give complete effect to its provisions in the manner set out in *Article VI* in order to secure the right of all seafarers to decent employment. **The Committee therefore requests the Government to adopt the necessary measures without delay to give effect to all the provisions of the Convention.**

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

### Barbados

#### Seafarers’ Identity Documents Convention, 1958 (No. 108) (ratification: 1967)

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

*Articles 2-6 of the Convention. Seafarers’ identity documents.* The Committee recalls that it has been commenting for several years on the Government’s failure to apply the Convention. In particular, the Committee has been requesting the Government to: (i) reinstate the identity document for national seafarers; (ii) enact new regulations or amend existing ones so that foreign seafarers may enter Barbados with a valid identity document issued pursuant to this Convention; and (iii) provide copies of the relevant legislative and/or regulatory texts ensuring the application of the Convention. The Committee notes with **concern** the indication in the report of the Government that the Convention was not being implemented in either law or practice. The Committee further notes the indication by the Government that it encountered difficulties in finding a cost-effective solution for the issuance of identity documents for seafarers. **The Committee therefore requests the Government to take the necessary steps without delay to ensure that its obligations under the Convention are fully respected and reminds the Government that it may seek technical assistance from the Office in this regard.**

The Committee further recalls that the Convention has been revised by the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185). It draws the Government’s attention to its general observation addressing the recent amendments to the annexes of Convention No. 185.

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

## Congo

### Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2014)

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 2024, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes with **deep regret** that the Government has failed to submit its first report on the application of the Convention for the fourth consecutive year. As the requested report was not received, the Committee examined the application of the Convention on the basis of publicly available information.

*Article I. General questions on application. Implementing measures.* The Committee notes that the provisions of the Convention are mainly implemented by Act No. 30-63 of 4 July 1963 issuing the Merchant Shipping Code, amended by Act No. 63-65 of 30 December 1965; by orders and decrees of the Ministry of Transport, Civil Aviation and Merchant Shipping; and by Regulation No. 08/12-UEAC-088-CM-23 of the Central African Economic and Monetary Community (CEMAC) adopting the Community Merchant Shipping Code of 22 July 2012 (CCMM), which is directly applicable in the Congo and is one of the documents that must be carried on board ships flying the Congolese flag and foreign ships operating in Congolese territorial waters. The Committee also notes that the Labour Code does not exclude seafarers from its scope of application. Having reviewed the available information, the Committee notes the inconsistency between certain national provisions and between these and the CCMM, as well as the absence of available information on the implementation of several provisions of the Convention. The Committee underscores the need to avoid any inconsistency in the applicable provisions. It recalls that, in accordance with Article I of the Convention, each Member which ratifies the Convention undertakes to give full effect to its provisions in order to secure the right of all seafarers to decent employment. **The Committee therefore requests the Government to adopt without delay the necessary measures to implement the Convention, taking into account the matters raised in the request addressed directly to the Government. It further requests the Government to provide a copy of any legislative texts or other regulatory instruments once adopted, as well as full information on the implementation of the Convention, including updated statistics on the number of seafarers who are nationals or residents of the Congo or who work on board ships flying the Congolese flag. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.**

The Committee 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

### Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 2004)

#### Previous comment

The Committee notes with **regret** that the Government has failed to submit a report on the application of the Convention for the eighth consecutive year. As the requested report was not received, the Committee examined the application of the Convention on the basis of the information at its disposal.

The Committee recalls that, in the context of the Standards Review Mechanism, in accordance with the recommendation of the Special Tripartite Committee (STC) established under the Maritime Labour Convention, 2006, as amended (MLC, 2006), the ILO Governing Body classified Convention No. 147 as "outdated". The STC decided to review the situation of this Convention at its sixth meeting in order to decide on its possible abrogation or withdrawal. At its 343rd Session (November 2021), the Governing Body placed an item concerning the abrogation of Conventions Nos 23, 55, 56, 58, 68, 92 and 134, all of which are included in the Appendix of Convention No. 147, on the agenda of the 118th Session

(2030) of the International Labour Conference. ***In light of the above, the Committee requests the Government to provide information on any developments regarding the eventual ratification of the MLC, 2006.***

*Article 2 of the Convention. Implementing legislation.* The Committee notes with ***regret*** that the Government has not provided any information on the laws or regulations and other measures giving effect to the specific requirements of the Convention. ***The Committee therefore requests the Government once again 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 Government is asked to reply in full to the present comments in 2024]***

## Gabon

### Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2014)

#### [Previous comment](#)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 111th Session, June 2023)

The Committee recalls that in 2021, in the framework of the procedure of “urgent appeal”, it examined the implementation of the Convention by Gabon on the basis of publicly available information given that the Government had failed to submit a first report for four consecutive years. The Committee welcomes the Government’s first report which was submitted during the June 2023 session of the Conference Committee on the Application of Standards (hereinafter, the “Conference Committee”). The Committee notes the discussion, which took place during the same session of the Conference Committee concerning the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006), by Gabon. It notes that the Conference Committee recalled the critical importance of effective national implementation of the Convention and the need for ratifying Member States to ensure they meet their regular reporting obligations within the prescribed time limits. The Conference Committee requested the Government to take all necessary measures to ensure its compliance in law and practice with the Convention, in consultation with the social partners; and to provide full information to the Committee of Experts regarding the application of the Convention in law and practice, including: (i) a copy of all legislative texts or other regulatory instruments, once adopted; and (ii) updated statistics on the number of seafarers who are nationals or residents of Gabon, or who work on board ships flying the Gabonese flag. The Committee also requested the Government to seek ILO technical assistance for the implementation of the above recommendations.

The Committee notes that two Government representatives participated in a course offered by the ILO Training Centre on reporting on the MLC, 2006, which led to the finalization of the report. It also notes that after the International Labour Conference, a number of exchanges and a follow-up meeting took place between the Office and the Government and that discussions are taking place concerning the most appropriate way to provide technical assistance. ***The Committee hopes that the Government will avail itself of the technical assistance of the Office to address the numerous issues still pending with a view to fully implementing the Convention.***

*Article I of the Convention. General questions on application. Implementing measures.* In its previous comment, the Committee requested the Government to adopt without delay the necessary measures to implement the Convention. The Committee observes that, according to the Government’s report, legislative texts implementing the requirements of the Convention have not yet been adopted. The

Committee recalls that under *Article I* of the Convention, each Member which ratifies the Convention undertakes to give complete effect to its provisions in the manner set out in *Article VI* in order to secure the right of all seafarers to decent employment. ***The Committee therefore requests the Government to adopt without further delay the necessary measures to give effect to all provisions of the Convention.***

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

## Liberia

### Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1981)

#### Previous comment

The Committee requested the Government to provide its comments in reply to the observations of the International Transport Workers' Federation (ITF) received on 4 August 2017, according to which the practice of Liberia to require all non-national seafarers to have a seafarers' identity document (SID) issued by its registry for the purpose of applying for special qualification certificates would contravene the Convention. The Committee notes the Government's indication that its SID gives seafarers the protection afforded by Convention No. 108 and is therefore in compliance with it. The Government adds that seafarers from many countries serve on ships flying the Liberian flag and are expected to contribute to the safety of their team members and their vessels. Tracking and validating their qualifications and suitability to serve in the roles they seek for employment is consistent with the responsibilities of a flag State.

The Committee recalls that according to *Article 2, paragraph 2*, Members *may* issue a seafarer's identity document to a seafarer who applies for such a document. However, requiring every seafarer to have a Liberian SID, including those who might have an SID issued by his or her country of nationality or permanent residence contravenes the objective of the Convention. Indeed, under both Convention No. 108 and the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), the country of nationality or permanent residence of the seafarer has the primary responsibility to issue SIDs. ***Accordingly, the Committee requests the Government to take the necessary measures to give full application to Article 2, paragraph 2 of the Convention by ensuring that SIDs are issued only upon request by the seafarer concerned and not as a precondition to apply for special qualification certificates.***

### Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2006)

#### Previous comment

*Article I of the Convention. General questions on application. Implementing measures.* The Committee notes that the Government's report contains insufficient information in reply to its previous comments, and that limited progress has been made by the Government regarding several issues of compliance previously raised, particularly in relation to guaranteeing that the protection afforded by the Convention is afforded to all seafarers under its scope of application. ***The Committee accordingly requests the Government to adopt the necessary measures without delay to fully implement the provisions of the Convention. It further requests the Government to provide information on any developments in this regard and to transmit copy of any relevant texts adopted.***

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

***[The Government is asked to reply in full to the present comments in 2025.]***

## Luxembourg

### Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2011)

#### Previous comment

*Article I of the Convention. General questions on application. Implementing measures.* In its previous comment, the Committee noted that maritime labour law is currently governed by the Act of 9 November 1990, and that a Bill to amend this and several other Acts was in the process of being adopted. The Committee notes the Government's indication in its report that Bill No. 7329 to amend the Act of 9 November 1990 was subject to a number of amendments dated 29 April 2022 by the Parliamentary Commission on the Economy, Consumer Protection and Space in order to raise the formal opposition expressed by the Council of State in a first opinion. A second opinion of the Council of State is therefore awaited very soon and, in the absence of further objections, the Bill could be voted on by the Chamber of Deputies. **The Committee requests the Government to adopt the necessary measures without further delay with a view to the application of the Convention, taking into account the points raised in the request addressed directly to the Government, and to provide copies of the relevant texts once they have been adopted.**

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

**[The Government is asked to reply in full to the present comments in 2025.]**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 22** *Dominica, Mexico, Somalia* **Convention No. 23** *Azerbaijan, Somalia* **Convention No. 55** *Mexico* **Convention No. 56** *Mexico* **Convention No. 58** *Mexico, Yemen* **Convention No. 68** *Angola, Equatorial Guinea* **Convention No. 69** *Angola* **Convention No. 71** *Argentina, Bulgaria, Netherlands, Norway* **Convention No. 92** *Angola, Azerbaijan, Equatorial Guinea, Republic of Moldova* **Convention No. 108** *Algeria, Angola, Dominica, Lithuania, Morocco, Saint Lucia, United Kingdom of Great Britain and Northern Ireland (British Virgin Islands)* **Convention No. 133** *Republic of Moldova* **Convention No. 134** *Azerbaijan, Mexico* **Convention No. 147** *Azerbaijan* **Convention No. 164** *Mexico* **Convention No. 166** *Mexico* **Convention No. 185** *Azerbaijan, Bahamas, Bangladesh, Bosnia and Herzegovina, Brazil, Congo, Luxembourg, Maldives, Montenegro, Myanmar, Vanuatu, Yemen* **Convention No. 186** *Albania, Algeria, Antigua and Barbuda, Bahamas, Barbados, Belgium, Belize, Benin, Bosnia and Herzegovina, Bulgaria, China - Hong Kong Special Administrative Region, Congo, Estonia, Gabon, Indonesia, Kiribati, Liberia, Lithuania, Luxembourg, Malta, Morocco, Mozambique, Myanmar, Netherlands, Netherlands (Curaçao), Norway, Portugal, Saint Kitts and Nevis, Slovenia, Thailand, Tuvalu, United Kingdom of Great Britain and Northern Ireland, United Kingdom of Great Britain and Northern Ireland (Cayman Islands), United Kingdom of Great Britain and Northern Ireland (Falkland Islands: Malvinas), United Kingdom of Great Britain and Northern Ireland (Isle of Man).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 22** *Netherlands (Aruba)* **Convention No. 23** *Netherlands (Aruba)* **Convention No. 69** *Netherlands (Aruba)* **Convention No. 146** *Netherlands (Aruba)* **Convention No. 147** *Netherlands (Aruba).*



## Fishers

### Azerbaijan

#### Medical Examination (Fishermen) Convention, 1959 (No. 113) (ratification: 1992)

#### Accommodation of Crews (Fishermen) Convention, 1966 (No. 126) (ratification: 1992)

##### Previous comment

The Committee notes the Government's reports on the application of the fishing Conventions ratified by the country. In order to provide a comprehensive view of the issues to be addressed in relation to the application of these Conventions, the Committee considers it appropriate to examine them in a single comment, as follows.

#### Medical Examination (Fishermen) Convention, 1959 (No. 113)

*Article 4, paragraph 1 of the Convention. Period of validity of medical certificates.* The Committee notes that, in reply to its previous comments, the Government provides a copy of the Decision of the Ministry of Health on Improving Compulsory Medical Examinations (No. 46 of 13 December 2012) and of the Rules for Performing Compulsory Medical Examinations approved by Decision No. 24/2 of the Ministry of Health of 15 May 2014. The Committee notes the Government's information that under Decision No. 46, all workers whose jobs are connected to water transport must undergo medical examinations every two years (point 12 of the list). It observes, however, that, while the Government indicates that young people should undergo medical examinations at least once a year, there appear to be no provisions in this respect in the legal texts supplied. **Accordingly, the Committee requests the Government to indicate the measures taken to ensure full compliance with Article 4, paragraph 1 of the Convention.**

*Article 5. Independent examination by a medical referee.* **Noting that the Government provides no new information in reply to its previous comments, the Committee requests it again to indicate the national provisions or other measures giving effect to Article 5.**

#### Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)

*Article 5 of the Convention. Inspections on crew accommodation.* The Committee notes that, in reply to its previous comments on the application of *Article 5* (inspections when accommodation has been substantially altered or reconstructed), the Government indicates that, pursuant to section 35 of the Merchant Shipping Code, any changes to a vessel may entail its re-registration after inspection and determination of its seaworthiness based on the inspection findings. On the basis of this provision, and in accordance with *Articles 4* and *5* of the Convention, all plans and information on the construction, alteration and reconstruction of ships should be submitted in advance to the State Maritime and Port Agency, under the authority of the Ministry of Digital Development and Transport, for approval. **The Committee takes note of this information.**

*Part III (Articles 6–16). Crew accommodation requirements.* In its previous comments, the Committee noted that even if the Convention is considered as an integral part of the law of Azerbaijan, this would not be enough to give effect to the provisions of the Convention that are not self-executing. This is the case, for example, of *Article 6(9)* and of *Article 8(4)*. In this regard, the Committee notes the Government's indication that in accordance with *Article 6, paragraph 9*, accommodation on ships must comply with the requirements of regulations on fire safety in construction, as there are no specific regulations regarding fishing vessels. The Government also indicates that the legislation does not set special standards for heating on fishing vessels. **Noting the absence of legislation on this issue, the Committee requests the Government to adopt the necessary measures to ensure that the accommodation requirements included in Part III of the Convention are fully implemented in law and in practice.**

## Congo

### Work in Fishing Convention, 2007 (No. 188) (ratification: 2014)

The Committee notes that the Government's report has not been received despite its urgent appeal in 2021. It is therefore bound to repeat its previous comments.

The Committee notes with **deep regret** that the Government has failed to submit its first report on the application of the Convention for the fifth consecutive year. As the requested report was not received, the Committee examined the application of the Convention on the basis of publicly available information.

*General questions on application. Implementing measures.* The Committee notes that the issues covered by the Convention are mainly addressed by Act No. 30-63 of 4 July 1963 issuing the Merchant Shipping Code, amended by Act No. 63-65 of 30 December 1965, and by orders and decrees of the Ministry of Transport, Civil Aviation and Merchant Shipping. It observes that the Merchant Shipping Code has not been revised in order to take into account the requirements of the Convention. The Committee also notes that the Labour Code does not exclude fishers from its scope of application, and that Regulation No. 08/12 UEAC-088-CM-23 of the Central African Economic and Monetary Community (CEMAC) adopting the Community Merchant Shipping Code of 22 July 2012 (CCMM), which is directly applicable in the Congo, also applies to fishing navigation. Having reviewed the available information, the Committee notes certain contradictions between national provisions and between these and the CCMM, as well as the absence of available information on the implementation of numerous provisions of the Convention. Noting that the Constitution of the Congo enshrines the supremacy of ratified international Conventions over national legislation, the Committee underscores, however, the need to avoid any contradiction in the applicable provisions, and recalls that the Convention includes requirements for which Member States have to take the necessary measures to ensure the conformity of national law and practice. **The Committee therefore requests the Government to adopt without delay the necessary measures to implement the Convention, taking into account the matters raised in the request addressed directly to the Government. The Committee also requests the Government to provide detailed information on consultations held with the representative organizations of fishing vessel owners and fishers concerned, as prescribed by the Convention. It further requests the Government to provide a copy of any legislative texts or other regulatory instruments once adopted, as well as full information on the implementation of the Convention, including updated statistics on the number of fishers who are nationals or residents of the Congo or who work on fishing vessels that fly the Congolese flag. The Committee reminds the Government of the possibility to avail itself of the technical assistance of the Office in this regard.**

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

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

## 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)

#### Previous comment

The Committee notes the Government's reports on the application of Conventions Nos 112, 113 and 114. The Committee notes with **regret** that for several years it has requested the Government to provide information on the applicability of existing legislation to fishers. It notes the Government's indication that Liberian maritime regulations are applicable to fishers only to the extent that the Act creating the National Fisheries and Aquaculture Authority is silent. The Committee notes that the latter does not appear to address the matters covered by the Conventions on fishing.

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, as follows.

*Impact of the COVID-19 pandemic.* The Committee notes that, in reply to its previous comments, the Government indicates that Liberia had less COVID-19 caseload than most of the world; consequently, Liberian fishermen were not victimized by the large-scale lockdowns and were able to sell their products to the local market which they serve. Additionally, fishermen were given personal protective equipment by the National Fisheries and Aquaculture Authority and received training. **The Committee takes note of this information.**

#### Minimum Age (Fishermen) Convention, 1959 (No. 112)

*Article 1 of the Convention. Scope of application.* In its previous comments, the Committee observed that various provisions of the Liberian Maritime Law, RLM-107 (hereinafter the “Maritime Law”) regulating minimum age for working on board Liberian vessels (sections 290 and 326), exclude from their application cases where only members of the same family are employed on board and fishing vessels under a certain tonnage. Noting the Government’s indication that the Maritime Law is applicable to fishing vessels, the Committee recalls that the Convention applies to all fishing vessels irrespective of tonnage or of the fact that only members of the same family are employed on board. **The Committee urges the Government to adopt the necessary measures without delay to ensure that the national provisions implementing the Convention apply to all fishing vessels covered by it.**

#### Medical Examination (Fishermen) Convention, 1959 (No. 113)

*Article 1 of the Convention. Scope of application.* Noting the Government’s information that existing legislation only applies to fishing vessels of 500 tons or more, the Committee 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 Convention. The Committee observes that: (i) the maritime legislation, including Regulation 10.325(3) of the Liberian Maritime Regulations RLM-108 (hereinafter the “Regulations”) on medical certificates of seafarers does not appear to apply to fishers; and (ii) there is no indication of other legislation applicable to fishers which implements the requirements of the Convention. **The Committee accordingly requests the Government to take without delay the necessary measures to ensure that the requirements of the Convention are implemented with respect to all fishing vessels as defined under Article 1, irrespective of tonnage, and to transmit copy of any relevant text adopted to that effect.**

#### Fishermen’s Articles of Agreement Convention, 1959 (No. 114)

*Articles 1 and 2 of the Convention. Scope of application.* In its previous comments, the Committee 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. While noting the Government’s general statement on the application to fishers of the maritime regulations, the Committee notes the absence of information on any specific provisions implementing the Convention. **Accordingly, the Committee urges the Government to take the necessary measures without delay to give full effect to the Convention and, in this connection, to indicate the relevant provisions of the applicable legislation which give effect to each of the requirements of the Convention.**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 112 Australia Convention No. 113 Belgium, Bulgaria, Montenegro Convention No. 114 Belgium, Montenegro Convention No. 125 Belgium, Brazil Convention No. 126 Belgium, Brazil, Montenegro Convention No. 188 Congo, Denmark, Denmark (Faroe Islands), Lithuania, Morocco, Norway.**

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 188** *Bosnia and Herzegovina*.

## Dockworkers

### Algeria

#### Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) (ratification: 1962)

##### [Previous comment](#)

*Articles 12, 13 and 15 of the Convention. Specific legislation on the protection of dockworkers against accidents.* The Committee recalls that for more than 30 years its comments have addressed the need for the Government to adopt a legislative or regulatory text giving full effect to the Convention. At its last review, the Committee requested the Government to take the necessary measures, without further delay, in connection with the updating of the texts relating to occupational safety and health that the Government indicated it wished to undertake. The Committee welcomes the indication that the Ministry of Labour is currently drawing up a draft executive decree on the protection of dockers against occupational risks to supplement the provisions of Executive Decree No. 08-363 of 8 November 2008 amending Executive Decree No. 06-139 of 15 April 2006 establishing the conditions and operating procedures for towing, handling and stevedoring activities in ports. The Government indicates that the text being prepared should cover personal protective equipment, adequate training on safe working procedures, and the establishment of risk management systems, as well as medical surveillance of workers, including those exposed to particular risks. ***The Committee expects the Government to conclude without delay the adoption process of the Executive Decree concerned. It further expects that the Government will soon indicate tangible progress with regard to the effective implementation of Articles 12, 13 and 15 of the Convention, and that it will provide all texts adopted for the protection of workers against accidents in dock work.***

*Prospects for the ratification of the most up-to-date Convention.* The Committee notes the Government's indication that it wishes in the first instance to ensure a solid regulatory framework providing effective protection to workers in dock work in accordance with the Convention before considering ratification of the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152). ***The Committee encourages the Government to consider the possibility of ratifying Convention No. 152, which is the most up-to-date instrument in this area, when conditions allow. Where appropriate, the Committee requests the Government to provide information in this regard.***

### Argentina

#### Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) (ratification: 1950)

##### [Previous comment](#)

The Committee notes the observations of the Confederation of Labour of the Argentine Republic (CGT RA) and the Industrial Confederation of Argentina (UIA), received on 1 September 2023, relating to the application of the Convention in practice.

*Articles 8, 13(2), 14 and 18 of the Convention. Specific legislation on the protection of dockworkers against accidents.* The Committee recalls that, for over 20 years, it has been requesting the Government to take specific measures to give effect to the requirements of these Articles of the Convention. The Committee notes with ***regret*** that the Government does not provide information on measures taken to this end, despite the time that has passed. The Committee considers that the full application of the Convention requires the adoption of specific measures on dock work, focused on the prevention of occupational risk and, in this case, with respect to Articles: 8 (the measures of security for hatch

coverings and beams used for hatch coverings); 13(2) (the rescue of immersed workers from drowning); 14 (prohibiting the removal of or interference with any fencing, gangway, gear, ladders, etc.); and 18 (agreements of reciprocity). **Therefore, the Committee firmly hopes that the Government will provide detailed information on the measures taken or envisaged, in consultation with the social partners, to give effect to Articles 8, 13(2), 14 and 18 of the Convention.**

*Application of the Convention in practice.* The Committee notes that the CGT RA indicates that, with regard to safety and health in docks, the Office of the Superintendent on Occupational Risks published a technical note on the loading and unloading of barges (2021), containing recommendations and good practices on prevention, intended to contribute to the minimum safety conditions that must be observed by workers who operate the grain barges during the loading and unloading processes in docks. In addition, the CGT RA states that the Argentine Port Council, within the framework of the first national workshop on safety and environment in ports (2021), drew attention to the need to regulate safety and health matters in docks through a regulation on safety and health of dockworkers in Argentina, which includes the introduction of joint committees in all ports, the improvement of port facilities, the possibility of developing a protocol on port hazards to reduce occupational accidents and the dissemination of environmental standards in each port. The CGT RA also indicates that the fact that labour inspection responsibilities are carried out by a wide variety of bodies, concessions and consortiums generates a dispersion of responsibilities, which caused a fatal accident in the port of Rosario in May 2023. The CGT RA highlights that, following the death of the dockworker, the Union of United Mar Del Plata Dockworkers (SUPA) reported the precariousness of safety standards in docks, referred to two previous fatal accidents, stated that several docks had been closed due to previous complaints, suspended port operations and announced the opening of legal proceedings against an enterprise in the port of Rosario. The enterprise claimed in its defence that, according to the terms of its concession, it was not responsible for making the necessary investments in the port. The Committee notes, however, the Government's information that no specific violations of the Convention have been registered. The Committee also notes the 2022 annual report on occupational accidents of the Office of the Superintendent on Occupational Risks, and notes the data relating to manual loading, showing 1,377 accidents reported, of which 1,324 resulted in days off work and disability, and two were fatal. **The Committee requests the Government to clarify whether the manual loading services mentioned in the 2022 annual report on occupational accidents of the Office of the Superintendent on Occupational Risks refer only to handling in docks or whether they include manual loading in other transport sectors. Taking into account the allegations of the CGT RA on the dispersion of responsibilities for ensuring safety and health in ports, and the relatively high number of accidents reported annually in the report of the Office of the Superintendent on Occupational Risks, the Committee requests the Government to provide information on the measures taken or envisaged to prevent accidents from occurring during work performed on shore or on board ship in the loading or unloading of any ship engaged in maritime or inland navigation, as required by the Convention. The Committee also invites the Government to provide information on any follow-up given to the recommendations of the Argentine Port Council relating to the adoption of the regulation on safety and health of dockworkers in Argentina, as well as on any other regulation for the sector.**

*Prospects for the ratification of the most up-to-date Convention.* **The Committee takes this opportunity to encourage the Government to follow up on the decision adopted by the Governing Body at its 328th Session (October–November 2016), in which the recommendations of the Standards Review Mechanism Tripartite Working Group were adopted, 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 requests the Government to provide information on measures taken in this respect.**

## Congo

### Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1986)

The Committee notes that the Government's report has not been received despite its urgent appeal in 2019. It is therefore bound to repeat its previous comments.

The Committee notes with **deep concern** that the Government's report has not been received. In light of the urgent appeal made to the Government in 2019, the Committee will examine the application of the Convention on the basis of the information at its disposal.

The Committee notes first that, in addition to its failure to provide a report since 2012, the Government did not provide sufficient information in successive reports and the Committee has not therefore been able to assess the effect given to many of the provisions of the Convention. In its previous comments, the Committee drew the Government's attention to the need to reply to the questions raised on the effect given to several Articles of the Convention, and not to confine itself to providing information on the general legislative provisions applicable to enterprises. The Committee also recalled that, although the Government appeared to consider that dockworkers should be treated in the same manner as other workers and ports treated like any other enterprise, the Government is required, particularly under the terms of *Articles 4 to 7 of the Convention*, to take occupational safety and health measures that are specific to dock work. **The Committee expects that the Government will take all the necessary measures on an urgent basis to provide full particulars on the following points.**

*Article 6(1)(a) and (c). Measures to ensure the safety of dock workers.* The Committee notes that, under the terms of section 132 of the Labour Code, enterprises must be maintained in a constant state of cleanliness and ensure the necessary safety and health conditions for the health of the personnel, and that they must be so organized as to ensure the safety of the workers. By virtue of subsection 5, instructions on the prevention of occupational risks shall be posted in each workplace and each worker shall be informed by the employer of these instructions at the time of recruitment. **The Committee requests the Government to indicate the manner in which effect is given to this general provision in dock work in order to ensure that workers do not misuse or interfere without due cause with the operation of any safety device provided for their own protection or the protection of others at the workplace, and that they are able to report any situation which they have reasons to believe could present a risk and which they cannot correct themselves.**

*Article 7. Consultation with employers and workers or their representatives.* The Committee notes that, under the terms of section 131 of the Labour Code, a National Technical Commission for Occupational Health, Safety and Risk Prevention shall be established in the Ministry of Labour to examine matters relating to occupational safety and health and the prevention of employment risks. It notes that Decree No. 2000-29 of 17 March 2000 determines the composition and operation of this Commission. In accordance with section 2 of the Decree, the Commission is a tripartite advisory body under the authority of the Minister of Labour with the mandate to: re-examine periodically a coherent national policy on occupational safety and health in the workplace; propose any measures likely to improve occupational safety and health; and provide opinions on any related draft law or decree. **The Committee requests the Government to provide information on the work of the National Technical Commission for Occupational Health, Safety and Risk Prevention in relation to occupational safety and health issues in dock work, as well as information on any other measures to ensure the collaboration of employers and workers or their representatives in the application of the measures giving effect to the Convention.**

*Article 8. Cessation of work in workplaces that are unsafe.* The Committee previously recalled that Chapter II of Order No. 9036 of 10 December 1986, to which the Government referred, contains general protective measures, whereas the Convention requires the adoption of measures specific to dock work. **The Committee urges the Government to indicate the provisions (regulations or other measures) requiring the adoption of effective protection measures (fencing, flagging or other suitable measures, including, where necessary, cessation of work) to ensure that when the workplace has become unsafe, workers are protected until it has been made safe again.**

*Article 12. Fire-fighting measures.* The Committee notes that, under the terms of section 77 of Order No. 9036, heads of establishments shall take the necessary measures to control any incipient fires rapidly and effectively. However, the Committee notes that the only means envisaged to fight fires appear to be the

use of extinguishers. **The Committee requests the Government to provide information on the manner in which effect is given to section 77 of Order No. 9036 in dock work, and to specify whether other appropriate fire-fighting means are provided in docks, such as fixed systems, flexible hoses and fire hydrants.**

*Article 14. Construction, installation, operation and maintenance of electrical equipment.* The Committee previously noted the Government's indication that the application of this Article is ensured by inspections of enterprises by labour inspectors. The Committee also notes that section 133 of the Labour Code contains general provisions on the prevention of risks related to electrical equipment and installations, and more specifically on work in wells, gas and water pipes, septic tanks, vessels and any equipment that may contain deleterious gasses. Noting that this information is still insufficient as a basis for assessing the effect given to this Article of the Convention relating to electrical equipment and installations, the Committee draws the Government's attention to section 3.6.4 (Electrical equipment) of the ILO Code of practice on safety and health in ports (2016), which provides indications on the main elements to be taken into consideration in the installation, operation and maintenance of electrical equipment and installations in ports. **The Committee therefore urges the Government to indicate the texts or other measures which ensure that electrical equipment and installations used in dock work are so constructed, installed, operated and maintained as to prevent danger, and to specify the standards that have been recognized by the competent authority in this regard.**

*Article 17. Access to a ship's hold or cargo deck.* The Committee previously noted that section 41 of Order No. 9036, cited by the Government, sets out measures for the immobilization when stopped of lifting devices mounted on wheels, such as bridge cranes, gantry cranes, hoists on monorails and derricks, and to prevent their movement under specific atmospheric conditions (wind action). Recalling that the information provided is insufficient to be able to assess the effect given to this Article of the Convention, which requires the competent authority to determine the acceptability of means of access to a ship's hold or cargo deck, the Committee draws the Government's attention to section 7.3 (Access on board ships) of the ILO Code of practice on safety and health in ports (2016), which contains indications on the main elements to be taken into consideration in determining the means of access to a ship's hold or cargo deck. **The Committee urges the Government to indicate the texts or other measures setting out the means of access to a ship's hold or cargo deck, and to specify the manner in which the competent authority determines their acceptability.**

*Article 21. Design of lifting appliances, items of loose gear and lifting devices.* The Committee previously noted that sections 47 to 49 of Order No. 9036 referred to by the Government only set out protection measures for some machinery or parts of machines that can be dangerous. **The Committee requests the Government to indicate the measures adopted 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 are designed, used and maintained in compliance with the provisions of the Convention.**

*Article 35. Evacuation of injured persons.* The Committee previously noted that section 147 of the Labour Code regulates the evacuation of injured persons who can be moved and who cannot to be treated by the facilities made available by the employer. **The Committee requests the Government to indicate the measures adopted, under the terms of section 147 of the Labour Code, or by any other means, to ensure that adequate facilities, including trained personnel, are readily available for the provision of first aid.**

*Article 36(1)(d). Appropriate measures for the provision of occupational health services for workers.* The Committee notes that Order No. 9033 of 10 December 1986 determines the organization and operation of the socio-health structures of enterprises installed in the country. In accordance with section 7 of the Order, socio-health personnel are responsible, among other tasks, in accordance with the laws and regulations in force, for: carrying out systematic medical examinations; ensuring the health education and information of workers; providing care to workers and their families who are ill; participating in the improvement of working conditions in the enterprise; and participating in the determination of occupational diseases. **Recalling that, in accordance with this Article of the Convention, appropriate measures for the provision of an occupational health service for workers should be determined after consultation with the organizations of employers and workers concerned, the Committee requests the Government to indicate the manner in which employers' and workers' organizations are consulted in the organization and operation of socio-health centres, and in the activities of socio-health personnel, in enterprises engaged in dock work.**

*Article 37. Safety and health committees.* The Committee recalls that, under the terms of this Article of the Convention, safety and health committees shall be formed at every port where there is a significant number of workers and, as necessary, at other ports. In this regard, the Committee recalls that Order



No. 9030 on safety and health committees in undertakings (10 December 1986) provides that such committees, which include the head of the undertaking or is representative, the responsible agent for safety issues, the occupational doctor, the chief of staff and the workers delegates, should be established in all industrial undertakings and enterprises. These committees would be in charge of determining and implementing the internal policy on occupational safety and health. However, the Committee had noted from the Government's previous report that the health and safety committees provided for by the law have not yet been established. ***The Committee urges the Government to provide information on any measures adopted for the establishment of safety and health committees provided for by the law in the port sector, with an indication of the manner in which the organizations of employers and workers concerned were consulted on the establishment, composition and functions of these committees.***

*Article 38(1). Adequate instruction and training.* The Committee notes that, in accordance with section 141-3 of the Labour Code, employers are required to ensure the information and instruction of workers and the prevention of occupational risks inherent to the occupation or activity of the enterprise. The Committee previously noted the Government's indication that the instruction and training of workers are entrusted to a specialist in this field at the enterprise level. ***The Committee urges the Government to indicate how instruction and training are ensured for workers engaged in dock work, particularly in relation to the potential risks attaching to the work and the main precautions to be taken. Furthermore, the Committee requests the Government to provide the available information on the activities of the specialists in instruction and training in enterprises engaged in dock work.***

