



International  
Labour  
Organization

► Report III (Part A)

# ► Application of International Labour Standards 2022

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

International Labour Conference  
110th Session, 2022



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

ISBN 978-92-2-031738-9 (print)  
ISBN 978-92-2-031739-6 (Web pdf)  
ISSN 0074-6681

---

First edition 2022

---

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

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

---

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

- (a) The **Reader's note** provides indications on the Committee of Experts and the Committee on the Application of Standards of the International Labour Conference (their mandate, functioning and the institutional context in which they operate) (**Part A, pages 33-37**).
- (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 39-86**).
- (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 87-830**).
- (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 Nursing Personnel Convention, 1977 (No. 149), the Domestic Workers Convention, 2011 (No. 189), the Nursing Personnel Recommendation, 1977 (No. 157), and the Domestic Workers Recommendation, 2011 (No. 201) (**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 .....	17
List of Conventions and Protocols by subject .....	27
<b>Reader's note .....</b>	<b>33</b>
Overview of the ILO supervisory mechanisms .....	33
Role of employers' and workers' organizations .....	33
Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations .....	34
Committee of Experts on the Application of Conventions and Recommendations .....	34
Committee on the Application of Standards of the International Labour Conference .....	36
The Committee of Experts and the Conference Committee on the Application of Standards.....	37
<b>Part I. General Report.....</b>	<b>39</b>
<b>I. Introduction .....</b>	<b>41</b>
A. Composition of the Committee .....	41
B. Working methods .....	41
C. Relations with the Conference Committee on the Application of Standards .....	43
D. Mandate .....	46
E. The role of international labour standards and effective and authoritative supervision as the foundation of the global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient.....	47
F. The impact of the COVID-19 pandemic on the application of international labour standards.....	51
<b>II. Compliance with standards-related obligations .....</b>	<b>55</b>
A. Reports on ratified Conventions (articles 22 and 35 of the Constitution) .....	55
B. Examination by the Committee of Experts of reports on ratified Conventions .....	61
C. Reports under article 19 of the Constitution .....	75
D. Collaboration with the United Nations .....	75
E. Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution).....	77
<b>Appendix to the General Report .....</b>	<b>83</b>
Composition of the Committee of Experts on the Application of Conventions and Recommendations .....	83

<b>Part II. Observations concerning particular countries.....</b>	<b>87</b>
<b>I. Observations concerning reports on ratified Conventions (articles 22 and 35 of the Constitution).....</b>	<b>89</b>
Observations on serious failure to report .....	89
Freedom of association, collective bargaining, and industrial relations .....	97
Forced labour .....	319
Elimination of child labour and protection of children and young persons .....	377
Equality of opportunity and treatment .....	509
Tripartite consultation .....	619
Labour administration and inspection.....	633
Employment policy and promotion .....	681
Vocational guidance and training .....	703
Employment security .....	705
Wages.....	709
Working time.....	723
Occupational safety and health .....	729
Social security .....	747
Maternity protection.....	765
Social policy.....	769
Migrant workers .....	777
Seafarers.....	783
Fishers.....	787
Dockworkers .....	789
Indigenous and tribal peoples .....	793
Specific categories of workers.....	803
<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>811</b>
<b>Appendices</b>	
I. Reports requested on ratified Conventions registered as at 11 December 2021 (articles 22 and 35 of the Constitution).....	833
II. Statistical table of reports received on ratified Conventions as at 11 December 2021 (article 22 of the Constitution).....	847
III. List of observations made by employers' and workers' organizations.....	850
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 .....	862

V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities (31st to 109th Sessions of the International Labour Conference, 1948–2021).....	865
VI. Overall position of Member States with regard to the submission to the competent authorities of the instruments adopted by the Conference (as at 11 December 2021) .....	880
VII. Comments made by the Committee, by country .....	882