***Finally, in the absence of information on the application of the following provisions of the Convention, the Committee urges the Government to indicate any regulations or other measures adopted or envisaged to give full effect to them:***

- ***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 the 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 on decks, closing 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 22(1)–(4). Testing of lifting appliances and items of loose gear.***
- ***Article 23(1) and (2). Certification of lifting appliances.***
- ***Article 24(1) and (2). Inspection of items of loose gear and slings.***
- ***Article 25(1) and (2). Records of lifting appliances and items of loose gear.***
- ***Article 26(1)–(3). Mutual recognition by Members 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 30. Necessary measures for the raising or lowering of loads.***
- ***Article 31(1) and (2). Lay-out and organization of work in freight container terminals.***
- ***Article 32(1)–(4). Handling, storage and stowing of dangerous substances; compliance with international regulations for the transport of dangerous substances; prevention of the exposure of workers to harmful substances or atmospheres.***
- ***Article 34(1) to (3). Protective equipment and clothing.***

- **Article 36(1)(a), (b) and (c), (2) and (3). Medical examinations.**
- **Article 38(2). Minimum age limit for the operation of lifting appliances.**

*Part V of the report form. Application of the Convention in practice. **The Committee urges the Government to provide information on the manner in which the Convention is applied in the country and in particular information on the number of dockworkers covered by the legislation, the number and nature of the contraventions reported and the number of occupational accidents and diseases reported in dock work.***

***The Committee trusts that the Government will take all the necessary measures on an urgent basis to give full effect to the Convention and that it will provide a detailed report in this regard.***

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

## Lebanon

### Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 2004)

#### Previous comment

*Articles 4 and 5 of the Convention. Implementation of the provisions of the Convention. The Committee notes with **deep concern** the Government's observation that the absence of safety and health legislation in dock work, which the Committee has been requesting for several years, is one of the causes of the dramatic explosion that occurred in the port of Beirut in August 2020. The Committee recalls that this explosion took place in a warehouse stocking ammonium nitrate in the port area and ravaged essential infrastructure of the harbour works and caused serious damage in the commercial and residential areas situated within the radius of the shock wave. According to the official figures, this catastrophe killed 235 persons and wounded 6,500 others. The Government indicates its intention to communicate a copy of the [ILO code of practice on safety and health in ports \(Revised 2016\)](#) to the General Directorate for Road Transport and Shipping of the Ministry of Public Works and Transport. **The Committee expects that the Government will provide detailed information on the measures taken, in consultation with the social partners concerned, to adopt laws or regulations that aim to guarantee safety and health in dock work and their implementation.***

*Article 7. Consultations by the competent authority of the organizations of employers and workers concerned, and collaboration between employers and workers. **Noting with concern that the Government has stated that cooperation between workers and employers is virtually non-existent, the Committee expects that the Government will take all necessary measures to engage consultations and ensure collaboration between the employers' and worker's organizations concerned on the application of the Convention, and especially on the adoption of laws and regulations in this respect.***

*Article 11. Adequate width of passageways and separate passageways for pedestrians. **Noting the Government's observation that there are no visible passageways in the port of Tripoli and that these need to be installed when rebuilding the port of Beirut, the Committee hopes that the Government will be able to introduce effective measures for the installation of passageways of adequate width for vehicles and cargo-handling appliances, and for separate passageways for pedestrian use in all national ports.***

*Article 38(2). Minimum age for the operation of lifting appliances and other cargo-handling appliances. The Committee notes that Decree No. 700 of 25 May 1955 which prohibited employment of persons under 17 years of age on lifting appliances and for all work which is hazardous in nature, and which poses a danger to life, or physical or mental health has been repealed. The Government refers to Decree No. 8987 of 2012 on the prohibition of minors under 18 years of age in works that may harm their health, safety, or morals. The Committee notes that persons of at least 16 years of age may be employed in the types of work listed in annex 2 of the Decree, which include work with mobile machinery, operating*

machinery and tools, whatever the means of transport, on condition that their physical and mental health and their morals are fully protected and that they have received specific instruction or appropriate vocational training in the relevant field of activity. **Recalling that Article 38(2) of the Convention requires that a lifting appliance or other cargo-handling appliance shall be operated only by a person who is at least 18 years of age, the Committee requests the Government to take the necessary measures without delay to bring its legislation into conformity with this provision of the Convention in the port sector and to report on all progress in this regard.**

*Absence of information on the effect given to several provisions of the Convention.* The Committee notes that the Government once again refers to Order No. 31/1 of 26 January 1996 approving the regulations for Lebanese ports and docks. It also refers to a list of bulletins published by the General Directorate for Road Transport and Shipping of the Ministry of Public Works and Transport. However, the Committee observes that these texts and bulletins do not contain provisions that give effect to the following Articles of the Convention: *Article 1* (Definition of "dock work" and the manner in which employers' and workers' organizations concerned are consulted); *Article 3* (Definitions); *Article 6(1)(a) and (b), and (2)* (Measures to ensure the safety of dock workers, and consultation of workers concerning working procedures); *Article 8* (Measures to protect workers from health risks other than dangerous fumes); *Article 9* (Safety measures with regard to lighting and marking of dangerous obstacles); *Article 10* (Maintenance of surfaces for traffic or stacking of goods and safe manner of stacking goods); *Article 12* (Suitable and adequate means for fighting fire); *Article 13* (Effective guarding of all dangerous parts of machinery, possibility of cutting off the power to machinery in an emergency, protective measures during cleaning, maintenance or repair work); *Article 15* (Adequate and safe means of access to the ship during loading or unloading); *Article 16* (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 17* (Access to the hold or deck of a vessel); *Article 18* (Regulations concerning hatch covers); *Article 20* (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 21* (Design of lifting appliances, loose gear and lifting devices); *Article 22* (Testing every lifting appliance and every item of loose gear after any substantial alteration or repair to any part liable to affect its safety; periodical testing of lifting appliances; retesting of shore-based lifting appliances, and certification of tests carried out); *Article 23* (Thorough examination and certification of every lifting appliance and every item of loose gear); *Article 24* (Inspection of loose gear and slings); *Article 27* (Marking lifting appliances with safe working loads); *Article 28* (Rigging plans); *Article 29* (Strength and construction of pallets for supporting loads); *Article 30* (Raising and lowering of loads); *Article 31* (Operation and layout of freight container terminals and organization of work in such terminals); *Article 32* (Handling, storing and stowing of dangerous substances, compliance with international regulations for transport of dangerous substances; prevention of worker exposure to dangerous substances or atmospheres); *Article 33* (Protection against excessive noise); *Article 35* (Removal of injured persons); *Article 36* (Medical examinations; medical examinations are to be carried out free of cost to the worker, and confidentiality of the records of medical examinations); *Article 37* (Safety and health committees); *Article 39* (Notification of occupational accidents and diseases); *Article 40* (Regulations concerning suitable sanitary and washing facilities); *Article 41(a) and (b)* (Assigned duties in respect of occupational safety and health, and appropriate penalties); and *Article 42* (Time limits for the application of the Convention to the construction or equipping of ships, lifting appliances or loose gear). **The Committee expects that any new national laws or regulations adopted by the Government concerning the protection of workers against accidents in dock work will include specific provisions in respect of all the above Articles of the Convention. The Committee requests the Government to provide information on any developments in this regard.**

*Part V of the report form. Application in practice. In view of the major explosion that occurred in the port of Beirut in 2020, the Committee expects that the Government will take effective measures to*

***strengthen safety and health inspections in dock work and hopes that it will report on progress in this regard. More generally, the Committee requests the Government to provide information on the number of dockworkers protected by the legislation and the number and nature of violations observed, the measures taken as a result and the number of occupational accidents and diseases recorded.***

## Norway

### Dock Work Convention, 1973 (No. 137) (ratification: 1974)

#### [Previous comment](#)

The Committee notes the observations of the Norwegian Confederation of Trade Unions (LO), attached to the Government's report.

*Article 3 of the Convention. Registered dockworkers.* In its previous observation, the Committee noted the information provided by the Government and the LO's observations concerning the repercussions of the Supreme Court's decision of 16 December 2016 in Case No. HR-2016-2554-P, *Holship Norge AS v. Norwegian Transport Workers' Union (NTF)*, on the implementation of the Convention, particularly as regards priority of engagement for registered dockworkers. The Committee recalls that, in this case, the Supreme Court concluded that the priority of engagement clause for dockworkers registered with the Administration Office of the Port of Drammen, contained in a collective agreement, constituted an unlawful restriction on the appellant enterprise's freedom of establishment under Article 31 of the Agreement on the European Economic Area (EEA Agreement). It observed that the principle of priority of engagement was originally established to improve the situation of dockworkers, and the priority of engagement clause is anchored in *Article 3* of the Convention. It also referred to *Article 2* of the Convention, observing that the purpose of the instrument was to establish regular employment and payment conditions for dockworkers. However, in reaching its conclusions, the Court held that these considerations could be fulfilled by means other than granting priority of engagement for loading and unloading work to one group of workers. The Committee noted the Government's indication that the parties to the case, considering the need for changes to the way dock work was organized and possible changes to the collective agreements, had engaged in dialogue. The Committee recalls the LO's reference to the consistent case law of the national courts, which had previously upheld the validity of the priority of engagement clause. The LO also noted the tendency to no longer apply the priority of engagement clause in some ports where it was previously applied. According to the LO, loading and unloading operations were carried out by employees of the enterprises located in these ports, by workers these enterprises employed temporarily, and by the ships' crew, at the expense of registered dockworkers, which was incompatible with Norway's obligations under the Convention.

The Committee notes that, following the Supreme Court's decision, the parties to the invalidated framework agreement negotiated and signed a collective agreement for ports and terminals in September 2017. It notes the Government's indication that, despite the removal of priority of engagement from the new collective agreement, the social partners have agreed to give preference to workers on permanent, full-time contracts in jobs involving loading and unloading. The Government draws attention to clause 1 of the collective agreement, which indicates that work at the terminal will be carried out primarily by terminal employees, and mainly on the basis of full-time open-ended contracts. The Government also emphasizes that clause 16 of the collective agreement addresses the issue of temporary work by manual workers and employed workers by providing that "the parties agree that it is important to strive to make the sector attractive and reliable and that the employed workers must benefit from decent wages and working conditions. The parties are determined to prevent 'social dumping' and to ensure that challenges posed by the international labour market are resolved in an acceptable manner". The Government therefore considers that its obligations under the Convention are fulfilled under this new framework. It indicates that dockworkers are guaranteed permanent employment and safe working conditions, in accordance with the requirements of the Convention,

through legislation, together with collective agreements between the main social partners, ensuring their employment in full-time positions in ports and terminals.

The Committee also notes that, according to the LO, national practice may exclude certain workers from the definition of dockworkers, in particular workers from enterprises operating outside the framework of the collective agreement or who have no connection with the parties to the collective agreement. The LO also states that the collective agreement for ports and terminals now covers all full-time employees, temporary workers and casual workers employed by port operators, and loading and unloading offices in some ports. Under this new agreement, no register of workers deemed to be dockworkers has been established, as required by *Article 3* of the Convention. The LO therefore considers that the Government is not applying this Article of the Convention and calls on the Government to comply with the long-standing request from the NFT and the Norwegian United Federation of Trade Unions to establish a register of dockworkers.

The Committee considers it useful to recall that the registration of dockworkers, under *Article 3* of the Convention, originally responded to the need to ensure the permanent availability of qualified personnel for an occupation requiring versatility and training in modern cargo-handling techniques. In turn, membership for the workers concerned required them to be offered sufficient guarantees of employment and income. This balance could only be achieved by establishing registers of workers in order to implement a means of regularization of employment and stabilization of income, or to distribute the labour force in the ports. The Committee has always taken the view that the registration of dockworkers is merely an alternative to an ideal situation in which dockworkers benefit from or are guaranteed permanent employment. The Committee also recalled that the effectiveness of a means of regularization of employment in ports depends on a number of factors, such as the number of cargo-handling enterprises, the size and layout of the port and the diversity of cargo handled. Modern ports generally have a pool of workers benefiting from regular or even permanent employment, as well as a reserve pool of temporary or casual workers. Thus, the Dock Work Recommendation, 1973 (No. 145), provides for the possibility of separate registers for those in more or less regular employment and those in a reserve pool (paragraph 14) (see [General Survey on Dock Work](#), 2002, paragraphs 112 and following). Lastly, the Committee recalls that the Convention and the Recommendation do not require any particular forms of register, as the form may be determined by national law or practice, depending on local circumstances (see [General Survey](#), paragraph 120).

***In the light of the above, the Committee requests the Government to provide information on the effects of the implementation of the collective agreement for ports and terminals in the Port of Drammen, in particular its effects on the employment of the permanent dockworkers associated with the port Administration Office and the reserve pool of workers identified in the previous framework agreement, and possibly in other major ports in the country. The Committee also invites the Government to report on any measures taken by the competent authorities or any initiatives taken by the parties to the collective agreement for ports and terminals concerning the establishment of a register of dockworkers, as requested by the Norwegian Confederation of Trade Unions (LO). Finally, the Committee requests the Government to provide its comments on the LO's observations concerning the exclusion of a category of workers from the definition of dockworkers under the Convention, thereby placing them outside its coverage.***

***Application of the Convention in practice. The Committee requests the Government to provide a general appreciation in its next report on the manner in which the Convention is applied in the country, including, for instance, relevant extracts from reports, particulars of the numbers of dockworkers in the country, possibly disaggregated by type of contract (open-ended, temporary and casual) and of variations in their numbers over time.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 27** *Angola, Bangladesh, Bosnia and Herzegovina* **Convention No. 32** *Azerbaijan, Bangladesh, Belgium, Bosnia and Herzegovina, Bulgaria, Malta* **Convention No. 137** *Afghanistan* **Convention No. 152** *Montenegro, Norway*.

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 27** *Azerbaijan* **Convention No. 32** *Tajikistan* **Convention No. 137** *Australia*.

## Indigenous and tribal peoples

### Argentina

#### Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2000)

##### Previous comment

The Committee notes the observations of the General Confederation of Labour of the Argentine Republic (CGT-RA), received on 23 August 2022 and 1 September 2023), as well as the observations of the Confederation of Workers of Argentina (CTA), received on 26 July 2023.

*Articles 2 and 33 of the Convention. Indigenous policy, indigenous participation and coordinated and systematic action.* The Committee notes from the Government's report that the National Action Plan on Human Rights (PNADH) 2017–20 aimed at increasing coordination between State institutions in order to safeguard the rights of indigenous communities and to elaborate implementing regulations for Act 24.071 of 1992 approving the ratification of the Convention. It notes the Government's statement that the National Institute for Indigenous Affairs (INAI), besides playing an inter-institutional and inter-jurisdictional role, is also involved in coordinating non-State actors in the integrated and autonomous development of indigenous communities. In this connection, the INAI participates in the Inter-ministerial Round Table for Indigenous Peoples (MIMPI), which brings together the technical teams from various state units, with the provincial governments of Salta, Formosa, Chaco, Misiones, Neuquén and Tucumán, on a fortnightly basis. The INAI and the MIMPI have created space for provincial dialogue with indigenous communities in order to generate opportunities that encourage the integrated and autonomous growth of the communities (for example, promoting artisanal crafts, land cultivation, livestock farming and tourism). The Government emphasizes that this methodology has helped it to understand and analyse territorial and indigenous issues and has resulted in better provincial level policy coordination.

The Committee also notes that the INAI has entered into dialogue with the authorities on indigenous peoples' issues or on human rights at provincial level, with a view to ensuring the application of shared principles and standards for the implementation of the Convention within the framework of federalism, taking into account the criteria set out in the Supreme Court decision of 10 December 2013. That judgement establishes that the provinces have sufficient regulatory authority over the rights of indigenous peoples, in so far as this does not imply any contradiction with or lowering of the standards laid down in federal laws or regulations. The Committee notes that the Supreme Court, in a new decision of 28 December 2021 (FRE1168/2015/CS1), reaffirmed this principle and further emphasized that under the Constitution, authority divided between the provinces and the nation in respect of the rights of indigenous peoples is the reflection of a balanced federal regime that is able to take account of the multiple and various local realities in indigenous matters.

Moreover, the Committee notes that Decree No. 672/16 established the Consultative and Participatory Council of the Indigenous People of the Argentine Republic as the instance for indigenous representation and intercultural dialogue under the aegis of Secretariat for Human Rights and Cultural Pluralism of the Ministry of Justice and Human Rights. The Council's objectives include: (i) promotion of areas of interaction between the different ministries and public bodies; (ii) adoption of legislative measures for applying the Convention, including on prior consultation and indigenous community property; (iii) implementation of education and health programmes for indigenous peoples; and (iv) redefining indigenous policy with a view to ensuring the participation of the peoples concerned.

***Recalling the importance of coordinated and systematic action as a basis to ensure the rights of indigenous peoples enshrined in the Convention, the Committee requests the Government to continue to adopt measures to ensure communication and coordination between the federal government and***

**the different provincial governments in respect of implementation of the Convention for which responsibility lies with the provinces. It also requests the Government to: (i) continue to make efforts to adopt regulations for the implementation of Act No. 24.071; (ii) report on the measures and programmes proposed and adopted within the Inter-ministerial Round Table for Indigenous Peoples and their outcomes; and (iii) take the necessary measures to ensure the good functioning of the Council for Indigenous Participation, indicating how often it meets, how many peoples are represented and how it coordinates its action with the different government entities.**

*Article 3. Human rights. 1. Use of violence at protests.* The Committee notes that the CGT-RA and the CTA report in their observations instances of violence and the excessive use of force by the police during indigenous peoples' protests against the constitutional reform of Jujuy Province in 2023. It also observes that the Inter-American Commission on Human Rights (IACHR) referred to the scale of the provincial security forces' response to those demonstrations which resulted in several injuries (IACHR press release of 20 June 2023). The Committee notes that the Government has not responded to the allegations of the CGT-RA and the CTA.

The Committee notes the alleged instances of violence with **deep concern**. The Committee recalls that indigenous and tribal peoples must be able to exercise the right to protest in defence of the rights enshrined in the Convention, without recourse to violence, and the Government must adopt appropriate measures to avoid any type of violence in this regard. Moreover, in the context of public demonstrations, the authorities must only make use of public force where the public order is genuinely threatened and intervention by the police must be proportionate to the threat to public order that it seeks to control. **The Committee requests the Government to report on the outcomes of the investigations into the alleged facts and trusts that such investigations will make it possible to determine responsibilities and impose the appropriate penalties.**

The Committee also notes that the United Nations Committee on the Elimination of all Forms of Racial Discrimination (CERD) in its 2023 concluding observations on Argentina expressed concern regarding: (i) the persistence of the practice of racial profiling by the police forces and other law enforcement officials in particular against persons belonging to indigenous peoples; and (ii) the numerous allegations of violence committed by the police and private security companies, including some that resulted in the death of the victim, which disproportionately impact on persons belonging to indigenous peoples (CERD/C/ARG/CO/24-26). **The Committee requests the Government to take all necessary measures to ensure a climate free from physical and psychological violence in which indigenous peoples and their representatives may defend the rights guaranteed them under the Convention.**

*2. Indigenous women.* The Committee notes from information provided by the Ministry of Culture, that the Ministry has launched a project entitled "Mujeres de Raíz" (Grass roots Women), which creates spaces for dialogue and support for indigenous women. This accompaniment seeks to fortify the nexus between indigenous women and their community, spreading information on public policies that benefit them and reinforcing their autonomy (Ministry of Culture press release of 5 September 2022).

However, the Committee notes with **concern** from the CERD concluding observations, that there are certain complaints of abuse and sexual violence suffered by women and girls and committed by Creole men, particularly in the north of the country, such as the case of the women and girls of the Wichí people in Salta. Furthermore, according to the same observations, in October 2022, seven women and six girls and boys of the Mapuche Lafken Winkul Mapu community in Villa Mascardi in the province of Rio Negro were detained incommunicado for at least 72 hours in the context of a violent entry and search raid (CERD/C/ARG/CO/24-26). Regarding the latter case, the Committee notes that according to information available on the website of the Public Prosecutor's Office, the Federal Prosecutor's Office of Bariloche is carrying out investigations in relation to the events that took place in Villa Mascardi. **The Committee requests the Government to provide information on the results of these investigations.**



**Furthermore, the Committee urges the Government to adopt the necessary measures to ensure the physical and psychological integrity of the women and girls belonging to indigenous communities and, if applicable, to investigate the complaints of sexual violence against them committed.**

*Article 6. Consultation.* In reply to the Committee's previous comments regarding the absence of a regulatory framework for consultation, the Government indicates that it is in the process of regulating the right to prior consultation of indigenous communities and that a preliminary draft law will itself be subject to prior consultation among the indigenous communities of the country through a "consultation on the consultations" process. The Government points out that, while there are no regulations governing the holding of consultations, such consultations have nonetheless been held in the framework of productive and energy projects of national importance. INAI supported indigenous communities during those consultations in their dialogue with the provincial governments and the enterprises responsible for the projects. The Government adds that consultations have been convened by provincial governments, and these were governed by the regulations of the respective jurisdictions. In this connection, the government of Rio Negro province is working with the Indigenous Community Development Council and with the Coordinator of the Mapuche Parliament to formulate a protocol for consultations, and that Parliament is also consulting with the different communities in the province.

The Committee notes that the CGT-RA and the CTA maintain in their observations that the indigenous peoples of the province of Jujuy were not consulted in respect of the constitutional reform of the province, approved in June 2023. According to those organizations, the reform contains provisions which are contrary to the Convention, in particular:

- section 36, which recognizes the right to private property and provides that its exercise shall not challenge the social function or be detrimental to health, safety, freedom or human dignity;
- section 50, which provides that the province shall protect indigenous peoples through appropriate legislation that will lead to their integration, and economic and social progress;
- section 68, which recognizes the full dominion and exclusive ownership of the province over the natural resources existing in its territory against any undue interference by the nation or other provinces, promoting the sustainable use of these resources and common goods for the benefit of human development and the progress of the population;
- section 74, which provides that the State shall promote the investigation, development, production and use of knowledge and tools that apply biotechnology with a view to creating goods and services that improve the quality of life of persons;
- section 94(2), which recognizes land as a labour and production good, and provides that the law shall regulate the administration, disposition and use of public land that may be put to productive use, establishing to that end development regimes that promote territorial development and the socioeconomic interest of the province.

In this regard, the Committee notes from an Opinion of the Attorney General issued on 4 August 2023 (CSJ 1309/2023), that the State filed a claim of unconstitutionality in respect of several provisions of the reformed constitution of Jujuy province, including section 94 cited above, on grounds of contravening Convention No. 169. In his Opinion, the Attorney General considers the Supreme Court competent to pronounce on such a claim. The Committee notes that the Government has not responded to the allegations. It therefore has no further information regarding the process of the Jujuy constitutional reform, or whether indigenous peoples are being consulted thereon.

The Committee also notes, from a reading of sections 36, 68, 74 and 94(2) of the reformed Jujuy constitution, that these sections clearly deal with general issues, rather than specific provisions on indigenous peoples or their rights. Nevertheless, the Committee considers that the implementation of the constitution, and of the regulations to be adopted for that purpose, must avoid directly affecting the rights of indigenous peoples recognized under the Convention, specifically in respect of property and land traditionally occupied by these peoples, and as such must be subject to consultation. In this

regard, the Committee recalls that the consultation provided for in *Article 6* of the Convention is a means of institutionalizing dialogue on questions that affect indigenous peoples, to ensure inclusive development processes, reduce tensions and prevent conflict. Consultations must be undertaken in good faith and allow full expression of the opinions of the peoples concerned, with a view to influencing the outcome of the measures under consultation.

Moreover, with specific reference to section 50 of the reformed constitution of Jujuy, which refers to the adoption of appropriate legislation that will lead to the integration and social and economic progress of indigenous peoples, the Committee wishes to recall that the objective of Convention No. 169 is to replace a focus based on integration with one based on the recognition of the right of indigenous peoples to decide on their own development priorities. Accordingly, this principle must be the basis of all provincial legislation adopted with regard to indigenous peoples.

***Consequently, the Committee urges the Government to take the necessary measures to ensure:***

- ***the adoption of a national regulatory framework for consultation, announced by the Government, which must be subject to prior consultation with the indigenous peoples concerned;***
- ***that consultations under the competence of the provincial governments, as well as any provincial regulations adopted governing such consultations, are held in coordination with the INAI as the institution responsible for ensuring coordinated action in implementing the rights provided under the Convention.***

***With regard to the reformed constitution of the province of Jujuy, the Committee requests the Government to take the necessary measures to ensure that any law or regulation adopted to give effect to sections 36, 50, 68, 74 and 94(2) of that constitution, in so far as they directly affect the rights of indigenous peoples, are duly subject to consultations with the indigenous peoples of the province, in conformity with Article 6 of the Convention.***

*Article 14. Lands.* In its previous comments, the Committee noted that Act No. 26.160 of 2006 declaring the emergency regarding the possession and ownership of land traditionally occupied by the indigenous communities entered in the National Register of Indigenous Communities. Act No. 26.160 provides for the suspension of rulings and administrative land eviction orders for an initial period of four years, during which the territorial survey and titling in the name of the communities can take place, under the coordination of the INAI. The Committee notes that this provision has been extended on several occasions due to non-completion of the survey and titling process.

The Committee notes the Government's indication that, under Act No. 26.160 and its respective extensions, the territorial, legal, technical and cadastral survey of 479 communities, amounting to approximately 2,983,259 hectares has been completed (24 hectares in Buenos Aires, 2 in Catamarca, 14 in Chaco, 36 in Chubut, 6 in Córdoba, 2 in Entre Ríos, 1 in Formosa, 120 in Jujuy, 6 in La Pampa, 7 in Mendoza, 43 in Misiones, 6 in Neuquén, 51 in Río Negro, 52 in Salta, 5 in San Juan, 7 in Santa Cruz, 29 in Santa Fe, 54 in Santiago del Estero, 1 in Tierra de Fuego and 14 in Tucumán), 467 communities are in the process of being surveyed.

The Committee also notes that Act No. 26.160 was subject to a new extension until November 2023 under Decree 805/2021. The Government also indicates that, under the initiative of the INAI, consultations have taken place with the provinces and with the indigenous territorial organizations to draw up a preliminary draft of a law on community ownership. There are currently several draft laws under debate before the Legislature. Moreover, the Government indicates that the Executive has expressed its willingness to reach a federal agreement that will enable the State and the provinces to come to a consensus on the regulation of community ownership.

The Committee notes from the CGT-RA's observations that the question of the regularization of indigenous lands remains an ongoing issue of concern which has given rise to instances of violence and

the eviction of indigenous communities in Patagonia, as well as in the north-east and north-west of the country, which have yet to be clarified.

It also notes that, in its report on its visit to Argentina in 2023, the United Nations Working Group on business and human rights refers to: (i) the legal risk for indigenous communities arising from continuous extensions of Act No. 26.160; (ii) the slow pace of the territorial survey process in indigenous communities; (iii) complaints of violent evictions of indigenous communities to make way for large-scale real estate and resource extraction projects.

The Committee further notes the ruling of the Inter-American Court of Human Rights of 24 November 2020, in the case of the Indigenous Community Members of the Lhaka Honhat (our lands) Association vs. Argentina, in which the Court determines that Argentina does not have an adequate body of regulations in place to secure indigenous peoples' right of community ownership satisfactorily.

The Committee notes with **concern** the apparent slow pace of the process of territorial survey and the titling of lands traditionally occupied by indigenous peoples, to which the continuous extensions of Act No. 26.160 bear witness. This has given rise to a context of legal uncertainty which imperils respect of the rights of ownership and possession of those peoples over their lands, as recognized under *Article 14* of the Convention. **Consequently, the Committee urges the Government to make every possible effort to complete the process of territorial survey and titling of the indigenous communities of the country provided under Act No. 26-160, in coordination with the INAI and the respective provincial governments. It requests the Government to provide updated information on progress made regarding the survey and regularization (identification, demarcation and titling) of community land by province; and while the process is ongoing, to take the necessary measures to establish mechanisms for the resolution of conflicts related to the occupation of the land between the indigenous peoples and third parties.**

*Articles 20 and 21. Admission to employment and training programmes.* The Committee notes with **interest** that the National Plan for Indigenous Peoples: "Promote better jobs through integrated employment and training programmes" was adopted by the Ministry of Labour, Employment and Social Security, in March 2023. The Committee notes that the preparation of the plan involved consultations with the indigenous peoples in various provinces, as well as an analysis of the difficulties faced by those peoples in the labour market. Such difficulties included: (i) restricted access to employment and training opportunities due to the geographical distance separating the indigenous communities from the urban centres where the employment offices and training institutions are located; (ii) the institutions and local actors lack and understanding of cultural differences, resulting not only in a scarcity of offers, but also in persistent discriminatory attitudes towards the indigenous peoples; (iii) training and employment programmes poorly aligned with the specific needs of the indigenous communities; (iv) communication problems due to the predominant use, particularly among indigenous women, of indigenous languages; and (v) institutional weakness and poor access to technical assistance activities for indigenous communities. To overcome these challenges, the Plan includes actions to promote the inclusion of indigenous peoples, such as working with indigenous organizations to prepare vocational training proposals, taking account of the need to make entry conditions and requirements more flexible; strengthening employment offices in indigenous communities; and the provision of cash allowances to promote and maintain participation by highly vulnerable indigenous persons in vocational and employment training activities.

The Committee notes, according to the statistical information included in the Plan, that in the period from January 2015 to June 2021, a total of 4,731 indigenous persons took part in labour market integration programmes, 8,555 in vocational training activities and 899 in self-employment programmes. The Committee notes that a mandatory quota of 25 per cent indigenous participation was applied in respect of vocational training and employment programmes provided by the National Institute of Agricultural Technology.

***The Committee requests the Government to continue providing information on the results of the measures implemented under the National Plan for Indigenous Peoples, giving examples of vocational training and labour market integration programmes formulated in cooperation with indigenous communities. It also requests the Government to provide, to the extent possible, updated statistical information on the number of persons belonging to indigenous peoples who are unemployed or under-employed.***

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

## Plurinational State of Bolivia

### Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1991)

Previous comments: observation and direct request

*Article 6 of the Convention. Consultation. Regulatory framework.* The Committee notes the Government's reference in its report to the Act on the electoral system (Act No. 26) of 30 June 2010. The Act provides that the exercise of political rights within the framework of intercultural democracy includes the right of indigenous people to prior consultation (section 4). Section 39 recognizes prior consultation as a mechanism of direct and participatory democracy in relation to the implementation of projects, works or activities in relation to the exploitation of natural resources. In the case of the participation of indigenous peoples, consultation shall take place respecting their own standards and procedures. The Act also provides that the Plurinational Electoral Body, through the Intercultural Service for the Strengthening of Democracy (SIFDE), shall observe and support processes of prior consultation in coordination with the organizations and institutions involved (section 40). The conclusions, agreements or decisions adopted in the context of prior consultation are not binding, but shall be taken into consideration by the authorities and representatives at the corresponding decision-making levels (section 39). The results of the consultation shall be communicated and disseminated through an accompanying report prepared by the SIFDE (section 41).

While noting that the Act on the electoral system provides for a general procedure for consultation, the Committee once again observes that the Government has not provided information on progress in the process of adopting legislation on the prior consultation of indigenous peoples, in relation to which the Committee noted previously that a process of dialogue had been undertaken with indigenous and Afro-Bolivian organizations.

The Committee recalls the importance of establishing a regulatory framework for consultation with the peoples covered by the Convention as a priority, and of carrying out prior consultations with indigenous peoples for the development of such a mechanism (see [general observation](#), 2018). ***In these circumstances, the Committee requests the Government to take the necessary measures for the adoption of a regulatory framework for prior consultation, in consultation with the peoples covered by the Convention. In the meantime, it requests the Government to provide examples of consultation processes that have been accompanied and monitored by the Intercultural Service for the Strengthening of Democracy of the Plurinational Electoral Body, and on the results of these processes.***

*Articles 6, 15(2) and 16. Consultation. Construction of a highway in the Isíboro Sécore Indigenous Territory and National Park (TIPNIS).* For several years, the Committee has been referring to the project to construct a highway affecting the TIPNIS and, in this regard, has requested the Government to provide information on the consultations held with the indigenous peoples affected by the project. In its previous comment, it noted Act No. 969 of 13 August 2017 on the protection and sustainable and comprehensive development of the Isíboro Sécore Indigenous Territory and National Park (TIPNIS), under the terms of which activities related to the construction of highways in the TIPNIS which seek to improve or maintain the rights of indigenous peoples to freedom of movement shall be designed in a participatory manner with the indigenous peoples (section 9).

The Committee notes the Government's indication that in 2022 the authorities in Beni collected proposals for the construction of a road to connect Beni and Cochabamba, as a result of which the idea was developed of the construction of a route passing directly through the TIPNIS. The first of the three branches of the route (Tramo I Villa Tunari – Isinuta), which is the responsibility of the Cochabamba region, is at an advanced stage and has reached the Monte Grande del Apere community, near San Ignacio de Moxos. In this regard, the Committee observes that the Government has not provided information on the consultations carried out with the indigenous peoples affected by this road project.

***The Committee requests the Government to take the necessary measures to ensure that the indigenous peoples whose lands have been or may be affected by the construction of the Beni-Cochabamba road or any other construction that goes through the TIPNIS are consulted in accordance with the provisions of the Convention. In this regard, it requests the Government to indicate whether, as a consequence of this road project, indigenous communities have been transferred from their lands and, if so, to provide information on the procedures established to obtain the consent of those communities to such a transfer.***

*Article 14. Land.* For several years, the Committee has been requesting the Government to provide information on progress in the processes of issuing titles and registering lands for the peoples covered by the Convention. The Committee notes with **concern** the continuing absence of information on this subject. ***The Committee therefore requests the Government to take the necessary measures to ensure that the peoples covered by the Convention are able to rely on titles to the lands that they traditionally occupy. It requests the Government to provide information on the progress achieved in this regard, and on the surface area of the lands that have been registered for the peoples covered by the Convention, with an indication of the number of communities or peoples who have benefited and their location. It further requests the Government to provide information on the bodies responsible for resolving issues relating to the lands of indigenous peoples and for following up the respective adjudication processes.***

*Article 15(2). Consultation in relation to mining activities.* The Committee notes with **concern** that the Government has not provided information on the measures adopted for the revision of section 207 of the Act on minerals and metallurgy (No. 535) of 2014, which exempts mining prospection and exploration operations from the requirement of consultation, as well as administrative mining contracts for the rehabilitation of sites and lease and shared risk contracts, as pre-established rights.

The Committee also notes the special report of 2021 of the Ombudsperson on the violation of rights through mining activities in the Leco "Santa Rosa" indigenous community of the municipality of Guanay in the Department of La Paz. The report refers to the complaint lodged in July 2020 by members of the Leco Santa Rosa indigenous community of the municipality of Guanay concerning gold-mining activities reportedly undertaken in their lands in violation of their collective rights. According to the report, mining activities have been carried out by a private enterprise without having engaged in the respective prior consultations on the grounds that the enterprise held pre-established mining rights and that, in accordance with section 207 of Act No. 535 prior consultation is not applicable in cases of the adjustment of mining rights. In a press release dated 9 February 2022, the Ombudsperson indicated that he had verified that the mining activities carried out in the municipality of Guanay are in violation of various rights of the Leco Santa Rosa indigenous community and that there are no guarantees of consultations being held in practice in pre-established mining areas.

In this regard, the Committee recalls that *Article 15(2)* of the Convention establishes the requirement to consult indigenous peoples before undertaking or permitting any programmes for the exploration or exploitation of natural resources pertaining to their lands. The Committee observes that, even in situations in which mining rights are pre-established, whether or not they are prior to the Convention, prior consultation must occur on each occasion that a new activity is envisaged for the exploration or exploitation of subsoil resources in lands traditionally occupied by the peoples covered

by the Convention for the purpose of determining whether the interests of the indigenous peoples would be prejudiced and the extent of such prejudice. ***The Committee therefore urges the Government to take the necessary measures without delay to amend section 207 of the Act on mining and metallurgy so that: (i) mining exploration or exploitation projects in lands traditionally occupied by indigenous peoples are not exempt from the requirement of prior consultation; and (ii) in cases of pre-established mining rights in such lands, prior consultations are held on every occasion that new exploration or exploitation activities of resources are planned which may affect the rights of the peoples covered by the Convention.***

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

## Honduras

### Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1995)

#### Previous comment

The Committee notes the observations of the Honduran National Business Council (COHEP), received on 31 August 2023. It also notes the observations of the Authentic Trade Union Federation of Honduras (FASH), received on 7 November 2023. ***The Committee requests the Government to provide its comments in this regard.***

#### Follow up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, May–June 2021)

The Committee notes that the Committee on the Application of Standards (Conference Committee) in its conclusions requested the Government to: (a) ensure the implementation of the Convention in a climate of social dialogue and understanding, free from violence and intimidation; (b) conduct, without delay, independent investigations and proceedings against perpetrators of criminal acts against indigenous and Afro-Honduran peoples and their representatives; (c) establish appropriate consultation and participation procedures in line with the Convention; (d) implement without delay the Convention in law and practice, based on the extensive consultations held with the social partners, and in accordance with *Article 6* of the Convention, on the requirement to consult indigenous peoples; (e) continue to take effective measures to improve the conditions of work of Misquito dive-fishers; and (f) ensure the awareness of rights and access to justice of indigenous and Afro-Honduran peoples. The Conference Committee called upon the Government to accept an ILO direct contacts mission (hereinafter, the mission).

The Committee notes that the mission was undertaken in May 2022 and that it addressed the subjects of violence and impunity, consultation and participation, the situation of the Misquito people and lands. The Committee notes that the mission heard with deep concern the description by the representatives of indigenous and Afro-Honduran peoples of their situation of abandonment, exclusion and marginalization, aggravated by the historical structural weaknesses of the State, including in areas from which it is absent, which is prejudicial to respect for the rights of these peoples. The mission took note that the new Government authorities have expressed their full will to establish a climate of respect for the rights set out in the Convention and to fulfil the undertakings given to the mission in the areas referred to above. ***The Committee welcomes the will expressed by the Government in this regard and hopes that the implementation of the mission's recommendations, as well as the comments set out below, will contribute to finding solutions to the difficulties raised in relation to the application of the Convention.***

*Article 3 of the Convention. Human rights.* The Committee observes that, within the context of the mission, the competent authorities recognized and expressed their commitment to combating the situation of violence, the weakness of systems of protection and the lack of an adequate judicial response. The mission recommended the implementation without delay of exhaustive investigations,

prosecutions and the imposition of penalties on both the instigators and the perpetrators who are guilty of acts of violence against indigenous and Afro-Honduran peoples; the strengthening of the justice system, and particularly the Special Prosecutor for the Protection of Ethnic Minorities and the Cultural Heritage, with the allocation of sufficient personnel and resources to fulfil its mandate (it also recommended that the prosecutors, with specific knowledge of the situation of indigenous and Afro-Honduran peoples, can also investigate or participate in investigations into crimes against the lives of indigenous and Afro-Honduran peoples); and the strengthening of the national protection system, with the guarantee of universal access and rapid and effective responses for members of indigenous and Afro-Honduran peoples who are at risk.

The Committee notes the provision by the Government in its report of statistics on complaints filed with the Special Prosecutor for the Protection of Ethnic Minorities and the Cultural Heritage between 2021 and 2023, showing, among the various crimes, that in 2021 there were 26 threats, one murder and seven injuries; in 2022, there were 11 threats, three murders and two injuries; and in 2023, there were 15 threats. The Committee observes that murders and injuries were not reported in 2022 and 2023.

The Committee emphasizes that the absence of convictions against those guilty of acts of violence results in de facto impunity, which aggravates the climate of violence and insecurity, and which is extremely prejudicial to the exercise of the rights of indigenous peoples. The Committee also recalls the importance of prosecutions being completed rapidly, as slow justice can become justice denied. ***Under these conditions, the Committee urges the Government to take measures to give effect to the recommendations of the mission. The Committee also firmly urges the Government in relation to the specific acts of violence that it noted in its previous comment, to: (1) investigate them, establish responsibilities and punish those responsible for the kidnapping and disappearance of four members of Garifuna community of El Triunfo de la Cruz on 18 July 2020, and the murder in December 2020 of José Adán Medina, a member of the Tolupán indigenous community, and Félix Vásquez, an environmental activist of the Lenca community; and (2) identify and punish the instigators of the murder of Berta Cáceres (former President of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH)).***

*Articles 6 and 7. Appropriate consultation and participation procedures.* The Committee notes that the mission: (1) noted with concern that the indigenous and Afro-Honduran peoples still do not have a formal dialogue mechanism with the authorities in which they can express their demands, priorities and concerns on a regular basis; (2) observed that all the parties emphasized the importance of the establishment a legal consultation framework in accordance with the Convention; (3) took note positively of the commitment made by the Government to establish a technical working group so that the Inter-Institutional Commission for the Affairs of Honduran Indigenous Peoples can draw up preliminary draft legislation on prior, free and informed consultation; and (4) trusted that the Government would take the necessary measures to fully integrate from the beginning the representatives of indigenous and Afro-Honduran peoples in this process and for the preliminary draft legislation to be the subject of full consultations with the representatives of indigenous and Afro-Honduran peoples.

The Committee notes the Government's indications that: (i) in accordance with the commitments made as a result of the mission's visit, the Secretariat of Labour and Social Security (SETRASS) agreed with the United Nations Development Programme (UNDP) the development of a project for a comprehensive strategy of training and the promotion of interaction with indigenous and Afro-Honduran peoples with a focus on rights and social participation (April-December 2023). The objective of the project is to support the policy of a dialogue strategy to establish and develop the mechanism for the implementation of free, prior and informed consultation with the indigenous and Afro-Honduran peoples, and to define forms of participation both with the representatives of the indigenous and Afro-Honduran peoples and with State institutions with responsibilities and functions in areas related to the

application of the Convention; (ii) the operational support of the UNDP is supplemented by the assistance provided by the ILO for the development of two products, namely: Product 1: Enabled the process of institutionalized social dialogue with the indigenous and Afro-Honduran peoples for the development of a plan of action for the implementation of Convention No. 169; Product 2: Strengthened the capacities of the SETRASS for the promotion of interaction mechanisms for the resolution of disputes relating to lands; and (iii) through the specific activities of both products, it is intended to give effect to several of the mission's recommendations, some of which are directly related to the creation of mechanisms through which the indigenous and Afro-Honduran peoples can express their demands and priorities to the authorities.

The Government adds that: (1) the Secretariat for Social Development (SEDESOL) indicated that the Secretariat for Human Rights has worked on the legal analysis to control the compliance with the Convention of the proposed preliminary draft legislation on free, prior and informed consultation; (2) in the analysis, it was found that the implementation of the draft legislation would constitute progress in relation to human rights through the presence of a mechanism to guarantee consent and prior, free and informed consultation; (3) it was emphasized that the draft text was drawn up in 2014–15, for which reason various modifications are required; (4) the Office of the Public Prosecutor, through the Special Prosecutor for the Protection of Ethnic Minorities and the Cultural Heritage, indicated that action has been taken in the courts against officials for not having practiced prior, free and informed consultation with the members of communities in which projects are being undertaken that affect their lands, territories and natural resources; (5) in 2021, public servants were trained through the modular updating course on the role of prior, free and informed consent in the reduction of disputes in the mining sector, and since 2022 an inter-institutional dialogue mechanism has been developed and strengthened through the National Forum for the Prevention and Treatment of Social Conflict; and (6) through this mechanism, work has been undertaken on the strengthening of capacities relating to the importance of reinforcing and engaging in processes of consultation and prior, free and informed consent through existing channels.

The Committee notes the indication by the COHEP that: (1) since the ratification of the Convention, no measures have been taken to establish a serious and responsible consultation mechanism, and the social partners have not been consulted on that subject; (2) the consultations that have been undertaken have been carried out in accordance with the Act on open councils of 1919, which called for the holding of popular consultations with the population at the municipal level, which implies that consultations have not been held with the indigenous and Afro-Honduran peoples in accordance with the Convention and the draft legislation drawn up in 2018 was not subject to appropriate consultations; (3) the process of drawing up new draft legislation on consultation in accordance with the Convention should be the priority of the Secretariat of Labour and Social Security and it is important that before the text is forwarded to the National Congress it is referred to the Economic and Social Council for consultation and approval by the social partners; and (4) no action or initiative by the present Government is known for the establishment of an inter-institutional dialogue forum with indigenous and Afro-Honduran peoples.

While welcoming the commitments made by the Government in line with the mission's recommendations, the Committee observes that consultation processes do not appear to have been undertaken with indigenous and Afro-Honduran peoples. ***The Committee trusts that the implementation of the project referred to by the Government, with UNDP support, for the establishment of a comprehensive strategy for training and the promotion of interaction mechanisms with indigenous and Afro-Honduran peoples will result in the development and establishment of a mechanism for full, free and informed consultation with indigenous and Afro-Honduran peoples. The Committee recalls the great importance of the legislative framework proposed for prior consultation being subject to a process of full, free and informed consultation with all indigenous and Afro-Honduran peoples. In this regard, it encourages the Government to develop a social dialogue***



***mechanism through which it can share with the social partners the proposal for a legal framework for consultation agreed with the indigenous and Afro-Honduran peoples.***

***Until such a consultation framework is adopted, the Committee recalls the requirement for the Government to made every effort to consult the peoples covered by the Convention in relation to any legislative or administrative measures which may affect them directly and once again requests the Government to provide information on the consultation processes carried out and their outcomes.***

*Articles 8 and 12. Access to justice.* The Committee observes that the mission recommended the Government to take measures to ensure the presence of an adapted system in all regions to ensure the effective access of indigenous and Afro-Honduran peoples to justice. In this regard, the Government provides information on the on-site visits made by the Secretariat of State in the Human Rights Office to approach communities whose rights have been violated with the objective of identifying violations of rights, threats and situations of risk, providing support and protection, analysing the objectives and challenges for their effective protection, and developing state responses with the competent authorities (for example, the visit to the Garifuna community of Punta Gorda in light of their forced transfer; to the Maya-Chortí community of Azacualpa, La Unión and Copán in light of threats and the criminal charges against their defenders; support and capacity-building for the Negro English-speaking community of Crawfish Rock on the national system for the protection of human rights). The Government also refers to the legal analyses by the Secretariat on controlling compliance with the Convention, particularly in relation to forced transfers, draft legislation and development projects.

The Committee notes the reference in the COHEP's observations to the preliminary observations of the Inter-American Commission on Human Rights on its visit to Honduras (in April 2023), according to which there is a generalized lack of trust in the institutions of the justice system and there is insufficient human rights training of justice operators from ethnic and racial perspective.

***The Committee requests the Government to continue to take measures to facilitate the access to justice of indigenous and Afro-Honduran peoples and to develop capacity-building programmes for indigenous and Afro-Honduran peoples so that they are aware of their rights and the means of asserting them; and the competent authorities to continue undertaking on-site visits with a view to approaching communities whose rights have suffered violations and providing them with legal support and personal protection when they are subject to threats. The Committee also requests the Government to provide information on the training activities undertaken for the police and judicial authorities on the scope of the rights of indigenous peoples guaranteed by the Convention.***

*Article 14. Lands.* The Committee notes that the mission observed with concern that, in addition to their historical claims, which have still not been resolved, the indigenous and Afro-Honduran peoples are also confronted with the occupation of their lands by third parties, including drug traffickers. Disputes relating to lands are not only at the root of various situations of conflict and violence, but have also resulted in criminal action against defenders of indigenous and Afro-Honduran peoples. The mission emphasized that land recognition and clarification measures and the establishment of land titles are important means of reducing conflicts in this respect. The mission encouraged the Government to continue taking measures in response to the claims of indigenous and Afro-Honduran peoples and indicated that in order to address the issue of lands more effectively, it is necessary to: take measures to clarify the areas of competence of State institutions at the national and local levels in relation to issuing land title; ensure improved coordination between such institutions; and allocate the necessary budgets to them for the clarification of land-related issues for indigenous and Afro-Honduran peoples.

The Committee notes the Government's indication that 14 technical forums have been established at the national level to respond to problems related to the lands occupied by indigenous and Afro-Honduran peoples and that a protocol has been developed on addressing situations of conflict and

forced transfers with the objective of shedding light on and taking articulated follow-up action in cases of transfers.

The Committee notes with **concern** the indication that land disputes give rise to violence affecting indigenous and Afro-Honduran peoples. ***In the same way as the mission, the Committee emphasizes the importance of coordinating and clarifying the areas of competence of State institutions in relation to the delivery of land titles for indigenous and Afro-Honduran peoples. The Committee urges the Government to intensify its efforts to ensure the effective protection of the rights of ownership and possession of indigenous and Afro-Honduran peoples over the lands which they traditionally occupy and to provide information on the processes of clarifying and issuing titles to lands.***

*Articles 20, 24 and 25. Protection of the rights of the Misquito people.* The Committee notes that, as it indicated in previous comments, the mission received testimony concerning serious accidents, sometimes fatal, which had occurred during dive-fishing activities, the difficult conditions of work faced by dive-fishers and the inadequate assistance received by injured dive-fishers and their families. The mission received information from the Government on progress in relation to: (1) the training of 11 labour inspectors in subjects of concern to dive-fishers and fishers so that they can inspect their conditions of work in port and on the high seas; (2) the organization of courses on safe dive-fishing for fishers and employers; and (3) the recruitment of a labour prosecutor to provide assistance to the Misquito people in relation to access to justice. The mission urged the authorities to make every effort without delay to: (1) ensure the effective operation of the labour inspection services, not only in port but also on the high seas; (2) ensure that dive-fishers have formal contracts so that they can have access to their labour rights and social protection; (3) take measures to ensure the provision to injured dive-fishers of compensation or benefits which cover their needs; (4) provide training to dive-fishers on safe fishing methods; (5) reinforce the Inter-Institutional Commission for Problem Prevention and Assistance in Dive-Fishing (CIAPEB) so that it can ensure the implementation of the regulations and address the demands of dive-fishers; and (6) make available a sufficient number of hyperbaric chambers, with specialized personnel for their correct use, located in easily accessible areas.

The Committee notes the Government's recognition that the Misquito people has suffered marginalization, discrimination and violence as a result of the absence of the State, the failure to implement comprehensive public policies, and the low level or absence of enforcement and protection of their labour rights, which has resulted in precarious working conditions with a serious deterioration in their environment and opportunities for economic and social development, and serious consequences for their mental and physical health. During the mission, the authorities of the SETRASS reaffirmed their commitment to the implementation of practical measures to take into special consideration the needs and situation in practice of the Misquito people and guarantee their labour rights. With a view to reducing the gap that currently separates indigenous and Afro-Honduran peoples from access to decent work, the SETRASS set out a series of commitments with a view to improving the labour conditions of the Misquito people through short-term action in the fields of inspection, occupational health and safety and social welfare. The SETRASS, through the Subsecretariat for Labour Relations, undertook an initiative in April 2023 for the strengthening of the labour situation of the Honduran Misquito area, and particularly in the area of the municipality of Puerto Lempira. A work team participated in the initiative composed of the General Directorates of labour inspection, employment, social welfare and the Office of the Labour Prosecutor, which worked to strengthen the presence and broaden the framework of action by the SETRASS in the region so that it can provide the Misquito people and the population in general with access to a broad range of services that are normally located in the central headquarters or in the nearest regional offices, such as in Ceiba and Trujillo. The team held meetings with Government institutions and members of the community in Puerto Lempira and Kaurika to establish alliances and take common action: including, for example, training on the implementation of occupational safety and health regulations in underwater dive-fishing, the discussion on decompression sickness and the implementation of socio-economic studies on a sample of two dive-

fishing families, one of an injured dive-fisher and one of the family of an active dive-fisher in the community.

With reference to labour inspection activities, the Government makes reference to the following: the establishment of joint procedures with the personnel of the hospital of Puerto Lempira for the referral of cases of employment accidents of dive-fishers for further attention and the calculation of compensation payments by the SETRASS; the assessment of two dive-fishers who had suffered from inadequate decompression for the delivery of the respective medical diagnosis; accompanying normal inspections by labour inspectors from Puerto Lempira to approve the action taken and the documentation required in each of the cases set out in the Labour Inspection Act; the establishment of channels of communication and procedures for use between the Puerto Lempira and La Ceiba offices for the inclusion of the local office in Roatán in the investigation of administrative complaints by workers. The Government adds that a public pardon was issued as part of the action to give effect to the ruling in the case of the *Misquitos v. Honduras* and the recognition was coordinated of responsibility for violations of the human rights of 42 Misquito indigenous persons. Work is also being undertaken on socio-economic measures for the provision of cash transfers to dive-fishers with disabilities and their family members and the establishment of offices for disabled Misquito dive-fishers.

The Committee welcomes the recognition by the Government of the importance of taking measures to remedy the difficult situation faced by the Misquito people and the need to take specific measures, particularly to ensure that Misquito dive-fishers benefit from labour rights, as indicated by the mission. **The Committee encourages the Government to continue to take measures to improve the working conditions of Misquito dive-fishers, including through the reinforcement of the presence and activities of the labour inspection services.**

**Finally, the Committee encourages the Government to continue having recourse to ILO technical assistance in relation to all the matters raised.**

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

## Peru

### Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1994)

#### [Previous comment](#)

The Committee notes the Government's reply to the observations of the National Confederation of Private Business Institutions (CONFIEP) received in 2021. The Committee also notes the new observations of CONFIEP, received on 31 August 2023, and the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 15 September 2023. **The Committee requests the Government to provide its comments in this respect.**

*Article (3) of the Convention. Human rights and fundamental rights. 1. Judicial proceedings with respect to the murder of indigenous trade union leaders in Alto Tamaya-Saweto.* For a number of years the Committee has been asking the Government to take the necessary steps to investigate and punish those responsible for the violent murders of four indigenous leaders from the Asháninka indigenous community of Saweto (department of Ucayali) in September 2014, after the leaders had reported illegal logging in their community. The Committee notes the Government's indication in its report that on 23 February 2023 the Collegiate Penal Court of Ucayali handed down a ruling convicting five suspected perpetrators of the murders of aggravated premeditated homicide and sentencing them to 28 years' imprisonment.

The Committee notes that the CATP states in its observations that: (1) on 29 August 2023, the First Criminal Appeals Chamber of the High Court of Ucayali, in response to an appeal submitted by the accused, decided to quash the decision of the criminal court which had convicted the accused and ordered new oral proceedings to be initiated; (2) in its ruling the High Court established that the lower

court ruling did not fulfil the requirements for the assessment of circumstantial evidence and contained apparent motivation which should be corrected in oral proceedings; (3) the High Court also highlighted the fact that the proceedings were flawed because of a deficient investigation which had failed to furnish sufficient evidence to link the accused to the acts under investigation; (4) there were excessive delays in the investigation of the crime by the prosecution service and the necessary procedures were not implemented to locate all the perpetrators of the murders despite information having been supplied by witnesses; and (5) the information on the proceedings was withdrawn from the prosecution service without administrative proceedings having been opened against the prosecutors who had been in charge of the case.

Lastly, the CATP reiterates that the motive for the events of the case was illicit logging facilitated by the *habilitación* system in the area, which involves subjecting indigenous persons to forced labour and obliging them to provide the operator of the system with wood in exchange for the provision of foodstuffs, under an endless scheme of debt bondage. The CATP also claims that the perpetrators of the crime have not been arrested but are still in the vicinity of the community and continue to engage in illicit activities on the territory of the Saweto community, thereby creating a constant situation of insecurity for the families of the victims and the community; that some members of the victims' families who moved to the city continue to receive threats; and that the chief spokesperson for the families of the murdered leaders was the victim of reprisals in the city of Pucallpa.

The Committee **deeply deplores** the fact that, ten years after the murders of the indigenous leaders in Alto Tamaya–Saweto, the criminal proceedings which would enable all the perpetrators and instigators of these murders to be punished have still not been concluded. The Committee recalls the importance that it attaches to the expeditious conclusion of judicial proceedings since justice delayed amounts to justice denied. The Committee also notes with **concern** the new allegations regarding threats and assaults on the personal integrity of members of the victims' families. **While recalling that a climate of violence and impunity constitutes a serious obstacle to the exercise of the rights of indigenous peoples established in the Convention, the Committee once again strongly urges the Government to take the urgent measures which are needed to: (i) protect the life, physical safety and psychological well-being of the members of the families of the murdered indigenous leaders; (ii) provide all the necessary resources to ensure that all the perpetrators and/or instigators of these murders are prosecuted and punished once and for all.**

The Committee also notes with **regret** that the Government has not provided the requested information on progress in the investigations into the complaints concerning illegal logging and the cases of forced labour linked to the *habilitación* system in the department of Ucayali. **The Committee urges the Government to provide detailed information in this respect.**

2. *Protection of indigenous human rights defenders.* The Committee notes that the Government, in reply to its comments on the need to protect the integrity of indigenous peoples and their leaders in exercising the defence of their rights, reports the adoption in 2022 of the Protocol on prosecution action to prevent and investigate crimes against human rights defenders, the aims of which are to: (i) establish procedures to prevent criminal conduct related to damaging the legal assets of these rights defenders; (ii) define guidelines for the investigation of crimes against rights defenders; and (iii) define procedures for the care and protection of rights defenders, including their family members and witnesses. The protocol includes indigenous peoples in the category of human rights defenders.

The Government also indicates that, as part of the inter-sectoral mechanism for the protection of human rights defenders, the Register of risk situations faced by human rights defenders was established. The register makes it possible to collect, analyse and manage information on high-risk areas for the work of human rights defenders and the most frequent patterns of attack, in order to implement prevention and protection measures. The inter-sectoral mechanism can be activated through an early warning procedure which allows the adoption of urgent measures to eliminate or

reduce the risks faced by human rights defenders. The Committee also notes that the Ministry of Justice and Human Rights (Ministry of Justice) has promoted the setting up of regional committees for the protection of human rights defenders in order to address and follow up on risk situations for rights defenders who are faced with illicit activities such as drug trafficking, illegal logging and land trafficking. As at 2023, three regional committees had been established in the regions of Madre de Dios, Ucayali and San Martín. The Ministry of Justice has also conducted high-level visits to areas considered high-risk, such as Ucayali, Huánuco, Piura and Madre de Dios. In this context, the Ministry has met indigenous representatives from the Peruvian rainforest in order to conduct a dialogue on making progress on the protection of human rights defenders.

The Committee notes that CONFIEP states in its observations that the increase in illegal and informal activities such as illegal logging and mining within the territories of indigenous peoples in the country is a source of the utmost concern, particularly because the indigenous peoples are being threatened in this context while defending their territories and the environment. CONFIEP adds that the Government only provides for reactive measures with respect to human rights defenders, and so it only activates an alert or takes action after a harmful incident has occurred.

The Committee also notes the information from the Ombuds Office regarding the murder of the indigenous leader Santiago Contoricón in April 2023 after reporting the existence of illegal activities in the Asháninka territory in the province of Satipo. It also notes that in a joint communication issued on 30 November 2023, four ministries reported the murder of the indigenous leader Quinto Inuma Alvarado, *apu* (chief) of the indigenous community of Santa Rosillo de Yanayacu (region of San Martín) when he was returning to his community. Quinto Inuma Alvarado was an indigenous environmental defender who, according to the official newspaper *El Peruano*, was an activist against illegal logging. According to the communication, the national police is undertaking a thorough investigation of this crime.

The Committee further notes that according to the report entitled *Observations on the human rights situation in the context of the protests in Peru*, published on 19 October 2023 by the Office of the United Nations High Commissioner for Human Rights, there are various testimonies that during the national protests that occurred between December 2022 and September 2023: (i) there was an excessive use of force by the police against indigenous persons in regions outside the capital; and (ii) there were stigmatizing speeches and racist harassment inciting violence against demonstrators belonging to indigenous communities, particularly indigenous women. The Committee also notes that, according to the report published in 2023 by the Inter-American Commission on Human Rights concerning the human rights situation in Peru in the context of the social protests, the protests initiated in December 2022 were mostly driven by indigenous peoples in the regions of Apurímac, Ayacucho, Puno and Arequipa, where the highest numbers of victims of violence were recorded.

The Committee notes with **deep concern** this information indicating the persistence of acts of violence and attempts against the life of indigenous persons in the context of defence of their rights.

***While commending the various measures adopted by the Government to prevent and investigate acts of violence and protect the integrity of indigenous human rights defenders, including in remote areas, the Committee takes note with deep concern of the persistence of such acts and therefore strongly urges the Government to intensify its efforts to guarantee a climate free of any kind of violence for indigenous peoples and their defenders. In this regard, the Committee requests the Government to take the necessary steps to prevent, investigate and punish not only the excessive use of force by public law enforcement bodies against indigenous persons in the context of protests in defence of their rights but also the use of racist speeches inciting violence. The Committee also requests the Government to strengthen the inter-sectoral mechanism for the protection of human rights defenders, in particular to protect indigenous rights defenders who are faced with illicit activities such as illegal logging and mining in the Amazon region.***

*Article 6. Consultation.* In reply to the observations of CONFIEP on the need to follow up on agreements reached as a result of consultations, the Government indicates that such follow-up action is taken through the Standing Multisectoral Committee for the Application of the Right to Consultation, attached to the Ministry of Culture, in which national indigenous peoples' organizations participate. The Ministry of Culture also provides assistance to entities that promote consultations on key points of agreements (beneficiaries, activities to be performed and related deadlines, source of verification, and so on). As at September 2023, a total of 1,155 agreements had been processed by the technical secretariat of the Multisectoral Committee, corresponding to 45 consultation processes. The Government also indicates that between July 2021 and April 2023 the Directorate for Prior Consultation trained 4,570 public officials and indigenous persons.

The Committee notes that the Ombuds Office of Peru, in the annex to its report published on 28 September 2023 relating to the fourth cycle of the universal periodic review, refers to the lack of regulations covering the holding of consultations with indigenous peoples on legislative measures.

***The Committee encourages the Government to continue taking steps to ensure the effective implementation of processes of consultation with the indigenous peoples and requests the Government to provide information on the activities of the Standing Multisectoral Committee for the Application of the Right to Consultation, explaining the manner in which the aforementioned Committee follows up on agreements and takes action in cases of non-compliance with agreements concluded in the consultation processes. The Committee also requests the Government to provide information on the applicable procedure for consulting indigenous peoples on measures which may affect them directly.***

*Articles 7 and 15. Consultation and impact assessment. Mining projects.* The Committee notes the Government's indication that, further to the adoption of Ministerial Decision No. 254-2021-MINEM/DM, the body responsible for implementing consultations in the mining sector is the General Office of Social Management (OGGS) at the Ministry of Energy and Mining. As at 2023, the OGGS has carried out 34 consultation processes, of which 27 correspond to mining exploration projects and 7 to exploitation projects. The Committee notes that, under section 3 of the Decision, the consultation process can begin once the corresponding environmental certification has been issued by the Ministry of the Environment and before the mining concession is authorized. The OGGS will proceed to identify whether there are indigenous peoples whose rights might be affected only after approval of the environmental management instrument, which must include information from the mining operator on the possible impact on collective rights. The Committee also notes that the Ombuds Office, in its report published on 28 September 2022 relating to the fourth cycle of the universal periodic review, indicates that the Government has not guaranteed any consultation of indigenous peoples during the environmental impact assessment stage on measures which may affect them directly.

The Committee recalls that, under *Article 7(3)* of the Convention, governments must ensure that, whenever appropriate, studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The Committee considers that, in order for the consultation process to be full and indigenous peoples to have all the necessary information to take an informed decision, the cooperation of these peoples must be ensured with regard to both the environmental impact assessment and the assessment of the social, spiritual and cultural impact of the project in question.

The Committee also notes the detailed observations of CONFIEP regarding the implementation of prior consultation in the mining sector. In this regard, the Committee notes CONFIEP's claim that there is no clarity regarding the way in which the indigenous peoples to be consulted are identified or regarding the way in which the impact is determined; nor is there any clear framework on how to proceed when indigenous peoples refuse to participate in consultations.

***The Committee requests the Government to take steps to identify and address the difficulties which continue to arise in the implementation of consultation processes in the mining sector and requests it to provide information on:***

- ***how provision is made to secure the cooperation of the indigenous peoples in assessing the social, spiritual, cultural and environmental impact of mining exploration or exploitation projects which may affect their rights;***
- ***the criteria used by the Ministry of Energy and Mining to determine which indigenous peoples must be consulted with regard to a project; and***
- ***the measures taken to inform indigenous peoples regarding the importance of consultation and to promote their participation in these processes.***

*Article 14. Lands.* The Committee notes with **regret** that the Government has not provided any information on progress regarding processes for the identification, demarcation and titling of the lands traditionally occupied by the peoples covered by the Convention.

The Committee notes that the Ombuds Office emphasizes in its report of 28 September 2022 that there are some 1,700 native and *campesino* (peasant farming) communities for which land titling is pending, and refers to the need to simplify existing administrative procedures for the legal and physical regularization of the communities. The Committee also notes that the United Nations Human Rights Committee, in its concluding observations on Peru, expressed concern at the lack of legal certainty regarding the titling of indigenous territories and at the high levels of pollution in these territories from hydrocarbons and minerals (CCPR/C/PER/CO/6).

***The Committee once again urges the Government to take the necessary steps to move forward in the processes for the identification, demarcation and regularization of the lands traditionally occupied by the peoples covered by the Convention in the various regions of the country, and requests the Government to provide detailed information 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 2024.]***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 107** Syrian Arab Republic **Convention No. 169** Argentina, Bolivia (Plurinational State of), Germany, Honduras, Peru.

## Specific categories of workers

### Poland

#### Nursing Personnel Convention, 1977 (No. 149) (ratification: 1980)

##### [Previous comment](#)

The Committee notes the observations of the Independent and Self-Governing Trade Union "Solidarność", received on 30 August 2021 raising issues addressed by the Committee below, as well as the Government's reply thereon.

*Articles 2 and 5 of the Convention. National policy concerning nursing services and nursing personnel. Consultations with social partners.* The Committee notes that the Government informs of the adoption on 15 October 2019 of the "Long-term State Policy for the Development of Nursing and Midwifery in Poland" (hereinafter "State Policy"). Its objective is to ensure access to high quality nursing and midwifery care by increasing the number of nurses and midwives in the Polish healthcare system. In this regard, it envisages the adoption of measures to motivate persons to enter into the profession, halt their economic migration and retaining nurses and midwives, including those acquiring retirement rights. According to information available in the government's website, the State Policy envisages the adoption of measures to improve the working conditions of nurses and midwives; determine the actual number of nurses and the number of midwives in the health care system; and develop mechanisms to motivate medical entities with an agreement with the National Health Fund to define minimum employment standards. With regard to the conditions of remuneration of nursing personnel, the Government refers to the introduction of several amendments to the Act of 8 June 2017 on the manner of determining the lowest base remuneration of employees in medical professions employed in medical entities (hereinafter "Act of 8 June 2017"). Changes were introduced to the annex to the Act of 8 June 2017 related to the different professional groups of nurses and midwives and work factors applicable to the determination of their lowest base salary (Act of 13 September 2018). Moreover, the base amount on the basis of which the lowest base remuneration is calculated, was increased from Polish zloty (PLN)3,900 (approximately US\$897.31) to PLN4,200 (US\$966.51) (Act of 19 July 2019). In addition, following consultations with employers' and workers' organizations that were reflected in the position of the Tripartite Team for Health Care of 17 March 2021, the requirement for all health entities to achieve the statutory guaranteed levels of base salaries of medical employees took effect on 1 July 2021 (Act of 28 May 2021). The work coefficients for persons employed in nursing or midwifery positions where a bachelor's degree is required was increased from 0.73 to 0.81. Therefore, as of 1 July 2021, the lowest base salary was fixed at PLN4,186 gross (approximately US\$963.25) for nurses and midwives employed in positions where a bachelor's degree is required. Moreover, the Government refers to the adoption of the Act of 27 November 2020 amending certain acts in order to ensure health personnel during the declaration of the state of epidemic emergency, which established that medical entities employing nurses or midwives, which obtained an increase in remuneration on the basis of regulations issued pursuant to Act of 27 August 2004 on health care services financed from public funds (section 137 paragraph 2), are obliged to provide them with remuneration in an amount not lower than their remuneration they received on 30 June 2021. This requirement was introduced into the Act at the request of the Polish National Trade Union of Nurses and Midwives. Furthermore, since February 2021, tripartite consultations have been held within the Tripartite Team for Health Projection regarding further amendments to be introduced to the Act of 8 June 2017. During its meetings, it was agreed to continue working on the regulation of minimum remuneration in line with the envisaged increase in health care financing at 7 per cent by 2027. Lastly, the Committee notes that the Government indicates that, in the framework of the project "Development of nursing competences" a campaign was launched to promote the nursing and midwifery profession. **The Committee requests the Government to continue**



***to provide information on the content and the impact of the measures taken to ensure that all nursing personnel are provided with employment and working conditions, including in relation to career prospects and remuneration, aimed at attracting individuals to the profession and retaining them in the nursing profession. In particular, it requests to provide information on those measures taken in the framework of the State Policy.***

*Article 3. Education and training of nursing personnel.* The Committee observes that the State Policy envisages the adoption of measures to increase the number of students and to improve the quality of education in the fields of nursing and midwifery as well as changes in the postgraduate education system. The Committee also notes the Government's indication that a six-day paid training leave for nurses and midwives was introduced with the aim of increasing the number of nursing personnel undertaking postgraduate education, and thus improving their professional qualifications and competencies. The possibility of taking up education in the nursing profession in a part-time was also introduced. The Government reports that the Ministry of Health provides annual subsidies for the professional development of nurses and midwives (of a maximum of PLN3,950 per student – approximately US\$908.46 – during the entire period of specialization). ***The Committee requests the Government to provide detailed information on the nature, the content and the impact of the measures adopted with a view to ensuring that nursing personnel are provided with education and training appropriate to the exercise of their functions, including those adopted in the framework of the State Policy.***

*Article 6. Employment conditions of nursing personnel under civil law contracts.* The Committee notes that, in its observations, Solidarność argues that a large number of nursing personnel work in healthcare entities on the basis of civil law contracts, which are not covered by the working standards established in the Act of 15 April 2011 on medical activity (hereinafter "Act of 15 April 2011") and the Labour Code. Solidarność points out that, as of 1 July 2020, there were 166,525 nurses working under employment contracts, 47,672 under civil law contracts, and 465 working in the framework of a professional relationship. Solidarność claims that nurses employed on civil law contracts work from 14-hour to 24-hour shifts, often working more than 200 hours per month. Solidarność states that, according to a survey carried out by the Digital Nurses Association, among 2,334 women and 195 men in the nursing and midwifery profession, 42 per cent of the respondents earned between PLN3,001 (approximately US\$689.95) and PLN4,500 (approximately US\$1,034.65), 35 per cent between PLN2,500 (approximately US\$574.93) and PLN3,000 (approximately US\$689.93), and 12.1 per cent between PLN4,001 (approximately US\$920.04) and PLN5,000 (approximately US\$1,149.77). Moreover, 45.4 per cent of the respondents worked in an additional medical entity, most of them due to economic needs. In its reply, the Government indicates that, in accordance with the Act of 15 April 2011 and Act of 15 July 2011 on the profession of nurse and midwife, nurses can be employed in a medical entity under both employment and civil law contracts, and they may also practice the profession in the form of self-employment. Regarding the applicability of the working time limits and standards established in the legislation to nursing personnel under civil law contracts, the Government indicates that a civil law contract concluded by the head of a medical entity with a nurse or other health employee, the subject of which is to provide healthcare services, should guarantee not only the proper functioning of a medical entity but above all the safety of both patients and employed staff. The Government adds that, if concluded contracts lack a guarantee of necessary daily and weekly rest, they do not guarantee the provision of proper care to patients.

In this respect, the Committee observes that the recourse to non-standard forms of work has been increasing globally, resulting in greater use of temporary work, part-time work, temporary agency work and subcontracting, dependent self-employment and disguised employment relationships. It notes that well-designed and regulated non-standard forms of employment (NSFE) can provide flexibility to both employers and workers and facilitate the participation of workers in the labour market by allowing those who wish to freely choose part-time work arrangements to better reconcile work, life

and family responsibilities. However, at the same time, certain flexible forms of employment are often associated with greater insecurities for workers and when widespread, workers risk cycling between non-standard jobs and unemployment. Where contractual arrangements have blurred the employment relationship, there is evidence that workers have difficulty exercising their fundamental rights at work, or gaining access to social security benefits and on-the-job training. Employment injury rates are also higher among workers in NSFE. From the employer perspective, short-term cost and flexibility gains from using NSFE may be outweighed by longer-term productivity losses. There is evidence that greater reliance on NSFE tend to underinvest in training, both of temporary and permanent employees, as well as in productivity-enhancing technologies and innovation. The Committee therefore wishes to highlight that it is essential to design policies to improve the quality of non-standard jobs, while helping enterprises to adjust to market volatility and to guarantee that, regardless of their contractual arrangement, workers are provided with adequate and stable earnings, protection from occupational hazards, social protection and the right to organize and bargain collectively (2022 General Survey on [Securing decent work for nursing personnel and domestic workers, key actors in the care economy](#), paragraphs 440, 443 and 1097 (i)). **Recalling that the Convention applies to all nursing personnel irrespective of their employment status (Article 1(3) of the Convention), the Committee requests the Government to provide specific information on the manner in which it is ensured that nurses and midwives working under civil law contracts enjoy conditions at least equivalent to those of other workers in the country, particularly with regard to the terms and conditions of employment stipulated in Article 6 of the Convention.**

*Application in practice. The Committee requests the Government to provide updated detailed information on the application of the Convention in practice, including statistical data disaggregated by sex, age and region concerning: the ratio of nursing personnel to the population; the number of persons enrolled in nursing schools; the number of female and male nurses who enter and leave the profession each year; the organization and the operation of all institutions which provide healthcare services; as well as official studies, surveys and reports addressing health workforce issues in the health sector.*

## Russian Federation

### Nursing Personnel Convention, 1977 (No. 149) (ratification: 1979)

#### [Previous comment](#)

*Article 2(b) and 5 of the Convention. National policy concerning nursing services and nursing personnel. Working conditions. Working time and remuneration.* The Government indicates that in order to eliminate staff imbalances in medical organizations and their units located in rural areas or in workers' settlements, urban-type settlements and cities with a population of up to 50,000 persons, since 2018 the Government has co-financed the expenses of medical workers, including nursing staff (paramedics), posted from cities to rural areas, through one-off compensation payments with the aim of retaining these medical workers on a permanent basis. The Government further indicates that current legislation provides for the differentiation of five levels of remuneration for nursing staff based on the qualifications, complexity and specificity of the professional activity. Moreover, an assessment of the development of workers' skills is carried out as part of their certification for qualification categories, with a corresponding increase in the level of salaries. The Government also reports that obtaining a qualification category or recognition of a high level of specialist training grants a slight increase in salary, but not greater clinical powers. At the federal level, the average salary for nursing staff in each healthcare organization must be at least 100 percent of the average monthly labour income in the region. According to the Government, specific remuneration agreements have been established at the medical organization level. Furthermore, the Government reports that all health care workers have a reduced working time of 39 hours per week (as opposed to 40 hours per week in other sectors).

Depending on the complexity of the work, additional social benefits are granted in the form of reduced working hours by a percentage (36, 33, 30, 24 hours per week) and, in the case of employees working under harmful conditions, they are granted increased paid annual leave. As for shift work, it is regulated by collective agreement in a medical organization and is usually for periods of 12 or 24 hours. The Government further states that the health care system has a unified nomenclature of specialties, which provides for differentiation of nurses and other comparable staff in terms of qualification level in various areas of health care with limited access to employment based on educational background. According to the Government, consultations are currently underway between the federal health authority and the social partners, including the professional nursing association to decide whether this nomenclature needs updating. ***The Committee requests the Government to continue to provide detailed updated information on the nature and impact of the measures taken to provide nursing personnel with employment and working conditions, including career prospects and remuneration, which are likely to attract persons to the profession and retain them in it, particularly in rural and remote areas of the country. In addition, the Committee requests the Government to supply information regarding wages, benefits and career prospects for nurses as compared to other similar occupations in all regions. The Committee also requests the Government to provide up-to-date information on the consultations carried out with the employers' and workers' organizations concerned, with regard to such measures, including the results of the consultations on the updating of the unified nomenclature of specialties.***

*Article 2(2)(a) and (3). Education and training.* The Government indicates that, under the 2018 Healthcare National Project, the Federal Project "Providing health system medical organizations with qualified personnel", provides for the implementation of a set of measures in the area of education and training aimed at increasing the number of nurses, included those whose training is financed from the state and municipal budgets; and developing specific training to prepare a professional for a known job position in advance, with additional benefits and social support during the training period. The Government further indicates that there is a unique bachelor's degree programme in nursing which offers the same conditions and the same programme to medical graduates and nursing graduates from medical schools, including those with specialized work experience. Moreover, in order to increase the number of doctors and nurses, Decree No. 1304 of 9 October 2019 on the "Principles of modernization" of primary health care was issued, which ordered the increase of the number of students in professional educational organizations by at least 30 percent annually due to the existing shortage of specialists (section 1.4.7), by training specialists with secondary medical education, starting 2020/21. In 2021-22, it was envisaged to increase the total number of admissions for specialty, bachelor's and master's degree programmes by 7.8 per cent compared to previous year. On the other hand, the Government indicates that in order to support the employment of nurses in rural areas and remote settlements it attracts school-leavers living in these places with accommodation and social support measures for the duration of their studies; and establish a network of college branches in isolated areas. ***The Committee requests the Government to provide information on the nature and the impact of the measures implemented in the framework of the Decree No. 1304 of 9 October 2019 on the "Principles of modernization" of primary health with regards to the increase of the number of nurses, as well as on any measures taken or envisaged to ensure that nursing personnel are provided with education and training appropriate to the exercise of their functions. It further requests the Government to continue to provide statistical information, disaggregated by sex, age and region, on the number of persons enrolled in nursing schools and the number of female and male nurses who enter and leave the profession each year, including in rural and remote areas of the country.***

*Article 7. Occupational safety and health.* The Government indicates that Federal Law No. 426-FZ of 28 December 2013 on the special assessment of working conditions provides that the assessment of risks in the workplace of nurses is carried out through a special procedure that takes into account the hazard class. In case of working in harmful and/or dangerous working conditions, medical workers, including nurses, receive additional salary and holidays. The Committee welcomes the information that

negotiations between the federal health authority and professional nursing associations take place regularly to ensure effective protection of the occupational safety and health at work of nurses. **Recalling the recent recognition of the right to a safe and healthy working environment as a fundamental principle and right at work, the Committee requests the Government to provide copies of collective agreements that have been concluded between the federal health authority and professional nursing associations regarding the occupational safety and health at work of nurses. It also requests the Government to provide information on any safety measures taken or envisaged to improve working conditions in respect of safety, health and security for nursing personnel.**

*Application in practice.* The Committee notes that, according to the latest accessible OECD data, in 2019 there were 8.5 nurses per 1,000 inhabitants. **The Committee requests the Government to provide information, including updated statistics, on how access to healthcare in both rural and urban areas has evolved over the last 10 years. The Government is also asked to supply copies of reports by inspection services as regards compliance with the labour law framework in the healthcare sector. It also requests the Government to provide updated detailed information on the application of the Convention in practice, including statistical data disaggregated by sex, age and region concerning: the ratio of nursing personnel to the population; the organization and the operation of all institutions which provide healthcare services; as well as official studies, surveys and reports addressing health workforce issues in the health sector.**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 149** Belarus, Belgium, Italy, Philippines **Convention No. 172** Belgium, Netherlands (Sint Maarten) **Convention No. 177** Belgium **Convention No. 189** Belgium, Brazil, Madagascar, South Africa.

## ► II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution)

---

### Albania

*Failure to submit.* The Committee notes with **regret** that the Government once again has not replied to its previous observations. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **Referring to its previous observations, the Committee reiterates its request that the Government provide information on the submission to the Albanian Parliament of 25 instruments: the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted by the Conference at its 82nd Session, the Promotion of Cooperatives Recommendation, 2002 (No. 193), the List of Occupational Diseases Recommendation, 2002 (No. 194), adopted by the Conference at its 90th Session, as well as the instruments adopted at the 78th, 84th, 86th, 89th, 92nd, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (the Violence and Harassment Recommendation, 2019 (No. 206)).**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

### Angola

*Serious failure to submit.* The Committee notes the information provided by the Government indicating that the 19 pending instruments were transmitted to the Ministry of Foreign Affairs on 29 May 2023. The Government further indicates that the instruments were discussed with the social partners in the framework of the tripartite National Commission of the International Labour Organization. However, no information has been received regarding the submission of those instruments to the National Assembly. In this regard, the Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again reiterates its request that the Government provide the information required under article 19 of the ILO Constitution on the 19 instruments pending submission to the National Assembly. These are: the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180), adopted by the Conference at its 79th Session; the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted by the Conference at its 82nd Session; and the instruments adopted at the 86th, 91st, 92nd, 94th, 95th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference (2003–19).**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Antigua and Barbuda

*Failure to submit.* The Committee notes with **regret** that the Government has yet again provided no reply to its 2018 direct request. It therefore recalls the information provided by the Government in April 2014 that the instruments adopted by the Conference from its 83rd to its 101st Sessions (1996–2012) were resubmitted by the Minister of Labour to the Cabinet of Antigua and Barbuda on 11 March 2014. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***In this context, the Committee reiterates once again its request that the Government specify the dates on which the 13 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 reiterates its request that the Government provide information on the submission to Parliament of the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, and the Violence and Harassment Recommendation, 2019 (No. 206), adopted by the Conference at its 108th Session.***

*Tripartite consultation.* The Committee notes with **interest** the ratification of the Maternity Protection Convention, 2000 (No. 183) and the Violence and Harassment Convention, 2019 (No. 190) by Antigua and Barbuda on 6 and 9 May 2022, respectively. ***It requests the Government to provide information on the tripartite consultations held prior to the ratification, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).***

## Bahamas

*Failure to submit.* The Committee notes with **interest** that on 30 November 2022, the Government ratified the Violence and Harassment Convention, 2019 (No. 190), as well as the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159). The Committee welcomes the information provided by the Government indicating that a draft report was prepared with technical assistance from the ILO Caribbean Office containing 24 instruments pending submission adopted by the Conference at 15 sessions held between 1997 and 2017. The Committee notes, however, that the report lacks information regarding the submission of the Violence and Harassment Recommendation, 2019 (No. 206). This Recommendation is associated with Convention No. 190 and also needs to be submitted to the competent authority in the event of ratifying the said Convention. It further notes the Government's indication that the report will be sent to Cabinet for approval prior to submission to Parliament. ***The Committee expresses the hope that the Government will take the necessary measures to complete the submission process without delay. It once more requests the Government to provide information on the submission to Parliament of the 25 instruments adopted by the Conference at 15 sessions held between 1997 and 2019 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).***

## Bahrain

*Failure to submit.* The Committee recalls that, for a number of years, it has been requesting the Government to submit the instruments adopted by the International Labour Conference to the National Assembly in compliance with its obligation of submission pursuant to article 19 of the ILO Constitution. In this respect, it notes the information provided by the Government in its communication of 11 July 2023, in which it reiterates that: (i) it has complied with its constitutional obligations by submitting the instruments adopted by the International Labour Conference to its Council of Ministers, as the competent authority; and (ii) indicated that a new mechanism for submission of the instruments

adopted by the Conference would require the revision of the Constitution of Bahrain and of a number of laws which regulate this aspect and which specify the mandate and powers of the Council of Ministers. In this regard, the Committee notes that, in order to fully comply with the constitutional obligation of submission, Bahrain may wish to transmit the instruments adopted by the International Labour Conference to the Council of Representatives (the lower house of the Bahraini National Assembly for information), once the Council of Ministers has reviewed them.

Against this backdrop, the Committee recalls once more that when a State decides to become a Member of the Organization it accepts to fulfil the obligations established in the Constitution, such as the obligation to submit to the competent authorities the instruments adopted at the Conference. It emphasizes, however, that the obligation of ILO Member States to submit the instruments adopted by the Conference to the competent authorities does not imply any obligation to propose the ratification or application of the instruments in question, or to take any other specific action. Pursuant to article 19 of the ILO Constitution, Member States have complete freedom as to the nature of the proposals to be made, if any, when submitting the instruments. In this respect, the Committee once again draws the attention of the Government to the [Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted by the Governing Body in 2005](#), particularly Part I on the aims and objectives of submission.

The Committee understands that, in Bahrain, the Council of Ministers is the authority competent to ratify a Convention or Protocol, as well as to decide on any other action which it may deem appropriate in respect of the instruments adopted by the Conference (2005 Memorandum, Part I(b)). The Committee nevertheless recalls once again that, for the purposes of article 19 of the ILO Constitution, discussion in a deliberative assembly – or at a minimum transmission to a deliberative assembly of information concerning the instruments adopted by the International Labour Conference – is an essential component of the constitutional obligation to submit, as indicated in the 2005 Memorandum (2005 Memorandum, Part I(c) and Part II(c)). This obligation is applicable even in cases where legislative power is vested in the executive by virtue of the Constitution of the Member State. The obligation to submit is twofold: (1) to encourage ratification or application of instruments adopted by the Conference through submission to the competent authority empowered to consider ratification; and (2) to bring the instruments adopted by the Conference to the knowledge of the public through their submission to a parliamentary or deliberative body. Given the importance of the latter objective, the Committee has noted that, even in the absence of a parliamentary body, informing a consultative body makes it possible to carry out a full examination of the instruments, ensuring that they are widely disseminated among the public, which is one of the purposes of the obligation of submission (2005 Memorandum, Part II(d)).

***The Committee therefore once again expresses the hope that the Government will take urgent measures to further examine this matter in order to ensure full compliance with this twofold obligation to submit, established in article 19 of the ILO Constitution, and that it will soon be in a position to report not only on the submission to the Council of Ministers of the 25 instruments adopted by the Conference at 14 sessions held between 2000 and 2019 (88th Session, 89th Session, 90th Session, 91st Session, 92nd Session, 94th Session, 95th Session, 96th Session, 99th Session, 100th Session, 101st Session, 103rd Session, 104th Session and 108th Session), but also on the submission of these instruments to a deliberative assembly such as the Council of Representatives.***

## Belize

*Serious failure to submit.* The Committee notes once again with **deep concern** that the Government has provided no reply to its previous observations. It recalls once again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee expresses the firm hope, as did the Conference Committee in June 2017, June

2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). ***The Committee once again urges the Government to provide information on the submission to the National Assembly of the 43 pending instruments adopted by the Conference at 22 sessions held between 1990 and 2019. It once again reminds the Government of the availability of ILO technical assistance in meeting its submission obligations.***

## Plurinational State of Bolivia

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has not provided a reply to its previous comments. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee notes that information has not been provided on the submission to the Plurinational Legislative Assembly of 31 instruments adopted by the Conference at 20 sessions between 1993 and 2019. ***The Committee firmly urges the Government to provide information on the submission to the Plurinational Legislative Assembly of the 31 instruments adopted by the Conference since 1993 for which submission is still pending. It once again reminds the Government that it may avail itself of ILO technical assistance if it so wishes.***

## Botswana

The Committee notes with **satisfaction** the information provided by the Government regarding the submission on 31 March 2023 to the National Assembly of the seven instruments adopted by the Conference at its 101st, 103rd, 104th, 106th and 108th Sessions (2012–19). ***The Committee commends the efforts made by the Government in fully meeting its constitutional obligation of submission.***

## Brunei Darussalam

*Serious failure to submit.* The Committee welcomes the information provided by the Government indicating that it recognizes the need to identify the appropriate mechanisms and platforms at the national level to fulfill the obligation of submission. The Committee notes the Government's request for technical assistance from the Office in this regard and its commitment to collaborate to fully meet its constitutional obligation of submission. ***The Committee trusts that the technical assistance will be provided without delay and requests the Government to keep it informed of any developments in this respect. The Committee once again firmly urges the Government to provide information on the submission to the competent national authorities, within the meaning of article 19(5) and (6) of the ILO Constitution, of the 12 instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19).***

## Burkina Faso

*Submission.* The Committee notes with **satisfaction** the information provided by the Government regarding the submission to the National Assembly of the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at the 106th Session of the Conference, and the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session, on 7 July 2022. ***The Committee commends the Government for its efforts in fully meeting its constitutional obligation of submission.***



## Central African Republic

*Submission.* The Committee notes with **satisfaction** the information provided by the Government regarding the submission on 28 April 2023 to the National Assembly of the eight instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–18), as well as of the Violence and Harassment Recommendation, 2019 (No. 206), adopted by the Conference at its 108th Session. **The Committee commends the efforts made by the Government in fully meeting its constitutional obligation of submission.**

## Chad

The Committee notes with **satisfaction** the information provided by the Government regarding the submission, on 8 September 2023, to the legislative body, the National Transitional Council, of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19). **The Committee commends the efforts made by the Government in meeting its constitutional obligation of submission.**

## Chile

*Submission.* The Committee notes with **interest** the ratification of the Violence and Harassment Convention, 2019 (No. 190), on 12 June 2023. The Committee notes however that the Government once again has not provided a reply to its previous comments. **The Committee therefore reiterates once again its request that the Government provide information on the submission to the National Congress, indicating the dates of submission, of the remaining 25 instruments adopted at 16 sessions of the Conference between 1996 and 2017 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th (the Employment Relationship Recommendation, 2006 (No. 198)), 96th, 99th, 101st, 103rd, 104th and 106th Sessions).**

**The Committee recalls that the Government may avail itself of the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Comoros

*Failure to submit.* The Committee notes once again with **deep concern** that the Government has not replied to its previous observation. The Committee recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once more expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It therefore once again firmly urges the Government to provide information on the submission to the Assembly of the Union of Comoros of the 45 instruments adopted by the Conference at the 23 sessions held between 1992 and 2019.**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

*Tripartite consultations.* The Committee notes with **interest** the ratification of the Protocol of 2014 to the Forced Labour Convention, 1930 on 15 July 2021. **The Committee requests the Government to**

**provide information on the tripartite consultations held prior to the ratification, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

## Congo

**Failure to submit.** The Committee observes that there are 62 instruments pending submission. **The Committee therefore once again reiterates its request that the Government complete the submission procedure in relation to 62 Conventions, Recommendations and Protocols, adopted by the Conference during 32 sessions from 1970 to 2019, which have not yet been submitted to the National Assembly. The Committee reminds the Government of the continued availability of ILO technical assistance to meet its constitutional submission obligations.**

**Consultations.** The Committee notes with **interest** the ratification on 26 October 2023 of the following instruments: the Migration for Employment Convention (Revised), 1949 (No. 97); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the Labour Relations (Public Service) Convention, 1978 (No. 151); the Collective Bargaining Convention, 1981 (No. 154); the Occupational Safety and Health Convention, 1981 (No. 155); and the Maintenance of Social Security Rights Convention, 1982 (No. 157). **The Committee requests the Government to provide information on the tripartite consultations held prior to the ratification of the abovementioned instruments, as required by Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

## Croatia

**Submission.** The Committee notes with **interest** the submission to the Croatian Parliament of the Protocol of 2014 to the Forced Labour Convention, 1930 and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), on 11 July 2023, and of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), on 15 July 2022. The Committee notes, however, that there are still 18 instruments pending submission. **The Committee therefore once again urges the Government to provide information on the submission to the Croatian Parliament of the remaining 18 instruments adopted by the Conference at 10 sessions held between 1998 and 2012 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, and 101st Sessions).**

## Democratic Republic of the Congo

**Serious failure to submit.** The Committee notes with **concern** that the Government has once again not replied to its previous observation. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again reiterates its request that the Government provide information on the ten instruments pending submission to Parliament, adopted during the past seven Sessions of the Conference (2010–19).**

## Dominica

**Serious failure to submit.** The Committee notes once again with **deep concern** that the Government has not provided a reply to its previous comments. It once more recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022, and June 2023 that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again firmly urges the Government to provide information on the submission to the House of Assembly of the 43 instruments adopted by the Conference during**

**22 sessions held between 1993 and 2019 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## El Salvador

***Submission.*** The Committee notes that the Government has not replied to its previous comments. It therefore notes once more that 57 instruments remain pending submission to the Legislative Assembly. ***Therefore, the Committee again firmly urges the Government to submit to the Legislative Assembly the 57 instruments adopted at the 25 sessions of the Conference held between October 1976 and June 2019.***

***The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Equatorial Guinea

***Serious failure to submit.*** The Committee again notes with ***deep concern*** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022, and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. Accordingly, the Committee once again firmly urges the Government to provide information on the submission to Parliament of the 37 instruments adopted by the Conference between 1993 and 2019. The Committee reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.***

## Gabon

***Serious failure to submit.*** The Committee notes with ***deep concern*** that for more than ten years the Government has provided no reply to its comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee firmly expects that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again firmly urges the Government to provide information concerning the submission to Parliament of the 27 instruments adopted at the 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference.***

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Gambia

*Serious failure to submit.* The Committee notes with **deep concern** that for more than ten years the Government has provided no reply to its comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee firmly expects that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again firmly urges the Government to provide information concerning the submission to Parliament of the ten instruments adopted at the adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Grenada

*Serious failure to submit.* The Committee notes with **deep concern** that for more than ten years the Government has provided no response to its 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 therefore once again urges the Government to communicate the date on which the instruments adopted by the Conference between 1994 and 2006 were submitted to the Parliament of Grenada and to provide information on the decisions taken by the Parliament, if any, in relation to the instruments submitted. The Committee also once again urges the Government to provide information on the submission to Parliament of the 11 instruments adopted at the 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference (2007–19).**

**The Committee reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Guinea

*Failure to submit.* The Committee notes with **deep concern** that the Government has yet again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again firmly urges the Government to provide information regarding the submission to the National Assembly of the 31 instruments adopted at 17 sessions held by the Conference between 1996 and 2019 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 101st, 103rd, 104th, 106th and 108th Sessions).**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Guinea-Bissau

*Submission.* The Committee notes with **deep concern** that the Government has yet again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again urges the Government to provide information on the**

**submission to the Assembly of the Republic of the 21 remaining instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 108th Sessions (2001–19).**

**The Committee once again reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Guyana

**Failure to submit.** The Committee notes with **deep concern** that the Government has yet again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again reiterates its request that the Government provide information on the submission to the Parliament of Guyana of the ten instruments adopted by the Conference at its 96th, 99th, 101st, 103rd, 104th, 106th and 108th Sessions. The Committee once again reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Haiti

**Serious failure to submit.** The Committee notes once again with **deep concern** that the Government has provided no response to its previous comments. It again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023 that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee therefore once again firmly urges the Government to provide information with regard to the submission to the National Assembly of the following 65 instruments:**

- **the remaining instruments from the 67th Session (Conventions Nos 154 and 155, and Recommendations Nos 163 and 164);**
- **the instruments adopted at the 68th Session;**
- **the remaining instruments adopted at the 75th Session (Convention No. 168, and Recommendations Nos 175 and 176); and**
- **the instruments adopted at 26 sessions of the Conference held between 1989 and 2019.**

**The Committee once again reminds the Government of the availability of ILO technical assistance to assist it in meeting its constitutional obligation of submission.**

## Hungary

**Serious failure to submit.** The Committee once again notes with **concern** that the Government has yet not responded to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee accordingly once again reiterates its request that the Government provide information on the submission to the National Assembly of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Iraq

*Failure to submit.* The Committee notes with **deep concern** that the Government has once again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. It therefore once again recalls the detailed information provided by the Government in November 2017, including the dates of submission to the Council of Representatives (Majlis Al-Nuwaab) of each of the instruments adopted by the Conference at its 88th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions (2000–12). The Committee further recalls the Government's indication that Recommendations submitted to the Council of Representatives were not examined by the Council, but were transmitted to the Ministry of Labour and Social Affairs which, according to the Government's indication, is the competent authority with respect to Recommendations. The Committee further recalls the information provided by the Government in March 2017, indicating that the Protocol of 2014 to the Forced Labour Convention, 1930, was submitted to the competent authority. It noted in this regard that no information was provided on the date of submission, or on whether the instrument in question was in fact submitted to the Council of Representatives (Majlis Al-Nuwaab).

Against this backdrop, the Committee once again recalls that when a State decides to become a Member of the Organization it accepts to fulfil the obligations established in the Constitution, such as the obligation to submit to the competent authorities the instruments adopted at the Conference. It emphasizes, however, that the obligation of ILO Member States to submit the instruments adopted by the Conference to the competent authorities does not imply any obligation to propose the ratification or application of the instruments in question, or to take any other specific action. Pursuant to article 19 of the ILO Constitution, Member States have complete freedom as to the nature of the proposals to be made, if any, when submitting the instruments. Submission does not imply any obligation to propose the ratification of a Convention or Protocol, nor does it imply the application of one or more of the principles set out in an unratified Convention or a Recommendation. In this respect, the Committee once again draws the attention of the Government to the 2005 Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted by the Governing Body in 2005, particularly Part I on the aims and objectives of submission.

The Committee understands that, in Iraq, the Ministry of Labour and Social Affairs is considered to be the competent authority in relation to the submission of Recommendations. The Committee nevertheless recalls once more that, for the purposes of article 19 of the ILO Constitution, discussion in a deliberative assembly – or at a minimum provision to a deliberative assembly of information concerning all of the instruments adopted by the International Labour Conference, regardless of whether these are Conventions, Protocols or Recommendations – is an essential component of the constitutional obligation to submit, as indicated in the 2005 Memorandum (2005 Memorandum, Part I(c) and Part II(c)). This obligation is applicable even in cases where legislative power is vested in the executive, as in this case the Ministry of Labour and Social Affairs, by virtue of the Constitution of the Member State. The obligation to submit is twofold: (1) to encourage ratification or application of instruments adopted by the Conference through submission to the competent authority empowered to consider ratification; and (2) to bring the instruments adopted by the Conference to the knowledge of the public through their submission to a parliamentary or deliberative body. Given the importance of the latter objective, the Committee has noted that, even in the absence of a parliamentary body, informing a consultative body makes it possible to carry out a full examination of the instruments, ensuring that they are widely disseminated among the public, which is one of the purposes of the obligation of submission (2005 Memorandum, Part II(d)).

***The Committee therefore once again expresses the hope that the Government will take urgent measures to further examine this matter in order to ensure full compliance with this twofold obligation to submit, established in article 19 of the ILO Constitution, and that it will soon be in a position to***

**provide more specific information on the submission to the Council of Representatives of the remaining 12 instruments adopted by the Conference from 2000 to 2015. The Committee also once again reiterates its request for the Government to provide information on the submission to the Council of Representatives of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, and the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session (June 2019). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Kazakhstan

*Submission to Parliament.* The Committee notes with **satisfaction** the information provided by the Government indicating that all pending instruments adopted by the Conference between 1993 and 2019 were submitted to Parliament on 24 July 2021. In addition, the Protocol of 2014 to the Forced Labour Convention, 1930, was submitted to Parliament on 29 May 2023. **The Committee welcomes the progress made by the Government in complying fully with its constitutional obligation of submission.**

## Kyrgyzstan

*Failure to submit.* The Committee notes with **deep concern** that the Government has once again failed to reply to its previous comments. The Committee therefore refers yet again to the comments it has been formulating since 1994, and recalls that, under article 19 of the ILO Constitution, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again firmly urges the Government to provide information on the submission to the competent national authority of the 43 instruments adopted by the Conference at 22 sessions held from 1992 to 2019. The Committee reminds the Government of the availability of ILO technical assistance to assist it in overcoming this serious delay.**

## Lebanon

*Serious failure to submit.* The Committee notes the information sent by the Government, received on 25 August 2023. It observes, however, that the Government's communication has not responded to its previous comments in which it urged the Government to indicate the date on which several instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17) have been submitted to the National Assembly (Majlis Al Nuwwab). Furthermore, with respect to the submission of the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session (June 2019), the Committee notes the Government's indication that it will consult with the Legislation and Consultation Authority in preparation for starting legal proceedings. **The Committee therefore again refers to its previous comments and urges the Government indicate the date on which the above instruments adopted by the Conference were submitted to the National Assembly (Majlis Al Nuwwab), and to provide information on the submission of the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, to the National Assembly (Majlis Al Nuwwab).**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Liberia

*Serious failure to submit.* The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in 2017, 2018, 2019, 2021, 2022 and 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It urges the Government to provide information without further delay on the submission to the National Legislature of the 25 instruments adopted by the Conference at its 77th, 82nd, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions.**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Libya

*Serious failure to submit.* The Committee once again notes with **deep concern** that the Government has yet again provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authorities. The Committee therefore urges the Government provide information without further delay on the submission to the competent national authorities (within the meaning of article 19(5) and (6) of the ILO Constitution) of the 37 Conventions, Recommendations and Protocols adopted by the Conference at 19 sessions held between 1996 and 2019.**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Malawi

*Failure to submit.* The Committee notes with **concern** that the Government has provided no reply to its previous comments. It once more recalls the information provided by the Government concerning the submission to the President on 12 December 2018 of the HIV and AIDS Recommendation, 2010 (No. 200), adopted by the Conference at its 99th Session, the Domestic Workers Convention, 2011 (No. 189), adopted by the Conference at its 100th Session, the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session. In addition, the Government indicated that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), was submitted to the competent authority. The Government has not provided information on the submission of the Violence and Harassment Convention (No. 190) and its Recommendation (No. 206), 2019. The Committee once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. While recalling the Government's indication that the President is a member of the Parliament, the Committee wishes to reiterate that the obligation of submission cannot be considered to have been fulfilled until the ILO instruments adopted have reached and been



submitted to the legislative body. **The Committee therefore once again requests that the Government provide information on the submission to Parliament, and the dates of submission, of the nine instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).**

**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.**

## Malaysia

**Failure to submit.** The Committee notes that the Government has not provided information in response to the Committee's previous comments with respect to the submission of pending instruments. The Committee therefore once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again reiterates its request that the Government provide information on the submission (including the date or dates of submission) to the Parliament of Malaysia of the 12 instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2006–19).**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Maldives

**Submission to Parliament.** The Committee notes with **satisfaction** the information provided by the Government indicating that the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19), were submitted on 2 January 2023 to the to the competent authority, the Parliament of the People (Majlis). **The Committee welcomes the progress made by the Government in complying with its constitutional obligation of submission.**

## Malta

**Submission.** The Committee notes with **interest** the ratification by Malta of the Domestic Workers Convention, 2011 (No. 189) on 14 May 2021. The Committee notes however that the Government has once again not responded to the Committee's previous comments with respect to the submission of pending instruments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore reiterates its request that the Government provide information on the submission to the House of Representatives of the ten instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19).**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Marshall Islands

*Submission to Parliament.* The Committee notes with **interest** the information provided by the Government indicating that the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19), were submitted to the competent authority, the Parliament (Nitijela) on 12 November 2021. The Committee further notes that a copy of the instruments and the accompanying submission report were provided to the social partners. The Committee notes, however, that the Government does not provide information on the submission of the two instruments adopted by the Conference at its 96th Session. ***The Committee welcomes the progress made by the Government in complying with its constitutional obligation of submission. It nevertheless reiterates its request that the Government provide information on the submission to Parliament (Nitijela) of the Work in Fishing Convention (No. 188) and its Recommendation (No. 199), 2007, adopted by the Conference at its 96th Session in 2007.***

## Mozambique

*Submission.* The Committee welcomes the information provided by the Government concerning the submission to the Assembly of the Republic on 24 May 2018 of 27 instruments adopted by the Conference at 16 sessions held between 1996 and 2017, as well as the submission to the Assembly of the Republic on 28 September 2021 of the Violence and Harassment Convention (No. 190), 2019, adopted by the Conference at its 108th Session. While the Committee notes the efforts made by the Government to comply with its submission obligation, it nevertheless notes that the Government has not provided information regarding the submission of the five instruments adopted by the Conference: the Home Work Convention (No. 177) and its Recommendation (No. 184), 1996, adopted by the Conference at its 83rd Session, the Seafarers' Identity Documents Convention (Revised) (No. 185), 2003, as amended, adopted by the Conference at its 91st Session, the Framework for Occupational Safety and Health Convention (No. 187), 2006, adopted by the Conference at its 95th Session, and the Violence and Harassment Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session. The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore requests that the Government provide information on the submission to the Assembly of the Republic of the five instruments adopted by the Conference at its 83rd, 91st, 95th and 108th Sessions.***

## North Macedonia

*Failure to submit.* The Committee once again notes with **deep concern** that the Government has not replied to its previous comments. The Committee recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will provide information on the submission to the Assembly of the Republic (Sobranie) of 29 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 16 sessions held from 1996 to 2019.***

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

*Tripartite consultation.* The Committee notes with **interest** the ratification by North Macedonia of the Labour Statistics Convention, 1985 (No. 160), and the Violence and Harassment Convention, 2019 (No. 190) on 20 October 2023. ***It requests the Government to provide information on the tripartite***

**consultations held prior to the ratification, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

## Papua New Guinea

*Failure to submit.* The Committee notes with **interest** the ratification by Papua New Guinea of the Violence and Harassment Convention, 2019 (No. 190), on 27 September 2023. The Committee notes however once again with **deep concern** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee firmly urges the Government to submit to the National Parliament the 25 instruments adopted by the Conference at 15 sessions held between 2000 and 2019.**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Republic of Moldova

*Failure to submit.* The Committee once again notes with **deep concern** that the Government has again provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again reiterates its request that the Government provide information on the submission to Parliament of the 14 instruments adopted by the Conference at its 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 106th and 108th Sessions.**

**The Committee recalls once more that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Rwanda

*Failure to submit. Date of submission.* The Committee notes with **concern** that the Government has provided no response to its previous comments. It recalls yet again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **Therefore, the Committee once more firmly urges the Government to provide information on the date of submission to the National Assembly of the 37 Conventions, Recommendations and Protocols adopted by the Conference at 20 sessions held between 1993 and 2019 (80th, 82nd, 83rd, 84th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

**The Committee recalls once again that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

*Tripartite consultations.* The Committee notes with **interest** the ratification of the Violence and Harassment Convention, 2019 (No. 190), on 1 November 2023. **The Committee requests that the Government provide information on the tripartite consultations held prior to the ratification of**

**Convention No. 190, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

## Saint Kitts and Nevis

*Serious failure to submit.* The Committee notes that the Government has failed to reply to its previous comments. **The Committee expresses the firm hope, as did the Conference Committee in June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, 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 National Assembly of the 29 instruments adopted by the Conference at 17 sessions held between 1996 and 2019 (83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

**The Committee recalls once again that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Saint Lucia

*Serious failure to submit.* The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It firmly urges the Government to provide information on the submission to Parliament of the 79 remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2019 (66th, 67th (Convention No. 156 and Recommendations Nos 164 and 165), 68th (Convention No. 157 and Protocol of 1982), 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Saint Vincent and the Grenadines

*Serious failure to submit.* The Committee once again notes with **deep concern** that the Government has yet again failed to reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the House of Assembly). It firmly urges the Government to provide information on the submission to the House of Assembly of the 31 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 17 sessions held from 1995 to 2019 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Seychelles

***Submission.*** The Committee notes with **satisfaction** the information provided by the Government indicating that 21 of the 22 instruments pending submission, adopted at 13 Sessions of the Conference (2001-2019) were submitted to the National Assembly on 7 September 2023, and that the remaining instrument, the Domestic Workers Convention, 2011 (No. 189), was approved for ratification. The Committee welcomes the Government's indication that prior tripartite consultations were held in the National Consultative Committee on Employment (NCCE) on 23 February 2023 in relation to the ratification of Convention No. 189 and the submissions of the outstanding instruments. ***The Committee welcomes the progress made by the Government in complying with its submission obligations.***

## Sierra Leone

***Failure to submit.*** The Committee once again notes with **deep concern** that the Government has failed to reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again firmly urges the Government to provide information on the submission to Parliament of the instruments adopted by the Conference in October 1976 (Convention No. 146 and Recommendation No. 154, adopted at its 62nd Session), and all instruments adopted between 1977 and 2019 that have not been submitted. The Government is firmly urged to take steps without delay to submit all 93 pending instruments to Parliament.***

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Solomon Islands

***Serious failure to submit.*** The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. It therefore recalls yet again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Parliament). The Committee firmly urges the Government to take steps without delay to submit to the National Congress the 65 pending instruments adopted by the Conference between 1984 and 2019 to comply with its constitutional obligations under article 19 of the ILO Constitution and provide the required information to the International Labour Office.***

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Somalia

*Submission.* The Committee notes once more with **concern** that the Government has once again not provided a reply to its 2018 observations. It recalls yet again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again firmly urges the Government to take steps without delay to submit to the competent national authority the 51 instruments adopted by the Conference between 1989 and 2019 which are still pending submission and to provide the information required under article 19 of the ILO Constitution to the International Labour Office.**

**The Committee once again recalls that the Government may avail itself of the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Syrian Arab Republic

*Serious failure to submit.* The Committee notes with **concern** that the Government has yet again failed to reply to its previous comments. It once again recalls the Government's indications in September 2015 that the Consultative Council for Consultation and Social Dialogue held discussions related to the submission of the instruments adopted by the Conference to the competent authorities. The Committee further notes that 41 instruments adopted by the Conference are still pending submission to the People's Council. In this context, the Committee recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will provide information on the submission to the People's Council of the 41 instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos 167 and 168) and at its 70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 85th, 86th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions. The Committee once again firmly urges the Government to take steps to submit the pending instruments without delay.**

**The Committee once again recalls that the Government may avail itself of the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Timor-Leste

*Serious failure to submit.* The Committee notes with **concern** that the Government has not replied to its previous comments. It once more recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **It therefore once again reiterates its request that the Government provide information on the submission to the National Parliament of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th and 108th Sessions (2010–19).**

**The Committee recalls yet again that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Tuvalu

*Serious failure to submit.* The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. It recalls yet again that Tuvalu became a Member of the Organization on 27 May 2008. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and the Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19). The Committee once more recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee firmly trusts that the Government will take steps to submit without delay the ten instruments adopted by the Conference between 2010 and 2019 and provide the information required under article 19 of the ILO Constitution to the Office.**

***In this context, the Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.***

## United Arab Emirates

*Failure to submit.* The Committee notes the information provided by the Government in response to its previous comments, indicating that the ratification of international conventions and treaties in the United Arab Emirates is subject to national regulations requiring the examination by all authorities in the State regarding the identification of the State's obligations arising from ratification, for their submission to the competent authority. The Government indicates that the purpose of this examination is to enable the Government to decide whether or not to ratify an instrument. The Committee notes the Government's indication that the 11 instruments adopted by the Conference at its 94th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions were submitted. It nevertheless notes that there is no indication in the Government's communication of the competent authorities to which the instruments were submitted, or of the dates of such submission. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO.

The Committee recalls that, when a State decides to become a Member of the Organization it accepts to fulfil the obligations established in the Constitution, such as the obligation to submit to the competent authorities the instruments adopted at the Conference. It emphasizes, however, that the obligation of ILO Member States to submit the instruments adopted by the Conference to the competent authorities does not imply any obligation to propose the ratification or application of the instruments in question, or to take any other specific action. Pursuant to article 19 of the ILO Constitution, Member States have complete freedom as to the nature of the proposals to be made, if any, when submitting the instruments. Submission does not imply any obligation to propose the ratification of a Convention or Protocol, nor does it imply the application of one or more of the principles set out in an unratified Convention or a Recommendation. In this respect, the Committee once again draws the attention of the Government to the 2005 Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted by the Governing Body in 2005, particularly Part I on the aims and objectives of submission.

The Committee understands that, in the United Arab Emirates, instruments adopted by the Conference are submitted to the Council of Ministers as the authority competent to ratify a Convention or Protocol, as well as to decide on any other action which it may deem appropriate in respect of the instruments adopted by the Conference (2005 Memorandum, Part I(b)). The Committee nevertheless recalls that, for the purposes of article 19 of the ILO Constitution, discussion in a deliberative assembly

– or at a minimum, transmission to a deliberative assembly of information concerning the instruments adopted by the International Labour Conference – is an essential component of the constitutional obligation to submit, as indicated in the 2005 Memorandum (2005 Memorandum, Part I(c) and Part II(c)). This obligation is applicable even in cases where legislative power is vested in the executive by virtue of the Constitution of the Member State. The objective of submission is twofold: (1) to encourage ratification or application of instruments adopted by the Conference through submission to the competent authority empowered to consider ratification; and (2) to bring the instruments adopted by the Conference to the knowledge of the public through their submission to a parliamentary or deliberative body. Given the importance of the latter objective, the Committee has noted that, even in the absence of a parliamentary body, informing a consultative body makes it possible to carry out a full examination of the instruments, ensuring that they are widely disseminated among the public, which is one of the purposes of the obligation of submission (2005 Memorandum, Part II(d)).

***The Committee therefore once again expresses the hope that the Government will take urgent measures to further examine this matter in order to ensure full compliance with this twofold obligation to submit, established in article 19 of the ILO Constitution, and that it will soon be in a position to provide information on the submission to a deliberative assembly, such as the Federal National Council (Majlis Watani Ittihadi), of the 11 instruments adopted by the Conference at its 94th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2006, 2010–19).***

## Vanuatu

***Serious failure to submit.*** The Committee once again notes with ***deep concern*** that the Government has provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, June 2022 and June 2023, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament of Vanuatu). The Committee firmly urges the Government to provide information on the submission to the Parliament of Vanuatu of the 18 instruments adopted by the Conference at 12 sessions held between 2003 and 2019 (91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).***

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Yemen

***Serious failure to submit.*** The Committee notes the Government's communication of 28 March 2023, in which it indicated that it had not been able to submit the instruments pending submission to the competent authorities, but that the Ministry of Labour would initiate consultations with the social partners in this respect. ***While noting the complex situation in the country, particularly the ongoing conflict, the Committee trusts that, when national circumstances permit, the Government will be in a position to provide information on the submission to the House of Representatives of the 21 instruments adopted by the Conference at its 88th (Maternity Protection Recommendation, 2000 (No. 191)), 89th (Safety and Health in Agriculture Recommendation, 2001 (No. 192)), 90th, 92nd (Human Resources Development Recommendation, 2004 (No. 195)), 94th, 95th (Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)) and the Employment Relationship Recommendation, 2006 (No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2000–19).***



***The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Zambia

*Serious failure to submit. Date of submission. Consultation.* The Committee notes the information provided by the Government to the Conference in June 2023, indicating that it has begun the process of ratification and submission of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions. The Government reports that the 2014 Protocol to the Forced Labour Convention, 1930, the Domestic Workers Convention, 2011 (No. 189), the Violence and Harassment Convention (No. 190) and its Recommendation (No. 206), 2019, were reviewed by the Tripartite Consultative Labour Council (TCLC), which recommended their ratification. The Government adds that the HIV and AIDS Recommendation, 2010 (No. 200), the Social Protection Floors Recommendation, 2012 (No. 202), the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) are in the process of being submitted to Cabinet for information. The Government does not provide information regarding the submission of the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203) or the Domestic Workers Recommendation, 2011 (No. 201). The Committee further notes that the Government has yet again provided no reply to its previous comments with respect to the information provided by the Government in September 2010, indicating that 12 instruments adopted by the Conference from 1996 to 2007 had been submitted to the National Assembly, but without specifying the date of submission. In addition, the Government has provided no information in response to the Committee's previous request for information concerning any action taken by the National Assembly with regard to the 12 instruments referenced, nor has it provided information regarding prior tripartite consultations. The Committee recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once more reiterates its request that the Government indicate the dates on which the 12 instruments adopted by the Conference from 1996 to 2007 were submitted to the National Assembly. The Committee also once again reiterates its previous request that the Government provide information on any action taken by the National Assembly in relation to these submissions, as well as with respect to the prior tripartite consultations that took place with the social partners. In addition, the reiterates its request that the Government provide information on the submission to the National Assembly of the ten instruments (Conventions, Recommendations and the Protocol) adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19). The Committee expresses the hope that the Government will provide the information requested without further delay.***

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Afghanistan, Algeria, Argentina, Austria, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cabo Verde, Cameroon, Colombia, Cyprus, Côte d'Ivoire, Djibouti, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Georgia, Germany, Ghana, Honduras, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lithuania, Madagascar, Mali, Mexico, Namibia,*

*Nepal, Nicaragua, Nigeria, Norway, Oman, Palau, Panama, Paraguay, Peru, Romania, Russian Federation, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Singapore, South Africa, South Sudan, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tonga, Tunisia, Turkmenistan, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay.*



## Appendices

## **Appendix I. Reports requested on ratified Conventions registered as at 9 December 2023 (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 9 December 2023 and of reports not received***Note: First reports are indicated in parentheses.*

<b>Afghanistan</b>	<b>9 reports requested</b>
· No reports received: Conventions Nos. 105, 111, 137, 138, 140, 141, 142, 144, 182	
<b>Albania</b>	<b>15 reports requested</b>
· 12 reports received: Conventions Nos. 81, 87, 97, 98, 100, 111, 129, 143, 144, 156, 177, (MLC, 2006)	
· 3 reports not received: Conventions Nos. 77, 78, 185	
<b>Algeria</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 32, 71, 87, 98, 108, 144, MLC, 2006	
<b>Angola</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 27, 68, 69, 87, 92, 98, 108, 144, 188	
<b>Antigua and Barbuda</b>	<b>24 reports requested</b>
· No reports received: Conventions Nos. 11, 29, 81, 87, 98, 100, 105, 108, 111, 122, 135, 138, 144, 151, 154, (177), (181), 182, (184), (185), MLC, 2006, (187), (188), (189)	
<b>Argentina</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 27, 32, 71, 87, 98, 100, 111, 144, 156, 169, 188, (190)	
<b>Armenia</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 87, 98, 122, 144	
<b>Australia</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 27, 87, 98, 112, 137, 144, MLC, 2006	
<b>Austria</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 27, 87, 98, 144	
<b>Azerbaijan</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 23, 27, 32, 69, 87, 92, 98, 113, 126, 133, 134, 144, 147, 185	
<b>Bahamas</b>	<b>5 reports requested</b>
· No reports received: Conventions Nos. 87, 98, 144, 185, MLC, 2006	
<b>Bangladesh</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 27, 32, 81, 87, 98, 144, 185	
<b>Barbados</b>	<b>13 reports requested</b>
· No reports received: Conventions Nos. 81, 87, 90, 98, 105, 108, 122, 135, 138, 144, 172, 182, MLC, 2006	
<b>Belarus</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 27, 32, 87, 98, 108, 144	
<b>Belgium</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 27, 32, 87, 98, 113, 114, 125, 126, 144, MLC, 2006	

<b>Belize</b>	<b>10 reports requested</b>
· 6 reports received: Conventions Nos. 81, 115, 140, 144, 151, 155	
· 4 reports not received: Conventions Nos. 87, 98, 108, MLC, 2006	
<b>Benin</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144, MLC, 2006	
<b>Bolivia (Plurinational State of)</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 87, 98	
<b>Bosnia and Herzegovina</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 27, 32, 87, 98, 144, 185, MLC, 2006, 188	
<b>Botswana</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	
<b>Brazil</b>	<b>10 reports requested</b>
· 9 reports received: Conventions Nos. 98, 113, 126, 137, 144, 151, 152, 169, 185	
· 1 report not received: Convention No. 125	
<b>Bulgaria</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 27, 32, 71, 87, 98, 108, 113, 144, MLC, 2006	
<b>Burkina Faso</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	
<b>Burundi</b>	<b>7 reports requested</b>
· 6 reports received: Conventions Nos. 81, 87, 98, 100, 111, 144	
· 1 report not received: Convention No. 27	
<b>Cabo Verde</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	
<b>Cambodia</b>	<b>3 reports requested</b>
· 1 report received: Convention No. 105	
· 2 reports not received: Conventions Nos. 87, 98	
<b>Cameroon</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 144, (155)	
<b>Canada</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	
<b>Central African Republic</b>	<b>24 reports requested</b>
· 19 reports received: Conventions Nos. 3, 13, 14, 17, 52, 62, 81, 87, 95, 98, 101, 118, 119, 120, 131, 144, 150, 155, 158	
· 5 reports not received: Conventions Nos. 11, 18, 19, 100, 111	
<b>Chad</b>	<b>21 reports requested</b>
· 18 reports received: Conventions Nos. 11, 13, 14, 29, 81, 87, 95, 98, 100, 105, 111, 122, 132, 135, 138, 144, 151, 182	
· 3 reports not received: Conventions Nos. 26, 102, 173	
<b>Chile</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 1, 11, 12, 14, 19, 24, 25, 30, 87, 98, 121, 135, 144, 151	
<b>China</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 11, 144	
<b>China - Hong Kong Special Administrative Region</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 141, 144, 151, MLC, 2006	

<b>China - Macau Special Administrative Region</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	
<b>Colombia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 11, 81, 87, 98, 129, 144, 151, 154	
<b>Comoros</b>	<b>28 reports requested</b>
· No reports received: Conventions Nos. 1, 11, 12, 13, 14, 17, 19, 26, 29, 42, 52, 81, 87, 89, 95, (97), 98, 99, 100, 101, 105, 106, 111, 122, 138, (143), 144, 182	
<b>Congo</b>	<b>15 reports requested</b>
· 6 reports received: Conventions Nos. 14, 87, 98, 138, 144, 149	
· 9 reports not received: Conventions Nos. 11, 13, 26, 89, 95, 119, 152, MLC, 2006, 188	
<b>Cook Islands</b>	<b>3 reports requested</b>
· 2 reports received: Conventions Nos. 11, 144	
· 1 report not received: Convention No. (MLC, 2006)	
<b>Costa Rica</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 141, 144	
<b>Côte d'Ivoire</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 135, 144	
<b>Croatia</b>	<b>28 reports requested</b>
All reports received: Conventions Nos. 11, 12, 13, 14, 19, 24, 25, 45, 81, 87, 98, 100, 102, 103, 106, 111, 119, 121, 129, 132, 135, 136, 139, (144), 148, 155, 161, 162	
<b>Cuba</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 135, 141, 151	
<b>Cyprus</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 135, 141, 144, 151, 154	
<b>Czechia</b>	<b>22 reports requested</b>
All reports received: Conventions Nos. 1, 11, 12, 14, 17, 19, 26, 42, 87, 95, 98, 99, 100, 102, 111, 128, 130, 132, 135, 144, 154, 171	
<b>Democratic Republic of the Congo</b>	<b>8 reports requested</b>
· No reports received: Conventions Nos. 11, 14, 87, 88, 98, 135, 144, 158	
<b>Denmark</b>	<b>7 reports requested</b>
· 6 reports received: Conventions Nos. 11, 87, 98, 135, 144, 151	
· 1 report not received: Convention No. 141	
<b>Denmark - Faroe Islands</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98	
<b>Denmark - Greenland</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, (182)	
<b>Djibouti</b>	<b>19 reports requested</b>
· No reports received: Conventions Nos. 1, 11, 13, 14, 26, 52, 63, 87, 89, 95, 98, 99, 101, 106, 115, 120, 122, 144, (183)	
<b>Dominica</b>	<b>9 reports requested</b>
· No reports received: Conventions Nos. 11, 22, 87, 94, 98, 108, 135, 144, 147	
<b>Dominican Republic</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	

<b>Ecuador</b>	6 reports requested
All reports received: Conventions Nos. 11, 87, 98, 141, 144, (190)	
<b>Egypt</b>	5 reports requested
All reports received: Conventions Nos. 11, 87, 98, 135, 144	
<b>El Salvador</b>	13 reports requested
All reports received: Conventions Nos. 81, 87, 98, 99, 100, 111, 131, 135, 141, 144, 150, 151, 160	
<b>Equatorial Guinea</b>	5 reports requested
<ul style="list-style-type: none"> <li>· 3 reports received: Conventions Nos. 87, 98, 100</li> <li>· 2 reports not received: Conventions Nos. (68), (92)</li> </ul>	
<b>Eritrea</b>	2 reports requested
All reports received: Conventions Nos. 87, 98	
<b>Estonia</b>	5 reports requested
All reports received: Conventions Nos. 11, 87, 98, 135, 144	
<b>Eswatini</b>	4 reports requested
All reports received: Conventions Nos. 11, 87, 98, 144	
<b>Ethiopia</b>	9 reports requested
<ul style="list-style-type: none"> <li>· 8 reports received: Conventions Nos. 2, 14, 87, 98, 100, 106, 111, 144</li> <li>· 1 report not received: Convention No. 11</li> </ul>	
<b>Fiji</b>	6 reports requested
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 11, 87, 98, 111, 144, (190)</li> </ul>	
<b>Finland</b>	8 reports requested
All reports received: Conventions Nos. 11, 87, 98, 135, 141, 144, 151, 154	
<b>France</b>	7 reports requested
All reports received: Conventions Nos. 11, 87, 98, 135, 141, 144, (184)	
<b>France - French Polynesia</b>	5 reports requested
All reports received: Conventions Nos. 11, 87, 98, 141, 144	
<b>France - French Southern and Antarctic Territories</b>	2 reports requested
All reports received: Conventions Nos. 87, 98	
<b>France - New Caledonia</b>	5 reports requested
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 11, 87, 98, 141, 144</li> </ul>	
<b>Gabon</b>	21 reports requested
<ul style="list-style-type: none"> <li>· 16 reports received: Conventions Nos. 6, 11, 29, 81, 87, 98, 105, 123, 124, 135, 138, 144, 151, 154, 182, MLC, 2006</li> <li>· 5 reports not received: Conventions Nos. 96, 100, 111, 122, 158</li> </ul>	
<b>Gambia</b>	2 reports requested
All reports received: Conventions Nos. 100, 111	
<b>Georgia</b>	7 reports requested
All reports received: Conventions Nos. 88, 100, 111, 117, 122, 142, 181	
<b>Germany</b>	9 reports requested
All reports received: Conventions Nos. 88, 100, 111, 122, 140, 142, 159, (169), (183)	
<b>Ghana</b>	6 reports requested
All reports received: Conventions Nos. 88, 94, 96, 100, 111, 117	



<b>Greece</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 88, 100, 111, 122, 142, 159, (187), (190)	
<b>Grenada</b>	<b>8 reports requested</b>
· No reports received: Conventions Nos. 29, 94, 105, 138, 144, 182, (MLC, 2006), (189)	
<b>Guatemala</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 87, 88, 94, 98, 100, 111, 117, 122, 159	
<b>Guinea</b>	<b>8 reports requested</b>
· 5 reports received: Conventions Nos. 94, 100, 122, 140, 159	
· 3 reports not received: Conventions Nos. 111, 117, 142	
<b>Guinea - Bissau</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 26, 88, 100, 111	
<b>Guyana</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 2, 29, 94, 100, 111, 138, 140, 142, 151, 182	
<b>Haiti</b>	<b>13 reports requested</b>
· No reports received: Conventions Nos. 1, 14, 30, 45, 81, 87, 90, 98, 100, 105, 106, 107, 111	
<b>Honduras</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 87, 100, 111, 122, 169	
<b>Hungary</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 88, 100, 111, 122, 140, 142, 159, 181	
<b>Iceland</b>	<b>5 reports requested</b>
· No reports received: Conventions Nos. 2, 100, 111, 122, 159	
<b>India</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 88, 100, 111, 122, 142	
<b>Indonesia</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 88, 98, 100, 111, MLC, 2006	
<b>Iran (Islamic Republic of)</b>	<b>4 reports requested</b>
· No reports received: Conventions Nos. 100, 111, 122, 142	
<b>Iraq</b>	<b>16 reports requested</b>
· 14 reports received: Conventions Nos. 29, 77, 78, 87, 88, 94, 100, 105, 111, 122, 138, 140, 142, 182	
· 2 reports not received: Conventions Nos. (184), (185)	
<b>Ireland</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 88, 96, 100, 111, 122, 142, 159	
<b>Israel</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 88, 94, 100, 111, 117, 122, 142, 181	
<b>Italy</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 2, 81, 94, 100, 111, 117, 122, 129, 142, 159, 181, (190)	
<b>Jamaica</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 94, 100, 111, 117, 122	

<b>Japan</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 87, 88, 100, 122, 142, 159, 181	
<b>Jordan</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 98, 100, 105, 111, 117, 122, 124, 135, 142, 159, MLC, 2006	
<b>Kazakhstan</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 88, 100, 111, 122	
<b>Kenya</b>	<b>11 reports requested</b>
<ul style="list-style-type: none"> <li>· 4 reports received: Conventions Nos. 105, 138, 142, 182</li> <li>· 7 reports not received: Conventions Nos. 2, 88, 94, 100, 111, 140, (185)</li> </ul>	
<b>Kiribati</b>	<b>3 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. MLC, 2006</li> <li>· 2 reports not received: Conventions Nos. 100, 111</li> </ul>	
<b>Kuwait</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 111, 117, 159	
<b>Kyrgyzstan</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 81, 100, 111, 122, 142, 159	
<b>Lao People's Democratic Republic</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 6, 29, 100, 111, 138, 182	
<b>Latvia</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 149	
<b>Lebanon</b>	<b>32 reports requested</b>
<ul style="list-style-type: none"> <li>· 29 reports received: Conventions Nos. 1, 17, 19, 29, 30, 52, 71, 88, 89, 95, 98, 106, 115, 120, 122, 127, 131, 136, 138, 139, 142, 148, 152, 159, 170, 172, 174, 176, 182</li> <li>· 3 reports not received: Conventions Nos. 14, 45, (MLC, 2006)</li> </ul>	
<b>Lesotho</b>	<b>4 reports requested</b>
<ul style="list-style-type: none"> <li>· 3 reports received: Conventions Nos. 81, 100, 111</li> <li>· 1 report not received: Convention No. 135</li> </ul>	
<b>Liberia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 87, 108, 111, 112, 113, 114, 182, MLC, 2006	
<b>Libya</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 52, 89, 100, 105, 111, 122, 138, 182	
<b>Lithuania</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 149, 156	
<b>Luxembourg</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 100, 111, (122), (144), 149, 169, 172, (187)	
<b>Madagascar</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 87, 97, 100, 111, 122, 143, 189</li> </ul>	
<b>Malawi</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 12, 19, 26, 81, 89, 97, 99, 100, 105, 107, 111, 129, 149, 150	
<b>Malaysia</b>	<b>1 report requested</b>
All reports received: Convention No. 100	

<b>Malaysia - Malaysia - Peninsular</b>	<b>1 report requested</b>
All reports received: Convention No. 19	
<b>Malaysia - Malaysia - Sabah</b>	<b>1 report requested</b>
All reports received: Convention No. 97	
<b>Malaysia - Malaysia - Sarawak</b>	<b>1 report requested</b>
All reports received: Convention No. 19	
<b>Maldives</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 100, 111	
<b>Mali</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122	
<b>Malta</b>	<b>17 reports requested</b>
All reports received: Conventions Nos. 12, 13, 19, 29, 32, 42, 95, 100, 105, 108, 111, 131, 138, 149, 182, MLC, 2006, (189)	
<b>Marshall Islands</b>	<b>1 report requested</b>
· No reports received: Convention No. (182)	
<b>Mauritania</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 143	
<b>Mauritius</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 156, 189, (190)	
<b>Mexico</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 100, 110, 111, 169, 172, 189	
<b>Mongolia</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 100, 105, 111, 122, 138, (167)	
<b>Montenegro</b>	<b>22 reports requested</b>
· 4 reports received: Conventions Nos. 29, 105, 138, 182	
· 18 reports not received: Conventions Nos. 12, 19, 24, 25, 27, 97, 100, 102, 111, 113, 114, 121, 122, 126, 143, 152, 156, 185	
<b>Morocco</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 122, 138, 182, MLC, 2006, 188	
<b>Mozambique</b>	<b>5 reports requested</b>
· 4 reports received: Conventions Nos. 100, 105, 111, (MLC, 2006)	
· 1 report not received: Convention No. 122	
<b>Namibia</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 189, 190	
<b>Nepal</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 169, 182	
<b>Netherlands</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 122, 156, 169, 177	
<b>Netherlands - Aruba</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 22, 23, 29, 69, 105, 113, 114, 122, 138, 146, 147, 182	
<b>Netherlands - Caribbean Part of the Netherlands</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 122, 172, (182)	

<b>Netherlands - Curaçao</b>	<b>3 reports requested</b>
· 2 reports received: Conventions Nos. 122, 172 · 1 report not received: Convention No. MLC, 2006	
<b>Netherlands - Sint Maarten</b>	<b>9 reports requested</b>
· 1 report received: Convention No. 87 · 8 reports not received: Conventions Nos. 22, 23, 29, 58, 69, 105, 122, 172	
<b>New Zealand</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 122	
<b>New Zealand - Tokelau</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 100, 111	
<b>Nicaragua</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 87, 100, 110, 111, 122, 144, 169, 189	
<b>Niger</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 156	
<b>Nigeria</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 182	
<b>North Macedonia</b>	<b>25 reports requested</b>
All reports received: Conventions Nos. 3, 12, 24, 25, 81, 87, 97, 100, 106, 111, 119, 122, 129, 138, 139, (141), 143, 148, 150, 156, 161, (171), 177, 182, 183	
<b>Norway</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 122, 143, 149, 156, 169, (189)	
<b>Oman</b>	<b>4 reports requested</b>
· 2 reports received: Conventions Nos. 29, 182 · 2 reports not received: Conventions Nos. 105, 138	
<b>Pakistan</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 1, 14, 18, 19, 29, 45, 81, 89, 105, 106, 118, 138, 182	
<b>Panama</b>	<b>22 reports requested</b>
All reports received: Conventions Nos. 3, 12, 13, 17, 19, 26, 29, 30, 42, 45, 52, 81, 89, 95, 105, 119, 120, 127, 138, 160, 167, 182	
<b>Papua New Guinea</b>	<b>17 reports requested</b>
· No reports received: Conventions Nos. 11, 12, 19, 26, 29, 42, 45, 85, 87, 98, 99, 103, 105, 122, 138, 158, 182	
<b>Paraguay</b>	<b>20 reports requested</b>
All reports received: Conventions Nos. 1, 14, 26, 29, 30, 52, 81, 89, 95, 99, 101, (102), 105, 106, 115, 119, 120, 138, (175), 182	
<b>Peru</b>	<b>25 reports requested</b>
All reports received: Conventions Nos. 1, 12, 14, 19, 24, 25, 26, 29, 44, 52, 62, 81, 87, 99, 101, 102, 105, 106, 127, 138, 139, 169, 176, 182, 183	
<b>Philippines</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 17, 19, 29, 87, 95, 99, 105, 118, 138, 157, 176, 182, 187	
<b>Poland</b>	<b>29 reports requested</b>
All reports received: Conventions Nos. 12, 13, 14, 17, 19, 24, 25, 29, 42, 62, 81, 95, 99, 101, 102, 103, 105, 115, 119, 120, 127, 129, 138, 148, 160, 161, 170, 176, 182	

<b>Portugal</b>	<b>35 reports requested</b>
All reports received: Conventions Nos. 1, 12, 14, 17, 18, 19, 29, 45, 81, 95, 102, 105, 106, 115, 120, 127, 129, 131, 132, 138, 139, 148, 150, 155, 160, 162, 171, 173, 175, 176, 182, 183, 184, MLC, 2006, 187	
<b>Qatar</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 138, 182	
<b>Republic of Korea</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. (29), (87), 88, (98), 100, 111, 122, 142, 159	
<b>Republic of Moldova</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 92, 97, 100, 111, 122, 133, (161)	
<b>Romania</b>	<b>29 reports requested</b>
<ul style="list-style-type: none"> <li>· 2 reports received: Conventions Nos. 87, 98</li> <li>· 27 reports not received: Conventions Nos. 1, 3, 11, 13, 14, 24, 29, 81, 89, 95, 100, 102, 105, 111, 122, 127, 129, 131, 135, 136, 138, 144, 150, 154, 168, 182, 183</li> </ul>	
<b>Russian Federation</b>	<b>30 reports requested</b>
All reports received: Conventions Nos. 13, 14, 29, 45, 47, 81, 87, 95, 102, 103, 105, 106, 115, 119, 120, 132, 138, 139, 148, 150, 155, 160, 162, 167, 173, 174, 175, 176, 182, 187	
<b>Rwanda</b>	<b>18 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 12, 14, 17, 19, 26, 29, 42, 62, 81, 89, 105, 118, 132, 138, 150, 155, 182, 187</li> </ul>	
<b>Saint Kitts and Nevis</b>	<b>4 reports requested</b>
<ul style="list-style-type: none"> <li>· 3 reports received: Conventions Nos. 29, 138, 182</li> <li>· 1 report not received: Convention No. 105</li> </ul>	
<b>Saint Lucia</b>	<b>18 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 11, 12, 14, 17, 19, 26, 29, 87, 94, 95, 97, 98, 101, 105, 108, (155), 158, 182</li> </ul>	
<b>Saint Vincent and the Grenadines</b>	<b>13 reports requested</b>
<ul style="list-style-type: none"> <li>· 12 reports received: Conventions Nos. 12, 19, 26, 29, 81, 95, 101, 105, 129, 138, 182, MLC, 2006</li> <li>· 1 report not received: Convention No. 102</li> </ul>	
<b>Samoa</b>	<b>8 reports requested</b>
<ul style="list-style-type: none"> <li>· 6 reports received: Conventions Nos. 29, 87, 98, 105, 138, 182</li> <li>· 2 reports not received: Conventions Nos. 100, 111</li> </ul>	
<b>San Marino</b>	<b>10 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 29, 105, 119, 138, 148, 150, 160, 161, 182, 183</li> </ul>	
<b>Sao Tome and Principe</b>	<b>19 reports requested</b>
<ul style="list-style-type: none"> <li>· 18 reports received: Conventions Nos. 17, 18, 19, 29, 81, 87, 98, 105, 106, 111, 135, 138, 144, 151, 154, 155, 182, 183</li> <li>· 1 report not received: Convention No. 184</li> </ul>	
<b>Saudi Arabia</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 1, 14, 29, 30, 45, 81, 89, 95, 105, 106, 120, 138, 174, 182	
<b>Senegal</b>	<b>22 reports requested</b>
All reports received: Conventions Nos. 12, 13, 14, 19, 26, 29, 52, 81, 89, 95, 99, 101, 102, 105, 120, 121, 138, (155), (161), 182, 183, (187)	

<b>Serbia</b>	<b>31 reports requested</b>
All reports received: Conventions Nos. 12, 13, 14, 19, 24, 25, 29, 45, 81, 89, 102, 105, 106, 119, 121, 129, 131, 132, 136, 138, 139, 148, 150, 155, 161, 162, 167, 182, 183, 184, 187	
<b>Seychelles</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 26, 29, 81, 99, 105, 138, 148, 150, 155, 161, 182	
<b>Sierra Leone</b>	<b>20 reports requested</b>
All reports received: Conventions Nos. 17, 19, 26, 29, 45, 81, 95, (97), 99, 101, 105, 119, 138, (143), (150), (155), (181), 182, (187), (189)	
<b>Singapore</b>	<b>12 reports requested</b>
<ul style="list-style-type: none"> <li>· 4 reports received: Conventions Nos. 12, 19, 144, 187</li> <li>· 8 reports not received: Conventions Nos. 11, 29, 45, 81, 100, 138, 155, 182</li> </ul>	
<b>Slovakia</b>	<b>35 reports requested</b>
All reports received: Conventions Nos. 1, 12, 13, 14, 17, 19, 26, 29, 42, 52, 81, 95, 99, 102, 105, 115, 120, 128, 129, 130, 136, 138, 139, 148, 155, 160, 161, 167, 171, 173, 176, 182, 183, 184, 187	
<b>Slovenia</b>	<b>47 reports requested</b>
<ul style="list-style-type: none"> <li>· 14 reports received: Conventions Nos. 11, 87, 97, 98, 100, 111, 122, 135, 143, 144, 149, 151, 154, 156</li> <li>· 33 reports not received: Conventions Nos. 12, 13, 14, 19, 24, 25, 29, 81, 95, 102, 105, 106, 119, 121, 129, 131, 132, 136, 138, 139, 148, 155, 161, 162, 171, 173, 174, 175, (177), 182, 183, MLC, 2006, 187</li> </ul>	
<b>Solomon Islands</b>	<b>12 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 12, 14, 19, 26, 29, 42, 45, 81, 95, 105, 138, 182</li> </ul>	
<b>Somalia</b>	<b>21 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 17, 19, 22, 23, 45, 84, 85, 87, 94, 95, (97), 98, 105, 111, (143), (144), (155), (181), 182, (187), (190)</li> </ul>	
<b>South Africa</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>· 14 reports received: Conventions Nos. 19, 26, 29, 42, 45, 81, 87, 89, 105, 138, 155, 176, 182, (190)</li> <li>· 1 report not received: Convention No. 63</li> </ul>	
<b>South Sudan</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. 98</li> <li>· 6 reports not received: Conventions Nos. 29, 100, 105, 111, 138, 182</li> </ul>	
<b>Spain</b>	<b>40 reports requested</b>
All reports received: Conventions Nos. 1, 12, 13, 14, 17, 19, 24, 25, 29, 30, 42, 44, 62, 81, 95, 101, 102, 103, 105, 106, 115, 119, 120, 127, 129, 131, 132, 136, 138, 148, 150, 153, 155, 157, 160, 162, 173, 176, 182, 187	
<b>Sri Lanka</b>	<b>14 reports requested</b>
<ul style="list-style-type: none"> <li>· 13 reports received: Conventions Nos. 18, 29, 45, 81, 95, 103, 105, 106, 115, 131, 138, 160, 182</li> <li>· 1 report not received: Convention No. 122</li> </ul>	
<b>Sudan</b>	<b>13 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 19, 26, 29, 81, (87), 95, 98, 105, 138, (144), 175, 182, (MLC, 2006)</li> </ul>	
<b>Suriname</b>	<b>16 reports requested</b>
All reports received: Conventions Nos. 13, 14, 17, 19, 29, 42, 62, 81, 95, 101, 105, 106, 118, 138, 150, 182	

<b>Sweden</b>	<b>36 reports requested</b>
All reports received: Conventions Nos. 12, 13, 14, 19, 29, 47, 81, 102, 105, 115, 118, 119, 120, 121, 128, 129, 130, 132, 138, 139, 148, 150, 155, 157, 160, 161, 162, 167, 168, 170, 174, 175, 176, 182, 184, 187	
<b>Switzerland</b>	<b>26 reports requested</b>
All reports received: Conventions Nos. 14, 18, 19, 26, 29, 45, 62, 81, 102, 105, 115, 119, 120, 128, 132, 136, 138, 139, 150, 153, 160, 162, 168, 173, 182, 183	
<b>Syrian Arab Republic</b>	<b>36 reports requested</b>
· No reports received: Conventions Nos. 1, 11, 14, 17, 18, 19, 29, 30, 45, 52, 63, 81, 87, 89, 95, 98, 100, 101, 105, 106, 107, 111, 115, 118, 119, 120, 129, 131, 135, 136, 138, 139, 144, 155, 170, 182	
<b>Tajikistan</b>	<b>33 reports requested</b>
· 22 reports received: Conventions Nos. 29, 32, 77, 78, 79, 81, 87, 90, 95, 98, 100, 103, 105, 111, 122, 138, 142, 144, 149, 159, 177, 182	
· 11 reports not received: Conventions Nos. 23, 27, 69, 92, 108, 113, 124, 126, 133, 134, 147	
<b>Thailand</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 159, 182	
<b>Timor-Leste</b>	<b>6 reports requested</b>
· 4 reports received: Conventions Nos. 87, 98, 100, 111	
· 2 reports not received: Conventions Nos. 29, 182	
<b>Togo</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 6, 29, 81, 105, 129, 138, 182	
<b>Tonga</b>	<b>1 report requested</b>
· No reports received: Convention No. (182)	
<b>Trinidad and Tobago</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 122, 138, 182	
<b>Tunisia</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 29, 77, 81, 87, 90, 105, 124, 138, 182, (187)	
<b>Türkiye</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 77, 81, 87, 98, 105, 123, 138, 182	
<b>Turkmenistan</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 105, (122), 138, 182	
<b>Tuvalu</b>	<b>2 reports requested</b>
· No reports received: Conventions Nos. (182), MLC, 2006	
<b>Uganda</b>	<b>17 reports requested</b>
All reports received: Conventions Nos. 26, 29, 81, 94, 95, 100, 105, 111, 122, 123, 124, 138, 144, 158, 159, 162, 182	
<b>Ukraine</b>	<b>34 reports requested</b>
· 32 reports received: Conventions Nos. 29, 77, 78, 79, 81, 87, 90, 95, 98, 100, 105, 115, 117, 119, 120, 122, 129, 131, 138, 139, 140, 142, 144, 155, 158, 159, 161, 173, 174, 176, 182, 184	
· 2 reports not received: Conventions Nos. 2, 124	
<b>United Arab Emirates</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 138, 182	

<b>United Kingdom of Great Britain and Northern Ireland</b>	7 reports requested
All reports received: Conventions Nos. 29, 81, 87, 105, 124, 138, 182	
<b>United Kingdom of Great Britain and Northern Ireland - Anguilla</b>	3 reports requested
All reports received: Conventions Nos. 29, 59, 105	
<b>United Kingdom of Great Britain and Northern Ireland - Bermuda</b>	4 reports requested
All reports received: Conventions Nos. 10, 29, 59, 105	
<b>United Kingdom of Great Britain and Northern Ireland - British Virgin Islands</b>	6 reports requested
· 4 reports received: Conventions Nos. 10, 29, 59, 105	
· 2 reports not received: Conventions Nos. 82, 94	
<b>United Kingdom of Great Britain and Northern Ireland - Falkland Islands (Malvinas)</b>	9 reports requested
All reports received: Conventions Nos. 10, 29, 59, 82, 87, 98, 105, 182, (MLC, 2006)	
<b>United Kingdom of Great Britain and Northern Ireland - Gibraltar</b>	4 reports requested
All reports received: Conventions Nos. 29, 59, 81, 105	
<b>United Kingdom of Great Britain and Northern Ireland - Guernsey</b>	11 reports requested
All reports received: Conventions Nos. 2, 5, 10, 29, 81, 87, 98, 105, 122, 142, 182	
<b>United Kingdom of Great Britain and Northern Ireland - Isle of Man</b>	5 reports requested
All reports received: Conventions Nos. 29, 81, 105, 138, (182)	
<b>United Kingdom of Great Britain and Northern Ireland - Jersey</b>	9 reports requested
All reports received: Conventions Nos. 2, 5, 10, 29, 81, 87, 98, 105, 140	
<b>United Kingdom of Great Britain and Northern Ireland - Montserrat</b>	3 reports requested
All reports received: Conventions Nos. 29, 59, 105	
<b>United Kingdom of Great Britain and Northern Ireland - St Helena</b>	5 reports requested
All reports received: Conventions Nos. 10, 29, 59, 105, 182	
<b>United Republic of Tanzania</b>	5 reports requested
All reports received: Conventions Nos. 29, 59, 105, 138, 182	
<b>United Republic of Tanzania - United Republic of Tanzania.Tanganyika</b>	1 report requested
All reports received: Convention No. 81	
<b>United States of America</b>	2 reports requested
All reports received: Conventions Nos. 105, 182	
<b>Uruguay</b>	10 reports requested
All reports received: Conventions Nos. 29, 77, 78, 79, 81, 90, 105, 129, 138, 182	
<b>Uzbekistan</b>	10 reports requested
· 7 reports received: Conventions Nos. 29, 81, 87, 105, 129, 144, 182	
· 3 reports not received: Conventions Nos. 122, 138, (187)	
<b>Vanuatu</b>	9 reports requested
· No reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, (138), 182, 185	
<b>Venezuela (Bolivarian Republic of)</b>	8 reports requested
All reports received: Conventions Nos. 6, 26, 29, 81, 95, 105, 138, 182	
<b>Viet Nam</b>	7 reports requested
All reports received: Conventions Nos. 6, 29, 81, 105, 124, 138, 182	
<b>Yemen</b>	18 reports requested
· No reports received: Conventions Nos. 19, 29, 58, 59, 81, 87, 94, 98, 100, 105, 111, 122, 138, 144, 158, 159, 182, 185	



**Zambia****8 reports requested**

All reports received: Conventions Nos. 29, 81, 87, 105, 124, 129, 138, 182

**Zimbabwe****6 reports requested**

All reports received: Conventions Nos. 29, 81, 105, 129, 138, 182

**Grand Total**

A total of 2,014 reports (article 22) were requested,  
of which 1,504 reports (74.68 per cent) were received.

A total of 117 reports (article 35) were requested,  
of which 101 reports (86.32 per cent) were received.

## Appendix II. Statistical table of reports received on ratified Conventions as at 9 December 2023 (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%	ILC 2020 deferred due to the COVID-19 pandemic
<b>In light of the deferral of 109th Session of the Conference to June 2021 due to the COVID-19 pandemic, the Governing Body decided in March 2020 to invite Member States to provide supplementary information on reports submitted in 2019, highlighting relevant developments, if any, on the application of the provisions of Conventions under review that might have occurred in the meantime. In addition, reports were requested on the basis of a footnote adopted by the Committee requesting a report for 2020 and on the follow-up of failures to submit reports</b>				
2020	1796	394 21.9%	712 39.6%	768 42.8%
<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>				
2021	1865	747 40.0%	1230 65.9%	1383 74.2%
2022	1915	787 41.1%	1334 69.7%	1460 76.2%
2023	2014	923 45.8%	1504 74.7%	

## Appendix III. List of observations made by employers' and workers' organizations

<b>Afghanistan</b>	
<hr/>	<b>on Conventions Nos</b>
• International Organisation of Employers (IOE)	111
• International Trade Union Confederation (ITUC)	111
<b>Albania</b>	
<hr/>	<b>on Conventions Nos</b>
• Union of Independent Trade Union of Albania (BSPSH)	81, 87, 98, 100, 129, 144
<b>Algeria</b>	
<hr/>	<b>on Conventions Nos</b>
• General and Autonomous Confederation of Workers in Algeria (CGATA)	87, 98
• General and Autonomous Confederation of Workers in Algeria (CGATA); Trade Union Confederation of Productive Workers (COSYFOP); National Autonomous Union of Public Administration Personnel (SNAPAP); Autonomous National Union of Electricity and Gas Workers (SNATEG); Public Services International (PSI); International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF); IndustriALL Global Union (IndustriALL)	87, 98
• International Trade Union Confederation (ITUC)	87, 98, 135, 144
• Trade Union Confederation of Productive Workers (COSYFOP)	87, 98, 135, 144
<b>Antigua and Barbuda</b>	
<hr/>	<b>on Convention No.</b>
• Antigua and Barbuda Domestic Workers Association (ABDWA)	189
<b>Argentina</b>	
<hr/>	<b>on Conventions Nos</b>
• Confederation of Workers of Argentina (CTA Autonomous)	87, 98, 144, 150, 190
• Confederation of Workers of Argentina (CTA)	169
• General Confederation of Labour of the Argentine Republic (CGT RA)	32, 71, 87, 98, 144, 169, 188, 190
• Industrial Confederation of Argentina (UIA)	27, 32, 71, 87, 98, 144, 188, 190
<b>Armenia</b>	
<hr/>	<b>on Conventions Nos</b>
• Confederation of Trade Unions of Armenia (CTUA)	87, 98, 144
• International Organisation of Employers (IOE)	122
• International Trade Union Confederation (ITUC)	122
<b>Austria</b>	
<hr/>	<b>on Conventions Nos</b>
• Austrian Chamber of Labour (AK)	98, 144
<b>Bangladesh</b>	
<hr/>	<b>on Conventions Nos</b>
• Bangladesh Employers' Federation (BEF)	81, 87, 98
• International Trade Union Confederation (ITUC)	87, 98
• Trade Union's International Labour Standards Committee (TU-ILS Committee)	27, 32, 81, 87, 98
<b>Belarus</b>	
<hr/>	<b>on Conventions Nos</b>
• Belarusian Congress of Democratic Trade Unions (BKDP)	87, 98, 144
• International Trade Union Confederation (ITUC)	87, 98
<b>Belgium</b>	
<hr/>	<b>on Conventions Nos</b>
• Confederation of Christian Trade Unions (CSC); General Labour Federation of Belgium (FGTB); General Confederation of Liberal Trade Unions of Belgium (CGSLB)	87, 98
• Federation of Enterprises in Belgium (FEB)	144
<b>Bolivia (Plurinational State of)</b>	
<hr/>	<b>on Conventions Nos</b>
• Confederation of Private Employers of Bolivia (CEPB)	98, 131

## Botswana

- Botswana Federation of Trade Unions (BFTU)

on Conventions Nos  
87, 98, 144

## Brazil

- Confederation of Workers in the Federal Public Service (CONDSEF);  
National Federation of Workers in the Federal Public Service (FENADSEF)
- National Confederation of Industry (CNI)
- Single Confederation of Workers (CUT)

on Conventions Nos  
155, 170  
98, 144  
151

## Bulgaria

- Association of the Organizations of Bulgarian Employers (AOBE)
- Confederation of Independent Trade Unions in Bulgaria (CITUB)

on Conventions Nos  
131, 144  
131

## Burundi

- Trade Union Confederation of Burundi (COSYBU)

on Conventions Nos  
27, 81, 87, 98, 100, 111, 144

## Cabo Verde

- National Workers' Union of Cape Verde - Trade Union Confederation (UNTC-CS)

on Convention No.  
87

## Cambodia

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos  
105  
87, 98, 105

## Cameroon

- Cameroon Workers' Trade Union Confederation (CSTC)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos  
122  
111  
122

## Canada

- Federally Regulated Employers – Transportation and Communications (FETCO)
- Quebec Interprofessional Health Federation (FIQ)

on Conventions Nos  
87, 98, 144  
29, 105

## Chile

- National Confederation of Municipal Employees of Chile (ASEMUCH)

on Conventions Nos  
35, 37

## China

- All-China Federation of Trade Unions (ACFTU)
- China Enterprise Confederation (CEC)

on Conventions Nos  
144  
144

## China - Hong Kong Special Administrative Region

- Education International (EI)
- International Trade Union Confederation (ITUC); International Transport Workers' Federation (ITF)

on Conventions Nos  
87  
87

## Colombia

- Confederation of Workers of Colombia (CTC); General Confederation of Labour (CGT); Single Confederation of Workers of Colombia (CUT)
- International Trade Union Confederation (ITUC)
- National Association of Ecopetrol Retirees (ANPE2010)
- National Employers Association of Colombia (ANDI)
- National Trade Union of Workers of Operating, Contracting and Subcontracting Companies Providing Services and Activities in Petroleum, Petrochemical and Similar Industries (SINDISPETROL)

on Conventions Nos  
11, 81, 87, 98, 129, 144, 151, 154  
87  
95  
81, 87, 98, 129, 144, 151, 154  
98

**Costa Rica**

- 
- Confederation of Workers Rerum Novarum (CTRN); Costa Rican Workers' Movement Central (CMTC); Costa Rican Confederation of Democratic Workers (CCTD); General Confederation of Workers (CGT); Workers' Unitary Confederation (CUT) on Conventions Nos  
87, 98, 122, 135, 144
  - Confederation of Workers Rerum Novarum (CTRN); Trade Union of JAPDEVA and related port workers (SINTRAJAP) 87, 98, 135
  - Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) 87, 98, 122, 135, 141, 144
  - International Trade Union Confederation (ITUC) 122
  - Unity in Trade Union Action (UAS) 87, 98

**Croatia**

- 
- Independent Trade Unions of Croatia (NHS) on Convention No.  
155

**Cuba**

- 
- Independent Trade Union Association of Cuba (ASIC) on Conventions Nos  
87, 98

**Czechia**

- 
- Confederation of Industry and Transport (SP ČR) on Conventions Nos  
17, 98, 132, 144, 154
  - Czech-Moravian Confederation of Trade Unions (CM KOS) 87, 98, 154

**Democratic Republic of the Congo**

- 
- Education International (EI) on Convention No.  
87

**Denmark**

- 
- Danish Maritime Officers (DMO) on Conventions Nos  
87, 98
  - Danish Trade Union Confederation (FH) 87, 98
  - United Federation of Danish Workers (3F) 98

**Dominican Republic**

- 
- Ibero-American Confederation of Labour Inspectors (CIIT) on Conventions Nos  
81, 87, 98

**Ecuador**

- 
- United Front of Workers (FUT) on Conventions Nos  
144
  - United Front of Workers (FUT); Public Services International (PSI) in Ecuador; Federation of Petroleum Workers of Ecuador (FETRAPEC) 87, 98, 144, 190

**Egypt**

- 
- Center for Trade Union and Workers Services (CTUWS) on Conventions Nos  
87, 98
  - International Trade Union Confederation (ITUC) 87

**El Salvador**

- 
- International Organisation of Employers (IOE) on Conventions Nos  
144
  - Trade Union Confederation of Workers of El Salvador (CSTS) 12, 81, 99, 100, 111, 129, 131, 144,  
150, 155, 160, 155

**Eswatini**

- 
- Education International (EI) on Conventions Nos  
87, 98
  - International Trade Union Confederation (ITUC); International Transport Workers' Federation (ITF) 87, 98
  - Trade Union Congress of Swaziland (TUCOSWA) 87, 98, 144

**Ethiopia**

- 
- Education International (EI) on Convention No.  
87

## Finland

- Central Organization of Finnish Trade Unions (SAK)
- Central Organization of Finnish Trade Unions (SAK); Finnish Confederation of Professionals (STTK)
- Confederation of Finnish Industries (EK)
- Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)
- Federation of Finnish Enterprises (SY)
- Finnish Confederation of Professionals (STTK)

### on Conventions Nos

11, 87, 98, 135, 141, 144, 151, 154  
87, 98  
87, 98, 135, 144, 151, 154  
87, 98, 135, 151  
87, 98, 135  
87, 98, 135, 151, 154

## France

- French Confederation of Management – General Confederation of Professional and Managerial Employees (CFE-CGC)
- General Confederation of Labour (CGT)

### on Conventions Nos

135, 184  
87, 98

## Germany

- Confederation of German Employers' Associations (BDA)
- German Confederation of Trade Unions (DGB)

### on Conventions Nos

144, 169  
88, 100, 111, 122, 140, 159, 169, 183

## Greece

- Greek General Confederation of Labour (GSEE)
- Hellenic Federation of Enterprises and Industries (SEV)

### on Conventions Nos

81, 88, 98, 100, 111, 122, 142, 144,  
159, 187, 190  
87, 98, 142, 144

## 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

87  
87, 98  
87  
87

## Guinea - Bissau

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

26  
26

## Haiti

- Confederation of Public and Private Sector Workers (CTSP)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

1, 14, 30, 45, 81, 87, 90, 98, 100, 105,  
106, 107, 111  
87, 98

## Honduras

- Authentic Trade Union Federation of Honduras (FASH)
- Honduran National Business Council (COHEP)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

87, 169  
87, 100, 111, 122, 169  
87

## India

- All India Trade Union Congress (AITUC)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

1, 89, 144  
122

## Indonesia

- Confederation of Indonesian Trade Unions (KSPI); Confederation of Indonesian Prosperity Trade Union (KSBSI) ; Confederation of All Indonesian Workers' Unions (KSPSI)
- Employers' Association of Indonesia (APINDO)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

98  
98  
98  
98

## Iran (Islamic Republic of)

- International Trade Union Confederation (ITUC)

### on Convention No.

111



<b>Iraq</b>	
<hr/>	
• Federation of Iraq Trade Unions (FITU)	on Convention No. 87
<b>Ireland</b>	
<hr/>	
• Irish Congress of Trade Unions (ICTU)	on Convention No. 159
<b>Italy</b>	
<hr/>	
• Italian Confederation of Managers and Other Professionals (CIDA)	on Conventions Nos 100, 111, 181
• Italian General Confederation of Labour (CGIL); Italian Confederation of Workers' Trade Unions (CISL); Italian Union of Labour (UIL)	100, 111, 190
<b>Japan</b>	
<hr/>	
• Japan Business Federation (NIPPON KEIDANREN)	on Conventions Nos 87, 100
• Japanese Trade Union Confederation (JTUC-RENGO)	87, 88, 100, 122, 142, 159, 181
• National Confederation of Trade Unions (ZENROREN)	88, 100
• National Council of Japanese Firefighters and Ambulance Workers (ZENSHOKYO)	87
• National Union of Welfare and Childcare Workers (NUWCW)	159
<b>Jordan</b>	
<hr/>	
• International Trade Union Confederation (ITUC)	on Convention No. 98
<b>Kazakhstan</b>	
<hr/>	
• Trade Union of Workers in the Fuel and Energy Complex	on Conventions Nos 100, 111
<b>Kenya</b>	
<hr/>	
• Central Organization of Trade Unions of Kenya (COTU-K)	on Conventions Nos 2, 88, 94, 100, 111, 140, 142, 185
<b>Kyrgyzstan</b>	
<hr/>	
• Kyrgyzstan Federation of Trade Unions (FPK)	on Conventions Nos 81, 100, 111, 159
<b>Lao People's Democratic Republic</b>	
<hr/>	
• Lao Federation of Trade Unions (LFTU)	on Conventions Nos 6, 29, 100, 111, 138, 182
• Lao National Chamber of Commerce and Industry (LNCCI)	6, 29, 100, 111, 138, 182
<b>Latvia</b>	
<hr/>	
• Free Trade Union Confederation of Latvia (FTUCL)	on Conventions Nos 100, 111, 122, 149
<b>Lebanon</b>	
<hr/>	
• General Confederation of Lebanese Workers (CGTL)	on Conventions Nos 1, 17, 19, 29, 30, 52, 81, 88, 89, 95, 98, 100, 105, 106, 111, 115, 120, 122, 127, 131, 136, 138, 139, 142, 148, 150, 159, 170, 174, 176, 182
• International Organisation of Employers (IOE)	29
• International Trade Union Confederation (ITUC)	29
<b>Liberia</b>	
<hr/>	
• International Organisation of Employers (IOE)	on Conventions Nos 87
• International Trade Union Confederation (ITUC)	87
<b>Madagascar</b>	
<hr/>	
• International Organisation of Employers (IOE)	on Conventions Nos 87
• International Trade Union Confederation (ITUC)	87
• Trade unionism and life of societies (SVS); Union of Autonomous Trade Unions of Madagascar (USAM)	87, 98
<b>Malawi</b>	
<hr/>	
• Malawi Congress of Trade Unions (MCTU)	on Convention No. 111

## **Maldives**

- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

on Conventions Nos  
87, 98

## **Mauritania**

- General Confederation of Workers of Mauritania (CGTM)

on Conventions Nos  
100, 111, 122, 143

## **Mauritius**

- Confederation of Public and Private Sector Workers (CTSP)

on Conventions Nos  
97, 100, 111, 156, 189, 190

## **Mexico**

- Authentic Workers' Confederation of the Republic of Mexico (CAT)
- Confederation of Workers of Mexico (CTM)
- Confederation of Workers of Mexico (CTM); Authentic Workers' Confederation of the Republic of Mexico (CAT)
- Confederation of Workers of Mexico (CTM); Authentic Workers' Confederation of the Republic of Mexico (CAT); National Union of Workers (UNT)
- Confederation of Workers of Mexico (CTM); Authentic Workers' Confederation of the Republic of Mexico (CAT); National Union of Workers (UNT); Revolutionary Confederation of Workers and Peasants (CROC)
- National Union of Workers (UNT)
- Revolutionary Confederation of Workers and Peasants (CROC)

on Conventions Nos  
172  
172  
110  
100  
111  
100, 111, 189  
172

## **Mozambique**

- Workers' Organization of Mozambique (OTM)

on Conventions Nos  
111, 122

## **Namibia**

- Namibian Domestic and Allied Workers Union (NDAWU)

on Convention No.  
189

## **Nepal**

- International Organisation of Employers (IOE)

on Convention No.  
182

## **Netherlands**

- Netherlands Trade Union Confederation (FNV); National Federation of Christian Trade Unions (CNV)

on Conventions Nos  
97, 100, 111, 122, 156

## **Netherlands (Sint Maarten)**

- International Organisation of Employers (IOE)

on Convention No.  
87

## **New Zealand**

- New Zealand Council of Trade Unions (NZCTU); Business New Zealand (BusinessNZ)

on Conventions Nos  
97, 100, 111, 122

## **New Zealand (Tokelau)**

- Business New Zealand (BusinessNZ)
- New Zealand Council of Trade Unions (NZCTU); Business New Zealand (BusinessNZ)

on Conventions Nos  
111  
100

## **Nicaragua**

- International Organisation of Employers (IOE)

on Conventions Nos  
87, 111

## **Nigeria**

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Nigeria Labour Congress (NLC)

on Conventions Nos  
182  
182  
87, 98, 190

## North Macedonia

---

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

98  
98

## Pakistan

---

- All Pakistan Federation of Trade Unions (APFTU)
- Pakistan Mine Workers Federation (PMWF)

### on Conventions Nos

29, 81, 89, 105, 182  
1, 14, 18, 45, 81, 182

## Panama

---

- National Council of Organized Workers (CONATO)

### on Conventions Nos

12, 19, 29, 81, 89, 95, 105, 127, 138,  
160, 167, 182

## Paraguay

---

- Central Confederation of Workers Authentic (CUT-A)
- Ibero-American Confederation of Labour Inspectors (CIIT)

### on Conventions Nos

138, 182  
81

## Peru

---

- Autonomous Workers' Confederation of Peru (CATP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- National Confederation of Private Business' Institutions (CONFIEP)

### on Conventions Nos

1, 12, 14, 19, 24, 25, 26, 29, 44, 52, 62,  
81, 101, 102, 106, 127, 139, 169, 176,  
183  
87  
87  
1, 26, 52, 81, 99, 169

## Philippines

---

- Center of United and Progressive Workers (SENTRO)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC); International Transport Workers' Federation (ITF)

### on Conventions Nos

87, 98  
87  
87

## Poland

---

- Independent and Self-Governing Trade Union "Solidarnosc"

### on Conventions Nos

12, 17, 19, 24, 25, 29, 42, 62, 81, 95,  
99, 101, 102, 103, 105, 115, 127, 129,  
148, 161, 170, 182

## Portugal

---

- Association of Merchant Shipping Shipowners (AAMC)
- Confederation of Portuguese Business (CIP)
- Confederation of Trade and Services of Portugal (CCSP)
- General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)
- General Workers' Union (UGT)

### on Conventions Nos

MLC, 2006  
45, 155, 176, 187  
155  
1, 12, 14, 17, 18, 19, 29, 81, 95, 102,  
105, 106, 115, 120, 127, 129, 131, 138,  
139, 148, 150, 155, 160, 162, 171, 173,  
175, 176, 182, 183, 184, 187  
29, 105, 115, 120, 127, 138, 139, 148,  
155, 160, 162, 176, 182, 184, 187

## Republic of Korea

---

- Education International (EI)
- Federation of Korean Trade Unions (FKTU)
- IndustriALL Global Union (IndustriALL)
- International Trade Union Confederation (ITUC); International Transport Workers' Federation (ITF)
- Korea Employers' Federation (KEF)
- Korean Confederation of Trade Unions (KCTU)
- Social Service Workers Union

### on Conventions Nos

87  
29, 87, 88, 98, 100, 111, 122, 142, 159  
87, 98  
87, 98  
87, 98, 111, 122, 142  
29, 87, 98  
29

## Romania

---

- Employers' Confederation of Romania (CONCORDIA)

### on Convention No.

144

## Russian Federation

- Confederation of Labour of Russia (KTR)

### on Conventions Nos

29, 81, 95, 102, 138, 155, 173

## Serbia

- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- Serbian Association of Employers (SAE)
- Trade Union Confederation 'Nezavisnost'

### on Conventions Nos

13, 14, 24, 29, 102, 105, 106, 131, 132, 139, 150, 161, 167, 182, 183, 184, 187, 183

12, 19, 29, 81, 89, 102, 106, 121, 129, 131, 132, 155, 161, 182, 183

## South Africa

- Business Unity South Africa (BUSA)
- Congress of South African Trade Unions (COSATU)
- International Transport Workers' Federation (ITF)

### on Conventions Nos

144

190

190

## Spain

- General Union of Workers (UGT)
- Spanish Confederation of Employers' Organizations (CEOE); Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME)
- Trade Union Confederation of Workers' Commissions (CCOO)

### on Conventions Nos

29, 42, 44, 81, 95, 103, 115, 131, 138, 150, 155, 157, 160, 162, 173, 187

1, 12, 13, 14, 24, 29, 30, 42, 44, 62, 81, 95, 105, 106, 115, 120, 127, 129, 131, 132, 136, 138, 148, 153, 155, 160, 162, 173, 176, 182, 187

1, 12, 13, 14, 17, 19, 24, 25, 29, 30, 42, 44, 62, 81, 95, 101, 102, 103, 105, 106, 115, 119, 120, 127, 129, 131, 132, 136, 138, 148, 150, 153, 155, 157, 160, 162, 173, 176, 182, 187

## Sri Lanka

- International Trade Union Confederation (ITUC); International Transport Workers' Federation (ITF)

### on Conventions Nos

81, 87, 98, 106, 131, 144

## Sweden

- Swedish Confederation for Professional Employees (TCO)
- Swedish Trade Union Confederation (LO); Swedish Confederation of Professional Associations (SACO); Swedish Confederation for Professional Employees (TCO)

### on Conventions Nos

130

14, 47, 132, 175

## Switzerland

- Swiss Federation of Trade Unions (USS/SGB)
- Travail.Suisse

### on Conventions Nos

14, 18, 81, 102, 128, 132, 138, 183

132, 183

## Tunisia

- General Federation of Tunisian Workers (UGTT)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

87, 98, 135, 151, 154

87, 98

## Türkiye

- Confederation of Progressive Trade Unions of Turkey (DISK)
- Confederation of Public Employees' Trade Unions (KESK)
- Confederation of Turkish Trade Unions (TÜRK-İS)
- Health Services Union (SAHİM-SEN)
- International Trade Union Confederation (ITUC)
- Turkish Confederation of Employers' Associations (TISK)
- Turkish Confederation of Public Workers Associations (Türkiye Kamu-Sen)

### on Conventions Nos

29, 87, 98, 158

87, 98, 138, 182

29, 77, 81, 87, 98, 105, 123, 138

87, 98, 151

87, 98

29, 77, 81, 87, 98, 105, 138, 182

87, 98

## Turkmenistan

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

105

105, 182

**Ukraine**

- Confederation of Free Trade Unions of Ukraine (KVPU)

on Conventions Nos

81, 87, 95, 98, 122, 129, 131, 155, 158

**United Kingdom of Great Britain and Northern Ireland**

- International Organisation of Employers (IOE)
- Trades Union Congress (TUC)

on Conventions Nos

87

29, P29, 81, 87

**United Kingdom of Great Britain and Northern Ireland (Guernsey)**

- Trades Union Congress (TUC)

on Conventions Nos

87, 98

**United Republic of Tanzania**

- International Trade Union Confederation (ITUC)

on Convention No.

182

**United States of America**

- American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

on Convention No.

182

**Uruguay**

- Ibero-American Confederation of Labour Inspectors (CIIT)
- International Organisation of Employers (IOE); Chamber of Commerce and Services of Uruguay (CCSUY); Chamber of Industries of Uruguay (CIU)
- Inter-Union Assembly of Workers - Workers' National Convention (PIT-CNT)

on Conventions Nos

81, 129

98

190

**Uzbekistan**

- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

on Conventions Nos

29, 105, 138, 182

**Venezuela (Bolivarian Republic of)**

- Confederation of Workers of Venezuela (CTV); Independent Trade Union Alliance Confederation of Workers (CTASI); National Union of Workers of Venezuela (UNETE); Confederation of Autonomous Trade Unions (CODESA); United Federation of Workers of Venezuela (CUTV); Federation of University Teachers' Associations of Venezuela (FAPUV)
- Confederation of Workers of Venezuela (CTV); Independent Trade Union Alliance Confederation of Workers (CTASI); National Union of Workers of Venezuela (UNETE); Confederation of Autonomous Trade Unions (CODESA); United Federation of Workers of Venezuela (CUTV); Federation of University Teachers' Associations of Venezuela (FAPUV); General Confederation of Labour (CGT)
- Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS)

on Conventions Nos

6, 26, 29, 81, 95, 105, 138, 182

26, 95

26, 87, 144

**Viet Nam**

- Viet Nam Chamber of Commerce and Industry (VCCI)
- Viet Nam Cooperative Alliance (VCA)
- Viet Nam General Confederation of Labour (VGCL)

on Conventions Nos

29, 105

81, 105

81, 105

**Zambia**

- Federation of Free Trade Unions of Zambia (FFTUZ)

on Conventions Nos

29, 81, 87, 105, 124, 129, 138, 182

**Zimbabwe**

- International Trade Union Confederation (ITUC)

on Convention No.

105

## Appendix IV. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7 that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specific time period. Under the same provisions, the governments of Member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities.

In accordance with article 23 of the Constitution, a summary of the information communicated by Member States in accordance with article 19 is submitted to the Conference.

At its 276th Session (November 1996), the Governing Body approved new measures to rationalize and simplify proceedings. As a result, the summarized information is presented in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The following summary contains the most recent information on the submission to the competent authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted at the 103rd Session of the Conference (June 2014), the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted at the 104th Session of the Conference (June 2015), the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session (June 2017), the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference, the Safe and Healthy Working Environment (Consequential Amendments) Convention (No. 191) and Recommendation (No. 207), 2023, and the Quality Apprenticeships Recommendation, 2023 (No. 208), adopted by the Conference at its 111th Session (June 2023).

The summarized information includes communications that were forwarded to the Director-General of the International Labour Office after the closure of the 111th Session of the Conference (June 2023) and which could not therefore be laid before the Conference at that session.

**Azerbaijan.** On 17 October 2023, the Government of Azerbaijan submitted to the Parliament (*Milli Medjlis*): the Safe and Healthy Working Environment (Consequential Amendments) Convention (No. 191) and Recommendation, 2023 (No. 207), and the Quality Apprenticeships Recommendation, 2023 (No. 208).

**Benin.** On 16 September 2019, Benin submitted the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), to the National Assembly. Moreover, on 7 December 2020, the Government also submitted the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference, to the National Assembly.

**Botswana.** On 31 March 2023, Botswana submitted the seven instruments adopted by the Conference at its 101st, 103rd, 104th, 106th and 108th Sessions (2012–19), to the National Assembly: the Social Protection Floors Recommendation, 2012 (No. 202); the Protocol of 2014 to the Forced Labour Convention, 1930; the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203); the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204); the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205); and the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.

**Burkina Faso.** On 7 July 2022, Burkina Faso submitted to the National Assembly: the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session; the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session; and the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.

**Central African Republic.** On 28 April 2023, in compliance with its obligation under article 19 of the ILO Constitution, the Central African Republic submitted to its National Assembly: the HIV and AIDS Recommendation, 2010 (No. 200), adopted at the 99th Session of the Conference; the Domestic Workers Convention (No. 189), and the Domestic Workers Recommendation, 2011 (No. 201), adopted by the Conference at its 100th Session; the Social Protection Floors Recommendation, 2012 (No. 202), adopted by the Conference at its 101st Session; 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; and the Violence and Harassment Recommendation, 2019 (No. 206), adopted by the Conference at its 108th Session.

**Chad.** On 8 September 2023, Chad submitted to the National Transitional Council, currently serving as its transitional parliament, the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).

**Croatia.** On 15 July 2022, Croatia submitted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, to the Parliament. In addition, on 11 July 2023, Croatia submitted to the Parliament 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.

**Egypt.** On 28 June 2022, Egypt submitted the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference, to its House of Representatives (*Majlis Al-Nuwab*).

**Ghana.** On 28 August 2023, Ghana submitted to the Parliament: the Protocol of 2014 to the Forced Labour Convention, 1930, adopted by the Conference at its 103rd Session; the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session; and the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.

**Kazakhstan.** On 24 July 2021, Kazakhstan submitted 39 instruments adopted by the Conference between 1993 and 2019, to the Parliament. In addition, on 29 May 2023, the Government submitted the 2014 Protocol to the Forced Labour Convention, 1930, adopted by the Conference at its 103rd Session, to the Parliament.

**Lesotho.** The Government of Lesotho submitted the five instruments adopted by the Conference at its 99th, 106th and 108th Sessions to the Senate on 30 May 2022 and to the National Assembly on 31 May 2022.

**Maldives.** On 2 January 2023, the Government of the Maldives submitted the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19), to the Parliament of the People (*Majlis*).

**Marshall Islands.** On 12 November 2021, Marshall Islands submitted the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19) to the Parliament (*Nitijela*).

**Mexico.** On 26 January 2017, Mexico submitted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the 104th Session of the Conference, to the Senate of the Republic. In addition, 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, were submitted to the Senate of the Republic on 21 February 2022 and 5 October 2022, respectively. The Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference, were submitted to the Senate of the Republic on 23 February 2022.

**Mozambique.** On 24 May 2018, Mozambique submitted 27 instruments to the National Assembly, adopted at 18 sessions of the Conference (1996–2019).

**Norway.** On 3 March 2023, Norway submitted the Violence and Harassment Convention, 2019 (No. 190), to the Parliament (*Stortinget*).

**Panama.** On 1 July 2022, Panama submitted the Violence and Harassment Recommendation, 2019 (No. 206), to the National Assembly.

**Qatar.** The Government of Qatar submitted the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference, to the Council of Ministers on 22 January 2020 and subsequently to the Consultative Council (*Majlis Al-Shoura*) on 16 February 2020.

**Seychelles.** On 7 September 2023, the Government of the Seychelles submitted to the National Assembly: 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; and the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.

**Venezuela (Bolivarian Republic of).** On 29 May 2023, the Government of the Bolivarian Republic of Venezuela submitted to the National Assembly: the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session; the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session; and the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.

**Viet Nam.** On 19 June 2023, Viet Nam submitted to the National Assembly: the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session; and the Violence and Harassment at Work Convention (No. 190) and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.



## Appendix V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities (31st to 111th Sessions of the International Labour Conference, 1948–2023)

*Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. The Protocols are indicated by the letter "P" followed by the number of the corresponding Convention. When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as submitted.*

*Account has been taken of the date of admission or readmission of member States to the ILO for determining the sessions of the Conference whose texts are taken into consideration.*

*The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972), 73rd Session (June 1987), 93rd Session (June 2005), 97th Session (June 2008), 98th Session (June 2009), 102nd Session (June 2013), 105th Session (June 2016), 107th Session (June 2018), 109th Session (June 2021) and 110th Session (June 2022).*

	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>Afghanistan</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108, 111
<b>Albania</b>	79-81, 82 (R183, C176), 83, 84 (R186, C178, P147), 85, 87, 88, 90 (P155), 91, 94, 95 (R197, C187), 108 (C190)	78, 82 (P081), 84 (R185, R187, C179, C180), 86, 89, 90 (R193, R194), 92, 95 (R198), 96, 99-101, 103, 104, 106, 108 (R206), 111
<b>Algeria</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108, 111
<b>Angola</b>	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, 111
<b>Antigua and Barbuda</b>	68-72, 74-82, 83 (C177), 84, 85 (C181), 87, 88 (C183), 89 (C184), 90 (P155), 91, 94, 95 (C187), 96 (C188), 100, 103 (P029), 108 (C190)	83 (R184), 85 (R188), 86, 88 (R191), 89 (R192), 90 (R193, R194), 92, 95 (R197, R198), 96 (R199), 99, 101, 103 (R203), 104, 106, 108 (R206), 111
<b>Argentina</b>	31-56, 58-72, 74-90, 92, 94-96, 99-101, 103, 108 (C190)	91, 104, 106, 108 (R206), 111
<b>Armenia</b>	80-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>Australia</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Austria</b>	31-56, 58-72, 74-92, 94-96, 99, 101, 103	100, 104, 106, 108, 111
<b>Azerbaijan</b>	79-92, 94-96, 99-101, 103, 104, 106, 108, 111	
<b>Bahamas</b>	61-72, 74-84, 87, 91, 94, 108 (C190)	85, 86, 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108 (R206), 111
<b>Bahrain</b>	63-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106, 108, 111
<b>Bangladesh</b>	58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Barbados</b>	51-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Belarus</b>	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Belgium</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<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, 111
<b>Benin</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<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 (R183, P081), 83 (R184), 84 (R185, R186, R187, P147), 85 (R188), 86, 88 (R191), 89 (R192), 90, 92, 94-96, 99, 101, 103, 104, 106, 108, 111

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>Bosnia and Herzegovina</b>	
80-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Botswana</b>	
64-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Brazil</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Brunei Darussalam</b>	
	96, 99-101, 103, 104, 106, 108, 111
<b>Bulgaria</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Burkina Faso</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Burundi</b>	
47-56, 58-72, 74-92, 95, 96, 99-101, 103, 104, 106	94, 108, 111
<b>Cabo Verde</b>	
65-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Cambodia</b>	
53-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Cameroon</b>	
44-56, 58-72, 74-92, 94-96, 101, 108	99, 100, 103, 104, 106, 111
<b>Canada</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Central African Republic</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Chad</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>Chile</b>	31-56, 58-72, 74-82, 84 (C178, C179, C180, P147), 87, 94, 95 (R197, C187), 100, 103 (P029), 108	83, 84 (R185, R186, R187), 85, 86, 88-92, 95 (R198), 96, 99, 101, 103 (R203), 104, 106, 111
<b>China</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Colombia</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 108	104, 106, 111
<b>Comoros</b>	65-72, 74-78, 87, 103 (P029)	79-86, 88-92, 94-96, 99-101, 103 (R203), 104, 106, 108, 111
<b>Congo</b>	45-53, 54 (C131, C132), 55, 56, 58 (R146, C138), 59, 60 (R150, C142), 61, 62, 63 (R157, C148, C149), 64-66, 67 (C154, C155, C156), 68 (C158), 71 (C160, C161), 74, 75 (C167, C168), 76, 84, 87, 91, 94, 96	54 (R135, R136), 58 (R145, C137), 60 (R149, R151, C141, C143), 63 (R156), 67 (R163, R164, R165), 68 (R166, C157, P110), 69, 70, 71 (R170, R171), 72, 75 (R175, R176), 77-83, 85, 86, 88-90, 92, 95, 99-101, 103, 104, 106, 108, 111
<b>Cook Islands</b>	104, 106, 108	111
<b>Costa Rica</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Côte d'Ivoire</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Croatia</b>	80-85, 87, 91, 94, 103, 104, 106, 108	86, 88-90, 92, 95, 96, 99-101, 111
<b>Cuba</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Cyprus</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Czechia</b>	80-92, 94-96, 99-101, 103, 104, 106, 108	111

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>Democratic Republic of the Congo</b>	
45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108, 111
<b>Denmark</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Djibouti</b>	
64-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Dominica</b>	
68-72, 74-79, 87, 100 (C189)	80-86, 88-92, 94-96, 99, 100 (R201), 101, 103, 104, 106, 108, 111
<b>Dominican Republic</b>	
31-56, 58-72, 74-92, 94, 95, 99, 100	96, 101, 103, 104, 106, 108, 111
<b>Ecuador</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104, 108 (C190)	103 (R203), 106, 108 (R206), 111
<b>Egypt</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>El Salvador</b>	
31-56, 58-61, 63 (C148, C149), 64, 67 (R164, R165, C154, C155, C156), 69 (R168, C159), 71, 72, 74-81, 87, 88 (C183), 90 (P155), 108 (C190)	62, 63 (R156, R157), 65, 66, 67 (R163), 68, 69 (R167), 70, 82-86, 88 (R191), 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104, 106, 108 (R206), 111
<b>Equatorial Guinea</b>	
67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101, 103, 104, 106, 108, 111
<b>Eritrea</b>	
80-92, 94-96, 99-101	103, 104, 106, 108, 111
<b>Estonia</b>	
79-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Eswatini</b>	
60-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>Ethiopia</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Fiji</b>	59-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Finland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>France</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Gabon</b>	45-56, 58-72, 74-81, 82 (C176), 83 (C177), 84, 85 (C181), 87, 89 (C184), 91, 94	82 (R183, P081), 83 (R184), 85 (R188), 86, 88, 89 (R192), 90, 92, 95, 96, 99-101, 103, 104, 106, 108, 111
<b>Gambia</b>	82-92, 94-96	99-101, 103, 104, 106, 108, 111
<b>Georgia</b>	80-92, 94-96, 99-101	103, 104, 106, 108, 111
<b>Germany</b>	34-56, 58-72, 74-76, 77 (R177, C170), 78-92, 94-96, 99-101, 103, 104, 106, 108	77 (R178, C171, P089), 111
<b>Ghana</b>	40-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104, 106, 108	103 (R203), 111
<b>Greece</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Grenada</b>	66-72, 74-92, 94, 95, 100 (C189)	96, 99, 100 (R201), 101, 103, 104, 106, 108, 111
<b>Guatemala</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>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, 111
<b>Guinea - Bissau</b>	63-72, 74-88, 94, 106	89-92, 95, 96, 99-101, 103, 104, 108, 111
<b>Guyana</b>	50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101, 103, 104, 106, 108, 111
<b>Haiti</b>	31-56, 58-66, 67 (R165, C156), 69-72, 74, 75 (C167), 87	67 (R163, R164, C154, C155), 68, 75 (R175, R176, C168), 76-86, 88-92, 94-96, 99-101, 103, 104, 106, 108, 111
<b>Honduras</b>	38-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Hungary</b>	31-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108, 111
<b>Iceland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>India</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Indonesia</b>	33-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Iran (Islamic Republic of)</b>	31-56, 58-72, 74-92, 94-96, 100, 101, 103, 104, 106, 108	99, 111
<b>Iraq</b>	31-56, 58-72, 74-87, 88 (C183), 89, 90 (P155), 91, 94, 95 (R197, C187), 96 (C188), 100 (C189)	88 (R191), 90 (R193, R194), 92, 95 (R198), 96 (R199), 99, 100 (R201), 101, 103, 104, 106, 108, 111
<b>Ireland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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	111
<b>Italy</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Jamaica</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Japan</b>	35-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Jordan</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108, 111
<b>Kazakhstan</b>	80-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Kenya</b>	48-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108, 111
<b>Kiribati</b>	88-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Kuwait</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108, 111
<b>Kyrgyzstan</b>	87, 89, 103 (P029)	79-86, 88, 90-92, 94-96, 99-101, 103 (R203), 104, 106, 108, 111
<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, 111
<b>Latvia</b>	79-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Lebanon</b>	32-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108, 111



	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>Lesotho</b>	66-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Liberia</b>	31-56, 58-72, 74-76, 77 (R177, R178, C170, C171), 78-81, 82 (R183, C176), 83-87, 91, 94	77 (P089), 82 (P081), 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108, 111
<b>Libya</b>	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103, 104, 106, 108, 111
<b>Lithuania</b>	79-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Luxembourg</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Madagascar</b>	45-56, 58-72, 74-91, 94-96, 100, 103 (P029)	92, 99, 101, 103 (R203), 104, 106, 108, 111
<b>Malawi</b>	49-56, 58-72, 74-92, 94-96, 103 (P029)	99-101, 103 (R203), 104, 106, 108, 111
<b>Malaysia</b>	41-56, 58-72, 74-92, 94, 95 (R197, C187), 103 (P029)	95 (R198), 96, 99-101, 103 (R203), 104, 106, 108, 111
<b>Maldives</b>	99-101, 103, 104, 106, 108	111
<b>Mali</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Malta</b>	49-56, 58-72, 74-92, 94, 95, 100 (C189), 103 (P029)	96, 99, 100 (R201), 101, 103 (R203), 104, 106, 108, 111
<b>Marshall Islands</b>	99-101, 103, 104, 106, 108	111
<b>Mauritania</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>Mauritius</b>	53-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Mexico</b>	31-56, 58-72, 74-92, 94, 95 (R197, R198), 96 (R199), 99-101, 103, 104, 106, 108	95 (C187), 96 (C188), 111
<b>Mongolia</b>	52-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Montenegro</b>	96, 99-101, 103, 104, 106, 108	111
<b>Morocco</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Mozambique</b>	61-72, 74-82, 84-90, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108 (C190)	83, 91, 95 (C187), 108 (R206), 111
<b>Myanmar</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Namibia</b>	65-72, 74-92, 94-96, 99-101, 103 (P029), 104, 106, 108 (C190)	103 (R203), 108 (R206), 111
<b>Nepal</b>	51-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108, 111
<b>Netherlands</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>New Zealand</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Nicaragua</b>	40-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108, 111
<b>Niger</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>Nigeria</b>	45-56, 58-72, 74-92, 94, 95, 100, 104, 108 (C190)	96, 99, 101, 103, 106, 108 (R206), 111
<b>North Macedonia</b>	80-83, 85, 87, 88, 95 (R197, C187), 108 (C190)	84, 86, 89-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108 (R206), 111
<b>Norway</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108 (C190)	108 (R206), 111
<b>Oman</b>	81-92, 94, 95 (R197, R198), 99	95 (C187), 96, 100, 101, 103, 104, 106, 108, 111
<b>Pakistan</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Palau</b>		101, 103, 104, 106, 108, 111
<b>Panama</b>	31-56, 58-72, 74-88, 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99-101, 103, 104, 106, 108	89 (C184), 90 (P155), 91, 95 (C187), 96 (C188), 111
<b>Papua New Guinea</b>	61-72, 74-87, 108 (C190)	88-92, 94-96, 99-101, 103, 104, 106, 108 (R206), 111
<b>Paraguay</b>	40-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Peru</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 108 (C190)	103 (R203), 104, 106, 108 (R206), 111
<b>Philippines</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Poland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>Portugal</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Qatar</b>	58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Republic of Korea</b>	79-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Republic of Moldova</b>	79-91, 95 (R197, C187), 104	92, 94, 95 (R198), 96, 99-101, 103, 106, 108, 111
<b>Romania</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Russian Federation</b>	37-56, 58-72, 74-88, 91, 94, 95 (R197, C187), 103, 104	89, 90, 92, 95 (R198), 96, 99-101, 106, 108, 111
<b>Rwanda</b>	47-56, 58-72, 74-79, 81, 85, 87, 95 (R197, C187), 108 (C190)	80, 82-84, 86, 88-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108 (R206), 111
<b>Saint Kitts and Nevis</b>	84, 87, 94	83, 85, 86, 88-92, 95, 96, 99-101, 103, 104, 106, 108, 111
<b>Saint Lucia</b>	67 (R163, C154, C155), 68 (R166, C158), 87, 90 (P155)	66, 67 (R164, R165, C156), 68 (C157, P110), 69-72, 74-86, 88, 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104, 106, 108, 111
<b>Saint Vincent and the Grenadines</b>	84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101, 103, 104, 106, 108, 111
<b>Samoa</b>	94-96, 99-101, 103, 104, 106	108, 111
<b>San Marino</b>	68-72, 74-92, 94-96, 99-101, 108 (C190)	103, 104, 106, 108 (R206), 111
<b>Sao Tome and Principe</b>	68-72, 74-92, 94-96, 99-101	103, 104, 106, 108, 111

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>Saudi Arabia</b>	
61-72, 74-92, 94-96, 99-101, 103 (P029)	103 (R203), 104, 106, 108, 111
<b>Senegal</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Serbia</b>	
89-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Seychelles</b>	
63-72, 74-92, 94, 95 (C187), 103, 104, 106, 108	95 (R197, R198), 96, 99-101, 111
<b>Sierra Leone</b>	
45-56, 58-61, 62 (R153, R155, C145, C147), 64 (C150), 67 (C155), 71 (C160), 85 (C181), 94, 95 (C187), 100 (C189), 103 (P029)	62 (R154, C146), 63, 64 (R158, R159, C151), 65, 66, 67 (R163, R164, R165, C154, C156), 68-70, 71 (R170, R171, C161), 72, 74-84, 85 (R188), 86-92, 95 (R197, R198), 96, 99, 100 (R201), 101, 103 (R203), 104, 106, 108, 111
<b>Singapore</b>	
50-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106, 108, 111
<b>Slovakia</b>	
80-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Slovenia</b>	
79-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Solomon Islands</b>	
74, 87	70-72, 75-86, 88-92, 94-96, 99-101, 103, 104, 106, 108, 111
<b>Somalia</b>	
45-56, 58-72, 74, 75, 85 (C181), 87, 95 (C187), 108 (C190)	76-84, 85 (R188), 86, 88-92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108 (R206), 111
<b>South Africa</b>	
81, 82 (R183, C176), 83-92, 94-96, 99-101, 108 (C190)	103, 104, 106, 108 (R206), 111
<b>South Sudan</b>	
	101, 103, 104, 106, 108, 111

	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>Spain</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Sri Lanka</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Sudan</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Suriname</b>	61-72, 74-92, 94-96, 99-101, 103	104, 106, 108, 111
<b>Sweden</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Switzerland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Syrian Arab Republic</b>	31-56, 58-65, 67, 68, 69 (R167, C159), 71, 72, 74-76, 77 (R177, C170), 84, 87-89, 90 (P155), 94	66, 69 (R168), 70, 77 (R178, C171, P089), 78-83, 85, 86, 90 (R193, R194), 91, 92, 95, 96, 99-101, 103, 104, 106, 108, 111
<b>Tajikistan</b>	81-92, 94-96, 99-101, 103 (P029)	103 (R203), 104, 106, 108, 111
<b>Thailand</b>	31-56, 58-72, 74-92, 94-96, 99, 100 (R201), 101, 103, 104	100 (C189), 106, 108, 111
<b>Timor-Leste</b>	92, 94-96	99-101, 103, 104, 106, 108, 111
<b>Togo</b>	44-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Tonga</b>		106, 108, 111
<b>Trinidad and Tobago</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111

	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>Tunisia</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108, 111
<b>Türkiye</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Turkmenistan</b>	81-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>Tuvalu</b>		99-101, 103, 104, 106, 108, 111
<b>Uganda</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 108 (C190)	106, 108 (R206), 111
<b>Ukraine</b>	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>United Arab Emirates</b>	58-72, 74-92, 95, 96	94, 99-101, 103, 104, 106, 108, 111
<b>United Kingdom of Great Britain and Northern Ireland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108 (C190)	108 (R206), 111
<b>United Republic of Tanzania</b>	46-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108, 111
<b>United States of America</b>	66-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Uruguay</b>	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108	90 (P155), 95 (C187), 111
<b>Uzbekistan</b>	80-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Vanuatu</b>		91, 92, 94-96, 99-101, 103, 104, 106, 108, 111

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, 104, 106, 108	111
<b>Viet Nam</b>	
79-92, 94-96, 99-101, 103, 104, 106, 108	111
<b>Yemen</b>	
49-56, 58-72, 74-87, 88 (C183), 89 (C184), 91, 95 (C187)	88 (R191), 89 (R192), 90, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108, 111
<b>Zambia</b>	
49-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108, 111
<b>Zimbabwe</b>	
66-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	111



## Appendix VI. Overall position of member States with regard to the submission to the competent authorities of the instruments adopted by the Conference (as at 9 December 2023)

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	1	0	<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	5	0	<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	2	2	<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)	137	3	7	<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)	153	1	13	<b>167</b>
<b>81st</b> (June 1994)	158	1	12	<b>171</b>
<b>82nd</b> (June 1995)	151	7	15	<b>173</b>
<b>83rd</b> (June 1996)	152	3	19	<b>174</b>
<b>84th</b> (October 1996)	158	3	13	<b>174</b>
<b>85th</b> (June 1997)	152	5	17	<b>174</b>
<b>86th</b> (June 1998)	148	0	26	<b>174</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>87th</b> (June 1999)	173	0	1	<b>174</b>
<b>88th</b> (June 2000)	148	5	22	<b>175</b>
<b>89th</b> (June 2001)	144	5	26	<b>175</b>
<b>90th</b> (June 2002)	140	8	27	<b>175</b>
<b>91st</b> (June 2003)	149	0	27	<b>176</b>
<b>92nd</b> (June 2004)	140	0	37	<b>177</b>
<b>94th</b> (February 2006)	156	0	22	<b>178</b>
<b>95th</b> (June 2006)	135	19	24	<b>178</b>
<b>96th</b> (June 2007)	133	4	41	<b>178</b>
<b>99th</b> (June 2010)	128	0	55	<b>183</b>
<b>100th</b> (June 2011)	133	6	44	<b>183</b>
<b>101st</b> (June 2012)	127	0	58	<b>185</b>
<b>103rd</b> (June 2014)	116	15	54	<b>185</b>
<b>104th</b> (June 2015)	113	0	73	<b>186</b>
<b>106th</b> (June 2017)	98	0	89	<b>187</b>
<b>108th</b> (June 2019)	80	19	88	<b>187</b>
<b>111st</b> (June 2023)	1	0	186	<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><b>General observation</b></p> <p><b>Observations on Conventions Nos 111, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 105, 137, 138, 140, 141, 142, 144, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Albania</b>	<p><b>Observations on Conventions Nos 81, 87, 98, 129, 143, MLC</b></p> <p><i>Direct requests on Conventions Nos 81, 97, 129, 143, 156, MLC</i></p> <p><b>Observation on submission</b></p>
<b>Algeria</b>	<p><b>Observations on Conventions Nos 32, 87, 98</b></p> <p><i>Direct requests on Conventions Nos 97, 108, MLC</i></p> <p><i>Direct request on submission</i></p>
<b>Angola</b>	<p><b>Observation on Convention No. 98</b></p> <p><i>Direct requests on Conventions Nos 27, 68, 69, 87, 92, 98, 108</i></p> <p><b>Observation on submission</b></p>
<b>Antigua and Barbuda</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 100, 111, 138, 144, 151</b></p> <p><i>Direct requests on Conventions Nos 81, 87, 100, 111, 122, 135, MLC</i></p> <p><b>Observation on submission</b></p>
<b>Argentina</b>	<p><b>Observations on Conventions Nos 32, 81, 87, 111, 129, 169</b></p> <p><i>Direct requests on Conventions Nos 71, 81, 98, 100, 111, 129, 144, 156, 169</i></p> <p><i>Direct request on submission</i></p>
<b>Armenia</b>	<p><b>Observations on Conventions Nos 81, 87, 98, 100, 122</b></p> <p><i>Direct requests on Conventions Nos 81, 97, 100, 111, 143</i></p>
<b>Australia</b>	<p><b>Observations on Conventions Nos 87, 98, 100, 111, 122</b></p> <p><i>Direct requests on Conventions Nos 81, 87, 98, 100, 111, 112, 122, 156</i></p> <p><i>Response received to a direct request on Convention No. 137</i></p>
<b>Austria</b>	<p><b>Observation on Convention No. 100</b></p> <p><i>Direct requests on Conventions Nos 98, 100, 111</i></p> <p><i>Direct request on submission</i></p>
<b>Azerbaijan</b>	<p><b>Observations on Conventions Nos 81, 98, 100, 111, 113, 126, 129</b></p> <p><i>Direct requests on Conventions Nos 23, 32, 81, 87, 92, 100, 111, 129, 134, 147, 156, 185</i></p> <p><i>Response received to a direct request on Convention No. 27</i></p>
<b>Bahamas</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 97, 98, 100, 105, 111, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 81, 111, 144, 182, 185, MLC</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</b></p> <p><i>Direct requests on Conventions Nos 27, 32, 81, 185</i></p> <p><i>Direct request on submission</i></p>
<b>Barbados</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 87, 98, 108, 182</b></p> <p><i>Direct requests on Conventions Nos 81, 87, 98, 105, 122, 144, 182, MLC</i></p>
<b>Belarus</b>	<p><b>Observations on Conventions Nos 81, 87, 98, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 81, 100, 111, 132, 149, 176</i></p> <p><i>Direct request on submission</i></p>

<b>Belgium</b>	<i>Direct requests on Conventions Nos 32, 87, 97, 98, 113, 114, 125, 126, 144, 149, 172, 177, MLC, 189</i>
<b>Belize</b>	<b>Observations on Conventions Nos 87, 98, 115</b> <i>Direct requests on Conventions Nos 81, 88, 151, 155, MLC</i> <b>Observation on submission</b>
<b>Benin</b>	<b>Observations on Conventions Nos 87, 111</b> <i>Direct requests on Conventions Nos 98, 100, 111, MLC</i> <i>Direct request on submission</i>
<b>Bolivia (Plurinational State of)</b>	<b>Observations on Conventions Nos 29, 77, 78, 87, 98, 100, 105, 124, 131, 136, 138, 162, 167, 169, 182</b> <i>Direct requests on Conventions Nos 29, 81, 111, 129, 136, 138, 156, 162, 167, 169, 182</i> <b>Observation on submission</b>
<b>Bosnia and Herzegovina</b>	<b>Observations on Conventions Nos 87, 138</b> <i>Direct requests on Conventions Nos 27, 32, 87, 97, 98, 122, 138, 143, 185, MLC</i> <i>Response received to a direct request on Convention No. 188</i> <i>Direct request on submission</i>
<b>Botswana</b>	<b>Observations on Conventions Nos 87, 98, 100, 111</b> <i>Direct requests on Conventions Nos 100, 111</i> <b>Observation on submission</b>
<b>Brazil</b>	<b>Observation on Convention No. 98</b> <i>Direct requests on Conventions Nos 98, 125, 126, 151, 185, 189</i> <i>Direct request on submission</i>
<b>Brunei Darussalam</b>	<b>Observation on submission</b>
<b>Bulgaria</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 32, 71, 87, 113, 144, MLC</i> <i>Direct request on submission</i>
<b>Burkina Faso</b>	<b>Observations on Conventions Nos 87, 98, 100</b> <i>Direct requests on Conventions Nos 97, 98, 111, 143</i> <b>Observation on submission</b>
<b>Burundi</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct request on Convention No. 87</i> <i>Direct request on submission</i>
<b>Cabo Verde</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 87, 98, 100, 111</i> <i>Direct request on submission</i>
<b>Cambodia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 13, 87, 98, 100, 105, 111</b> <i>Direct requests on Conventions Nos 100, 111, 150</i>
<b>Cameroon</b>	<i>Direct request on submission</i>
<b>Canada</b>	<b>Observations on Conventions Nos 87, 100, 111, 162</b> <i>Direct requests on Conventions Nos 1, 14, 26, 87, 98, 100, 111, 160, 187</i>
<b>Central African Republic</b>	<b>Observations on Conventions Nos 18, 81, 87, 95, 98, 118, 155</b> <i>Direct requests on Conventions Nos 3, 13, 14, 17, 52, 62, 81, 87, 95, 98, 101, 119, 120, 150, 155</i> <i>Response received to a direct request on Convention No. 131</i> <b>Observation on submission</b>
<b>Chad</b>	<i>Direct request on Convention No. 102</i> <b>Observation on submission</b>
<b>Chile</b>	<b>Observations on Conventions Nos 1, 24, 25, 30, 87, 98, 100, 111</b> <i>Direct requests on Conventions Nos 1, 30, 87, 98, 100, 111, 151</i> <b>Observation on submission</b>

<b>China</b>	<b>Observation on Convention No. 100</b> <i>Direct request on Convention No. 100</i>
Hong Kong Special Administrative Region	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 151, MLC</i>
Macau Special Administrative Region	<b>Observations on Conventions Nos 17, 18, 19, 87, 98, 100</b> <i>Direct requests on Conventions Nos 17, 18, 19, 100, 111</i>
<b>Colombia</b>	<b>Observations on Conventions Nos 81, 87, 98, 129, 159</b> <i>Direct requests on Conventions Nos 3, 12, 17, 18, 19, 24, 25, 81, 87, 98, 129, 151, 154, 160</i> <i>Direct request on submission</i>
<b>Comoros</b>	<b>General observation</b> <b>Observations on Conventions Nos 13, 26, 95, 98, 99, 122, 138</b> <i>Direct requests on Conventions Nos 1, 29, 52, 81, 87, 89, 98, 100, 105, 111, 138, 144, 182</i> <b>Observation on submission</b>
<b>Congo</b>	<i>General direct request</i> <b>Observations on Conventions Nos 138, 152, MLC, 188</b> <i>Direct requests on Conventions Nos 26, 87, 95, 98, 138, 185, MLC, 188</i> <b>Observation on submission</b>
<b>Cook Islands</b>	<b>General observation</b> <b>Observation on Convention No. 14</b> <i>Direct requests on Conventions Nos 11, 99</i>
<b>Costa Rica</b>	<b>Observations on Conventions Nos 87, 98, 122, 135, 141</b> <i>Direct requests on Conventions Nos 87, 122, 160</i>
<b>Côte d'Ivoire</b>	<i>Direct requests on Conventions Nos 87, 98, 160</i> <i>Direct request on submission</i>
<b>Croatia</b>	<b>Observations on Conventions Nos 81, 98, 111, 121, 129, 155, 161, 162</b> <i>Direct requests on Conventions Nos 45, 81, 87, 98, 100, 102, 111, 121, 129, 139, 148, 155, 161, 162</i> <i>Response received to direct requests on Conventions Nos. 122, 159</i> <b>Observation on submission</b>
<b>Cuba</b>	<b>Observations on Conventions Nos 87, 100, 111, 131, 155</b> <i>Direct requests on Conventions Nos 1, 3, 13, 14, 30, 45, 52, 81, 98, 100, 101, 106, 111, 120, 131, 136, 148, 150, 155, 183, 187</i> <i>Response received to a direct request on Convention No. 95</i>
<b>Cyprus</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 98, 100, 111, 183</i> <i>Response received to direct requests on Conventions Nos. 135, 154</i> <i>Direct request on submission</i>
<b>Czechia</b>	<i>Direct requests on Conventions Nos 81, 87, 98, 115, 129, 135, 142, 154, 155, 160, 161, 176, 187</i> <i>Response received to direct requests on Conventions Nos. 139, 150</i>
<b>Democratic Republic of the Congo</b>	<i>General direct request</i> <b>Observations on Conventions Nos 87, 94, 98, 144, 158</b> <i>Direct requests on Conventions Nos 12, 14, 88, 102, 117, 118, 121, 135</i> <b>Observation on submission</b>
<b>Denmark</b>	<b>Observations on Conventions Nos 98, 102</b> <i>Direct requests on Conventions Nos 14, 87, 102, 106, 115, 130, 139, 155, 162, 167, 187, 188</i> <i>Response received to a direct request on Convention No. 118</i>
Faroe Islands	<i>Direct request on Convention No. 188</i>
Greenland	<i>Direct requests on Conventions Nos 100, 138</i>
<b>Djibouti</b>	<b>General observation</b> <b>Observations on Conventions Nos 26, 63, 87, 94, 95, 98, 99, 122, 144</b> <i>Direct requests on Conventions Nos 1, 13, 14, 52, 87, 89, 96, 101, 106, 115, 120</i> <i>Direct request on submission</i>

<b>Dominica</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 87, 94, 147</b></p> <p><i>Direct requests on Conventions Nos 22, 108, 135, 144</i></p> <p><b>Observation on submission</b></p>
<b>Dominican Republic</b>	<p><b>Observations on Conventions Nos 81, 87, 98, 100, 111, 171</b></p> <p><i>Direct requests on Conventions Nos 1, 19, 45, 52, 81, 95, 98, 100, 102, 106, 111, 119, 150, 167, 170, 183, 187</i></p> <p><i>Direct request on submission</i></p>
<b>Ecuador</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 87, 159, 190</i></p> <p><i>Direct request on submission</i></p>
<b>Egypt</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 1, 14, 19, 30, 45, 52, 62, 81, 89, 95, 101, 106, 115, 118, 129, 131, 139, 142, 148, 150</i></p> <p><i>Direct request on submission</i></p>
<b>El Salvador</b>	<p><b>Observations on Conventions Nos 81, 87, 111, 129, 144, 155</b></p> <p><i>Direct requests on Conventions Nos 81, 100, 111, 122, 129, 131, 150, 155, 159</i></p> <p><i>Response received to a direct request on Convention No. 99</i></p> <p><b>Observation on submission</b></p>
<b>Equatorial Guinea</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 68, 92, 100</i></p> <p><b>Observation on submission</b></p>
<b>Eritrea</b>	<p><b>Observations on Conventions Nos 87, 98, 111</b></p> <p><i>Direct requests on Conventions Nos 87, 100, 111</i></p> <p><i>Direct request on submission</i></p>
<b>Estonia</b>	<p><b>Observations on Conventions Nos 81, 111, 129, 135</b></p> <p><i>Direct requests on Conventions Nos 81, 98, 100, 111, 129, 174, MLC</i></p> <p><i>Response received to direct requests on Conventions Nos. 14, 19</i></p>
<b>Eswatini</b>	<p><b>Observations on Conventions Nos 81, 87, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 12, 14, 19, 45, 81, 87, 89, 95, 98, 100, 101, 111, 131</i></p>
<b>Ethiopia</b>	<p><b>Observations on Conventions Nos 87, 98, 181</b></p> <p><i>Direct requests on Conventions Nos 14, 87, 88, 106, 159</i></p> <p><i>Direct request on submission</i></p>
<b>Fiji</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 87, 98, 100, 111, 144</b></p> <p><i>Direct requests on Conventions Nos 45, 81, 100, 111, 129, 155, 184</i></p> <p><i>Response received to direct requests on Conventions Nos. 19, 26</i></p>
<b>Finland</b>	<p><i>Direct requests on Conventions Nos 11, 87, 98, 135, 141, 142, 158</i></p>
<b>France</b>	<p><b>Observations on Conventions Nos 98, 100, 111, 118</b></p> <p><i>Direct requests on Conventions Nos 12, 29, 62, 81, 87, 100, 111, 115, 118, 127, 129, 135, 139, 148, 187</i></p> <p><i>Response received to a direct request on Convention No. 102</i></p>
<b>French Polynesia</b>	<p><b>Observations on Conventions Nos 37, 38, 42, 44, 111</b></p> <p><i>Direct requests on Conventions Nos 42, 81, 96, 100, 111, 129, 142</i></p> <p><i>Direct request on Convention No. 111</i></p>
<b>French Southern and Antarctic Territories     New Caledonia</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 14, 52, 101, 106, 111, 115</b></p> <p><i>Direct requests on Conventions Nos 81, 95, 100, 111, 115, 120, 127, 129, 144, 181, 187</i></p> <p><i>Response received to direct requests on Conventions Nos. 89, 131</i></p>
<b>Gabon</b>	<p><b>Observations on Conventions Nos 87, 100, 111, 123, 124, 138, 182, MLC</b></p> <p><i>Direct requests on Conventions Nos 6, 29, 81, 87, 96, 98, 100, 105, 111, 122, 123, 124, 135, 138, 151, 158, 182, MLC</i></p> <p><b>Observation on submission</b></p>

<b>Gambia</b>	<b>Observations on Conventions Nos 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <b>Observation on submission</b>
<b>Georgia</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 29, 100, 105, 111</i> <i>Direct request on submission</i>
<b>Germany</b>	<b>Observation on Convention No. 29</b> <i>Direct requests on Conventions Nos 29, 169</i> <i>Direct request on submission</i>
<b>Ghana</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 100, 111</i> <i>Direct request on submission</i>
<b>Greece</b>	<b>Observation on Convention No. 138</b> <i>Direct requests on Conventions Nos 29, 138</i>
<b>Grenada</b>	<b>General observation</b> <b>Observation on Convention No. 144</b> <i>Direct requests on Conventions Nos 94, 105, 138, 182</i> <b>Observation on submission</b>
<b>Guatemala</b>	<b>Observations on Conventions Nos 87, 98, 100</b> <i>Direct requests on Conventions Nos 87, 100, 111</i>
<b>Guinea</b>	<b>Observations on Conventions Nos 105, 111, 142</b> <i>Direct requests on Conventions Nos 29, 100, 105, 111, 117</i> <b>Observation on submission</b>
<b>Guinea - Bissau</b>	<b>Observation on Convention No. 26</b> <i>Direct requests on Conventions Nos 29, 88</i> <i>Response received to a direct request on Convention No. 105</i> <b>Observation on submission</b>
<b>Guyana</b>	<b>Observation on Convention No. 138</b> <i>Direct requests on Conventions Nos 151, 182</i> <b>Observation on submission</b>
<b>Haiti</b>	<b>General observation</b> <b>Observations on Conventions Nos 1, 14, 30, 81, 87, 98, 106</b> <i>Direct requests on Conventions Nos 81, 100, 111</i> <b>Observation on submission</b>
<b>Honduras</b>	<b>Observations on Conventions Nos 78, 87, 138, 169, 182</b> <i>Direct requests on Conventions Nos 29, 105, 169, 182</i> <i>Direct request on submission</i>
<b>Hungary</b>	<i>Direct requests on Conventions Nos 29, 105</i> <b>Observation on submission</b>
<b>Iceland</b>	<i>General direct request</i> <b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 2, 29, 100, 111, 122</i>
<b>India</b>	<b>Observations on Conventions Nos 29, 105</b> <i>Direct requests on Conventions Nos 29, 90, 105, 138, 182</i>
<b>Indonesia</b>	<b>Observations on Conventions Nos 29, 98, 105</b> <i>Direct requests on Conventions Nos 105, MLC</i>
<b>Iran (Islamic Republic of)</b>	<i>General direct request</i> <b>Observations on Conventions Nos 111, 182</b> <i>Direct requests on Conventions Nos 100, 122, 142, 182</i> <i>Direct request on submission</i>

<b>Iraq</b>	<b>General observation</b> <i>Direct request on Convention No. 87</i> <b>Observation on submission</b>
<b>Italy</b>	<b>Observations on Conventions Nos 29, 81, 129, 138</b> <i>Direct requests on Conventions Nos 29, 81, 122, 129, 149, 182</i>
<b>Jamaica</b>	<b>Observations on Conventions Nos 105, 138, 182</b> <i>Direct requests on Conventions Nos 29, 144, 182</i> <i>Direct request on submission</i>
<b>Japan</b>	<b>Observations on Conventions Nos 29, 87, 88, 100, 122, 159, 181</b> <i>Direct requests on Conventions Nos 29, 100, 122, 142</i>
<b>Jordan</b>	<b>Observations on Conventions Nos 29, 98, 135, 138, 182</b> <i>Direct requests on Conventions Nos 29, 144, 182</i> <i>Direct request on submission</i>
<b>Kazakhstan</b>	<b>Observations on Conventions Nos 29, 81, 105, 129, 138, 182</b> <i>Direct requests on Conventions Nos 29, 81, 105, 129, 138, 182</i> <b>Observation on submission</b>
<b>Kenya</b>	<i>General direct request</i> <b>Observations on Conventions Nos 29, 138, 182</b> <i>Direct requests on Conventions Nos 2, 88, 94, 100, 111, 138, 140, 182</i> <i>Direct request on submission</i>
<b>Kiribati</b>	<i>General direct request</i> <b>Observations on Conventions Nos 138, 182</b> <i>Direct requests on Conventions Nos 29, 100, 105, 111, 144, 182, MLC</i>
<b>Kuwait</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 81, 111</i> <i>Direct request on submission</i>
<b>Kyrgyzstan</b>	<b>Observations on Conventions Nos 29, 105, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <b>Observation on submission</b>
<b>Lao People's Democratic Republic</b>	<b>Observations on Conventions Nos 100, 111, 138, 182</b> <i>Direct requests on Conventions Nos 29, 100, 111, 182</i> <i>Direct request on submission</i>
<b>Latvia</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 29, 100, 111</i>
<b>Lebanon</b>	<i>General direct request</i> <b>Observations on Conventions Nos 17, 19, 29, 71, 98, 138, 152, 182</b> <i>Direct requests on Conventions Nos 29, 138, 182</i> <b>Observation on submission</b>
<b>Lesotho</b>	<b>Observations on Conventions Nos 81, 111</b> <i>Direct requests on Conventions Nos 81, 100, 111</i>
<b>Liberia</b>	<b>Observations on Conventions Nos 87, 108, 111, 112, 113, 114, 182, MLC</b> <i>Direct requests on Conventions Nos 111, 182, MLC</i> <b>Observation on submission</b>
<b>Libya</b>	<b>Observation on submission</b>
<b>Lithuania</b>	<i>Direct requests on Conventions Nos 29, 108, MLC, 188</i> <i>Direct request on submission</i>
<b>Luxembourg</b>	<b>Observation on Convention No. MLC</b> <i>Direct requests on Conventions Nos 185, MLC</i>



<b>Madagascar</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 100, 111, 122, 144</b></p> <p><i>Direct requests on Conventions Nos 12, 88, 100, 111, 117, 118, 143, 159, 181, 189</i></p> <p><i>Direct request on submission</i></p>
<b>Malawi</b>	<p><b>Observations on Conventions Nos 29, 81, 111, 129</b></p> <p><i>Direct requests on Conventions Nos 12, 19, 29, 81, 89, 97, 100, 111, 129, 150</i></p> <p><b>Observation on submission</b></p>
<b>Malaysia</b>	<b>Observation on submission</b>
Peninsular	<i>Direct request on Convention No. 19</i>
Sarawak	<i>Direct request on Convention No. 19</i>
<b>Maldives</b>	<p><b>Observations on Conventions Nos 29, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 138, 182, 185</i></p> <p><b>Observation on submission</b></p>
<b>Mali</b>	<i>Direct request on submission</i>
<b>Malta</b>	<p><b>Observations on Conventions Nos 100, 111</b></p> <p><i>Direct requests on Conventions Nos 32, 100, 111, MLC</i></p> <p><b>Observation on submission</b></p>
<b>Marshall Islands</b>	<p><b>General observation</b></p> <p><b>Observation on submission</b></p>
<b>Mauritania</b>	<p><b>Observations on Conventions Nos 100, 111</b></p> <p><i>Direct requests on Conventions Nos 100, 111</i></p>
<b>Mauritius</b>	<p><b>Observations on Conventions Nos 97, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 29, 97, 100, 105, 111, 156</i></p>
<b>Mexico</b>	<p><b>Observations on Conventions Nos 29, 100, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 22, 55, 56, 58, 100, 111, 134, 138, 164, 166, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Mongolia</b>	<p><b>Observations on Conventions Nos 29, 100, 111, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 100, 105, 111, 138, 144, 167, 182</i></p>
<b>Montenegro</b>	<p><i>General direct request</i></p> <p><b>Observation on Convention No. 100</b></p> <p><i>Direct requests on Conventions Nos 100, 111, 113, 114, 122, 126, 142, 152, 156, 185</i></p>
<b>Morocco</b>	<p><b>Observations on Conventions Nos 29, 105, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 12, 17, 19, 29, 42, 102, 105, 108, 138, 144, 182, 183, MLC, 188</i></p>
<b>Mozambique</b>	<p><b>Observation on Convention No. 122</b></p> <p><i>Direct requests on Conventions Nos 88, MLC</i></p> <p><b>Observation on submission</b></p>
<b>Myanmar</b>	<p><b>Observations on Conventions Nos 29, 87, 182</b></p> <p><i>Direct requests on Conventions Nos 138, 182, 185, MLC</i></p>
<b>Namibia</b>	<p><b>Observation on Convention No. 138</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 122, 138, 182, 190</i></p> <p><i>Direct request on submission</i></p>
<b>Nepal</b>	<p><b>Observations on Conventions Nos 100, 111, 182</b></p> <p><i>Direct requests on Conventions Nos 100, 111, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Netherlands</b>	<p><b>Observations on Conventions Nos 100, 111, 156</b></p> <p><i>Direct requests on Conventions Nos 29, 71, 97, 100, 111, 156, MLC</i></p>
Aruba	<i>Direct request on Convention No. 182</i>
Curaçao	<i>Response received to direct requests on Conventions Nos. 22, 23, 69, 146, 147</i>
	<i>Direct requests on Conventions Nos 182, MLC</i>

<b>Sint Maarten</b>	<p><i>General direct request</i></p> <p><b>Observation on Convention No. 87</b></p> <p><i>Direct requests on Conventions Nos 122, 144, 172</i></p>
<b>New Zealand</b>	<p><b>Observation on Convention No. 122</b></p> <p><i>Direct request on Convention No. 29</i></p>
<b>Nicaragua</b>	<p><b>Observations on Conventions Nos 87, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 100, 111</i></p> <p><i>Direct request on submission</i></p>
<b>Niger</b>	<p><b>Observations on Conventions Nos 29, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 138, 182</i></p>
<b>Nigeria</b>	<p><b>Observations on Conventions Nos 100, 111, 159, 182</b></p> <p><i>Direct requests on Conventions Nos 97, 100, 111, 182</i></p> <p><i>Direct request on submission</i></p>
<b>North Macedonia</b>	<p><b>Observations on Conventions Nos 81, 87, 129, 182</b></p> <p><i>Direct requests on Conventions Nos 13, 14, 29, 45, 81, 106, 119, 129, 132, 136, 138, 139, 141, 148, 150, 155, 161, 162, 171, 182, 183, 187</i></p> <p><i>Response received to a direct request on Convention No. 131</i></p> <p><b>Observation on submission</b></p>
<b>Norway</b>	<p><b>Observation on Convention No. 137</b></p> <p><i>Direct requests on Conventions Nos 29, 71, 97, 100, 111, 143, 152, 156, MLC, 188</i></p> <p><i>Direct request on submission</i></p>
<b>Oman</b>	<p><i>Direct request on submission</i></p>
<b>Pakistan</b>	<p><b>Observations on Conventions Nos 81, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 1, 14, 18, 19, 45, 81, 89, 106, 118, 138, 144, 182</i></p>
<b>Palau</b>	<p><i>Direct request on Convention No. 182</i></p> <p><i>Direct request on submission</i></p>
<b>Panama</b>	<p><b>Observations on Conventions Nos 3, 17, 30</b></p> <p><i>Direct requests on Conventions Nos 12, 17, 19, 45, 81, 89, 127, 138, 144, 167, 182</i></p> <p><i>Response received to a direct request on Convention No. 95</i></p> <p><i>Direct request on submission</i></p>
<b>Papua New Guinea</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 98, 138, 158, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 45, 87, 103, 105, 122, 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>Paraguay</b>	<p><b>Observations on Conventions Nos 1, 14, 30, 52, 81, 101, 106, 122, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 26, 81, 89, 99, 102, 115, 119, 120, 122, 138, 175, 182</i></p> <p><i>Response received to a direct request on Convention No. 95</i></p> <p><i>Direct request on submission</i></p>
<b>Peru</b>	<p><b>Observations on Conventions Nos 1, 14, 44, 52, 81, 87, 101, 102, 106, 139, 169, 182</b></p> <p><i>Direct requests on Conventions Nos 1, 12, 19, 24, 25, 26, 52, 62, 81, 87, 99, 101, 102, 127, 138, 139, 169, 176, 182, 183</i></p> <p><i>Direct request on submission</i></p>
<b>Philippines</b>	<p><b>Observations on Conventions Nos 87, 138, 176, 182</b></p> <p><i>Direct requests on Conventions Nos 95, 144, 149, 176, 182, 187</i></p> <p><i>Response received to a direct request on Convention No. 118</i></p>
<b>Poland</b>	<p><b>Observations on Conventions Nos 81, 122, 129, 149</b></p> <p><i>Direct requests on Conventions Nos 12, 17, 19, 42, 62, 81, 95, 99, 101, 102, 103, 115, 119, 120, 127, 129, 148, 161, 170, 176</i></p>
<b>Portugal</b>	<p><b>Observations on Conventions Nos 1, 81, 129, 155, 176, 187</b></p> <p><i>Direct requests on Conventions Nos 12, 14, 17, 18, 19, 45, 81, 102, 106, 115, 120, 127, 129, 131, 132, 138, 139, 148, 150, 155, 162, 171, 176, 182, 183, 184, MLC, 187</i></p>
<b>Republic of Korea</b>	<p><b>Observations on Conventions Nos 100, 111, 138</b></p> <p><i>Direct requests on Conventions Nos 29, 87, 98, 100, 111, 138, 182</i></p>

<b>Republic of Moldova</b>	<p><b>Observations on Conventions Nos 105, 117, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 92, 105, 133, 144, 181, 182</i>  <b>Observation on submission</b></p>
<b>Romania</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 1, 81, 87, 98, 111, 122, 129, 183</b>  <i>Direct requests on Conventions Nos 13, 14, 29, 81, 87, 89, 95, 100, 111, 122, 129, 131, 135, 144, 150, 154</i>  <i>Direct request on submission</i></p>
<b>Russian Federation</b>	<p><b>Observations on Conventions Nos 87, 149</b>  <i>Direct request on Convention No. 122</i>  <i>Direct request on submission</i></p>
<b>Rwanda</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 26, 29, 62, 81, 105</b>  <i>Direct requests on Conventions Nos 29, 81, 89, 132, 138, 150, 155, 182, 187</i>  <b>Observation on submission</b></p>
<b>Saint Kitts and Nevis</b>	<p><i>Direct requests on Conventions Nos 105, 144, MLC</i>  <b>Observation on submission</b></p>
<b>Saint Lucia</b>	<p><b>General observation</b>  <b>Observations on Conventions Nos 17, 87, 98</b>  <i>Direct requests on Conventions Nos 14, 19, 29, 101, 108, 158, 182</i>  <b>Observation on submission</b></p>
<b>Saint Vincent and the Grenadines</b>	<p><b>Observations on Conventions Nos 81, 129, 138, 182</b>  <i>Direct requests on Conventions Nos 81, 101, 102, 129, 182</i>  <i>Response received to a direct request on Convention No. 95</i>  <b>Observation on submission</b></p>
<b>Samoa</b>	<p><b>Observations on Conventions Nos 138, 182</b>  <i>Direct requests on Conventions Nos 87, 98, 138, 144, 182</i>  <i>Direct request on submission</i></p>
<b>San Marino</b>	<p><i>General direct request</i>  <b>Observation on Convention No. 160</b>  <i>Direct requests on Conventions Nos 144, 148, 161, 183</i>  <i>Direct request on submission</i></p>
<b>Sao Tome and Principe</b>	<p><b>Observations on Conventions Nos 98, 151, 154</b>  <i>Direct requests on Conventions Nos 87, 184</i>  <i>Response received to a direct request on Convention No. 135</i>  <i>Direct request on submission</i></p>
<b>Saudi Arabia</b>	<p><i>Direct request on submission</i></p>
<b>Senegal</b>	<p><b>Observations on Conventions Nos 29, 81, 105, 138, 182</b>  <i>Direct requests on Conventions Nos 14, 26, 29, 81, 89, 95, 99, 102, 105, 120, 121, 122, 144, 155, 161, 182, 183, 187</i>  <i>Response received to direct requests on Conventions Nos. 13, 19</i></p>
<b>Serbia</b>	<p><b>Observations on Conventions Nos 122, 144</b>  <i>Direct request on Convention No. 122</i></p>
<b>Seychelles</b>	<p><i>Direct request on Convention No. 144</i>  <b>Observation on submission</b></p>
<b>Sierra Leone</b>	<p><b>Observations on Conventions Nos 17, 81, 95, 101, 119, 138, 182</b>  <i>Direct requests on Conventions Nos 17, 26, 45, 81, 95, 99, 101, 138, 150, 155, 182, 187</i>  <b>Observation on submission</b></p>
<b>Singapore</b>	<p><i>General direct request</i>  <b>Observation on Convention No. 100</b>  <i>Direct requests on Conventions Nos 29, 45, 81, 100, 155, 187</i>  <i>Direct request on submission</i></p>

<b>Slovakia</b>	<i>Direct request on Convention No. 122</i>
<b>Slovenia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 13, 81, 98, 129, 156</b> <i>Direct requests on Conventions Nos 14, 81, 97, 98, 106, 119, 121, 129, 132, 136, 139, 143, 148, 151, 154, 155, 156, 161, 162, 171, 174, 175, MLC, 187</i>
<b>Solomon Islands</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 182</b> <i>Direct requests on Conventions Nos 14, 29, 42, 81, 95, 100, 105, 111, 138, 182</i> <b>Observation on submission</b>
<b>Somalia</b>	<b>General observation</b> <b>Observations on Conventions Nos 87, 182</b> <i>Direct requests on Conventions Nos 22, 23, 45, 87, 95, 98, 111, 182</i> <b>Observation on submission</b>
<b>South Africa</b>	<b>Observation on Convention No. 87</b> <i>Direct requests on Conventions Nos 63, 144, 189</i> <i>Direct request on submission</i>
<b>South Sudan</b>	<i>General direct request</i> <b>Observation on Convention No. 29</b> <i>Direct requests on Conventions Nos 29, 98, 100, 105, 111, 138, 182</i> <i>Direct request on submission</i>
<b>Spain</b>	<b>Observations on Conventions Nos 122, 144</b>
<b>Sri Lanka</b>	<b>Observations on Conventions Nos 100, 103, 111, 144</b> <i>Direct requests on Conventions Nos 95, 100, 106, 111, 115, 122, 131</i>
<b>Sudan</b>	<b>General observation</b> <b>Observations on Conventions Nos 29, 81, 98, 105, 138, 182</b> <i>Direct requests on Conventions Nos 26, 29, 81, 95, 100, 105, 111, 138, 175, 182</i> <i>Direct request on submission</i>
<b>Suriname</b>	<i>Direct request on Convention No. 144</i> <i>Direct request on submission</i>
<b>Sweden</b>	<i>Direct requests on Conventions Nos 81, 102, 121, 128, 129, 130, 168</i> <i>Direct request on submission</i>
<b>Switzerland</b>	<i>Direct requests on Conventions Nos 62, 81, 122, 128, 144, 162, 183</i> <i>Response received to a direct request on Convention No. 102</i> <i>Direct request on submission</i>
<b>Syrian Arab Republic</b>	<b>General observation</b> <b>Observations on Conventions Nos 29, 87, 98, 100, 105, 138, 182</b> <i>Direct requests on Conventions Nos 1, 29, 30, 63, 81, 89, 100, 105, 107, 111, 115, 129, 139, 144, 155, 170, 182</i> <b>Observation on submission</b>
<b>Tajikistan</b>	<b>Observations on Conventions Nos 81, 95, 100, 105, 111, 138, 182</b> <i>Direct requests on Conventions Nos 29, 77, 78, 79, 81, 87, 90, 98, 100, 105, 111, 182</i> <i>Response received to direct requests on Conventions Nos. 32, 103</i> <i>Direct request on submission</i>
<b>Thailand</b>	<b>Observations on Conventions Nos 88, 122</b> <i>Direct requests on Conventions Nos 88, 122, MLC</i> <i>Direct request on submission</i>
<b>Timor-Leste</b>	<i>Direct requests on Conventions Nos 29, 87, 98, 100, 111, 182</i> <b>Observation on submission</b>
<b>Togo</b>	<b>Observations on Conventions Nos 81, 105, 129, 138, 182</b> <i>Direct requests on Conventions Nos 29, 81, 105, 129, 138, 182</i>

<b>Tonga</b>	<b>General observation</b> <i>Direct request on submission</i>
<b>Trinidad and Tobago</b>	<i>Direct requests on Conventions Nos 81, 144, 150</i>
<b>Tunisia</b>	<b>Observation on Convention No. 87</b> <i>Direct requests on Conventions Nos 88, 122, 142</i> <i>Direct request on submission</i>
<b>Türkiye</b>	<b>Observations on Conventions Nos 87, 98, 144, 158</b> <i>Direct requests on Conventions Nos 87, 88, 94, 122, 158, 159</i>
<b>Turkmenistan</b>	<b>Observations on Conventions Nos 105, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <i>Direct request on submission</i>
<b>Tuvalu</b>	<b>General observation</b> <i>Direct request on Convention No. MLC</i> <b>Observation on submission</b>
<b>Uganda</b>	<b>Observations on Conventions Nos 26, 81, 95, 124, 138, 162, 182</b> <i>Direct requests on Conventions Nos 81, 123, 138, 162, 182</i> <i>Direct request on submission</i>
<b>Ukraine</b>	<b>Observations on Conventions Nos 81, 87, 95, 115, 129, 131, 138, 139, 155, 173, 176, 182</b> <i>Direct requests on Conventions Nos 77, 78, 81, 98, 115, 119, 120, 129, 138, 139, 155, 161, 174, 176, 182, 184</i> <i>Direct request on submission</i>
<b>United Arab Emirates</b>	<b>Observation on submission</b>
<b>United Kingdom of Great Britain and Northern Ireland</b>	<b>Observation on Convention No. 87</b> <i>Direct requests on Conventions Nos 87, 144, MLC</i> <i>Direct request on submission</i>
Anguilla	<i>Direct requests on Conventions Nos 59, 82, 85, 94, 140</i>
Bermuda	<b>Observation on Convention No. 94</b> <i>Direct requests on Conventions Nos 10, 59</i>
British Virgin Islands	<i>Direct requests on Conventions Nos 82, 85, 94, 108</i>
Cayman Islands	<i>Direct request on Convention No. MLC</i>
Falkland Islands (Malvinas)	<i>Direct requests on Conventions Nos 10, 59, MLC</i>
Gibraltar	<i>Direct request on Convention No. 59</i>
Guernsey	<i>Direct requests on Conventions Nos 5, 10, 98</i>
Isle of Man	<i>Direct requests on Conventions Nos 100, 111, 138, MLC</i>
Jersey	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 5, 10</i>
Montserrat	<i>Direct requests on Conventions Nos 59, 85</i>
St Helena	<i>Direct requests on Conventions Nos 10, 59, 85, 150</i>
<b>United Republic of Tanzania</b>	<b>Observations on Conventions Nos 94, 144</b> <i>Direct requests on Conventions Nos 140, 142</i> <i>Direct request on submission</i>
United Republic of Tanzania.Tanganyika	<i>Direct request on Convention No. 88</i>
<b>United States of America</b>	<i>Direct request on Convention No. 144</i>
<b>Uruguay</b>	<i>Direct requests on Conventions Nos 81, 129, 144</i> <i>Response received to direct requests on Conventions Nos. 138, 182</i> <i>Direct request on submission</i>
<b>Uzbekistan</b>	<i>General direct request</i> <b>Observation on Convention No. 87</b>

---

<b>Vanuatu</b>	<b>General observation</b> <i>Direct requests on Conventions Nos 87, 98, 182, 185</i> <b>Observation on submission</b>
<b>Venezuela (Bolivarian Republic of)</b>	<b>Observations on Conventions Nos 6, 26, 29, 81, 95, 105, 138, 182</b> <i>Direct requests on Conventions Nos 29, 81, 182</i>
<b>Viet Nam</b>	<i>Direct requests on Conventions Nos 88, 105, 122</i>
<b>Yemen</b>	<b>General observation</b> <b>Observations on Conventions Nos 81, 87, 94, 98, 138, 182</b> <i>Direct requests on Conventions Nos 29, 58, 59, 81, 100, 105, 111, 122, 138, 144, 158, 159, 182, 185</i> <b>Observation on submission</b>
<b>Zambia</b>	<b>Observations on Conventions Nos 87, 138, 182</b> <i>Direct requests on Conventions Nos 81, 117, 122, 129, 144, 150, 159, 182</i> <b>Observation on submission</b>
<b>Zimbabwe</b>	<b>Observation on Convention No. 159</b> <i>Direct request on Convention No. 144</i>