## Index of comments by Convention

<b>C001</b>			
	Equatorial Guinea.....	723	
	Haiti .....	723	
<b>C006</b>			
	Algeria .....	383	
<b>C012</b>			
	Haiti .....	752	
	Mauritius.....	757	
<b>C013</b>			
	North Macedonia.....	740	
<b>C014</b>			
	Equatorial Guinea.....	723	
	Haiti .....	723	
	Malaysia (Sarawak).....	724	
	Mozambique .....	725	
<b>C017</b>			
	Armenia.....	747	
	Haiti .....	752	
	Lebanon .....	755	
	Mauritius.....	757	
	Saint Lucia .....	760	
	Sierra Leone .....	761	
<b>C019</b>			
	Djibouti.....	748	
	Lebanon .....	755	
	Mauritius.....	757	
<b>C024</b>			
	Djibouti.....	748	
	Haiti .....	752	
<b>C025</b>			
	Haiti .....	752	
<b>C026</b>			
	Burundi .....	710	
	Guinea-Bissau .....	711	
	Mauritania .....	711	
	Nigeria.....	712	
	Uganda.....	714	
	Venezuela, Bolivarian Republic of.....	720	
<b>C029</b>			
	Algeria .....	319	
	Austria .....	323	
	Azerbaijan.....	324	
	Bahrain.....	328	
	Bangladesh.....	333	
	Bolivia, Plurinational State of .....	337	
	Burkina Faso.....	339	
	Burundi .....	340	
	Central African Republic.....	344	
	Colombia.....	348	
	Congo .....	350	
	Chad .....	345	
	Democratic Republic of the Congo .....	351	
	Dominica.....	353	
	Egypt .....	354	
	Eritrea.....	356	
	Lebanon .....	364	
	Sierra Leone .....	366	
	Syrian Arab Republic.....	367	
<b>C030</b>			
	Equatorial Guinea.....	723	
	Haiti .....	723	
<b>C037</b>			
	Djibouti .....	748	
<b>C038</b>			
	Djibouti .....	748	
<b>C042</b>			
	Haiti .....	752	
<b>C047</b>			
	Republic of Moldova .....	725	
	Tajikistan.....	726	
<b>C059</b>			
	Bangladesh.....	393	
<b>C077</b>			
	Bolivia, Plurinational State of .....	403	
	Haiti .....	477	
<b>C078</b>			
	Bolivia, Plurinational State of .....	403	
	Haiti .....	477	
<b>C081</b>			
	Bangladesh.....	633	
	Congo .....	636	
	Dominica.....	638	

Grenada .....	640	Guinea.....	177
Guatemala .....	641	Haiti .....	180
Haiti .....	642	Honduras.....	181
Honduras.....	644	Hungary.....	188
Hungary.....	646	Italy.....	194
India.....	648	Jamaica.....	194
Jordan.....	651	Japan.....	195
Kazakhstan .....	652	Kazakhstan .....	206
Lebanon.....	655	Kuwait .....	211
Madagascar.....	656	Kyrgyzstan.....	215
Malaysia .....	658	Lesotho .....	217
Mauritania .....	658	Liberia .....	219
Mauritius.....	659	Madagascar.....	223
Montenegro .....	661	Maldives.....	232
Mozambique .....	662	Malta .....	240
Nigeria.....	664	Mauritania .....	243
North Macedonia.....	664	Mauritius.....	245
Republic of Moldova .....	665	Mexico.....	249
Sierra Leone .....	671	Montenegro .....	254
Tajikistan.....	672	Mozambique .....	259
Uganda.....	676	Myanmar .....	260
Ukraine.....	677	Netherlands (Sint Maarten) .....	267
<b>C087</b>		Nicaragua .....	275
Albania .....	97	Niger.....	277
Bahamas .....	102	Nigeria.....	278
Barbados.....	103	North Macedonia.....	282
Belarus .....	104	Philippines .....	289
Belize .....	115	Saint Lucia .....	299
Cambodia .....	117	Venezuela, Bolivarian Republic of.....	308
Cameroon.....	122	Zimbabwe.....	315
Congo.....	135	<b>C090</b>	
Chad .....	124	Bosnia and Herzegovina .....	409
China (Hong Kong Special Administrative Region) .....	125	<b>C094</b>	
Djibouti.....	135	Cameroon.....	769
Dominica.....	136	Central African Republic.....	769
Ecuador .....	137	Democratic Republic of the Congo.....	770
Equatorial Guinea.....	147	Djibouti .....	771
Eritrea.....	148	Dominica.....	772
Gabon.....	151	France.....	772
Gambia.....	152	Morocco .....	773
Georgia .....	154	Sierra Leone .....	774
Germany.....	156	<b>C095</b>	
Ghana .....	160	Nigeria.....	712
Grenada .....	165	Republic of Moldova .....	713
Guatemala .....	166	Tajikistan.....	714
		Uganda.....	714

Ukraine.....	717	Nicaragua .....	276
Venezuela, Bolivarian Republic of.....	720	Niger.....	277
<b>C097</b>		Nigeria.....	281
Barbados.....	777	North Macedonia.....	284
Spain.....	777	Pakistan .....	285
Tajikistan.....	778	Papua New Guinea.....	288
<b>C098</b>		Republic of Moldova .....	295
Albania .....	98	Romania.....	296
Algeria .....	99	Saint Lucia .....	300
Belize .....	116	Sao Tome and Principe.....	300
Colombia.....	129	Sri Lanka .....	301
Comoros .....	134	Turkey .....	303
Ecuador .....	142	<b>C100</b>	
Egypt.....	146	Afghanistan .....	509
Equatorial Guinea.....	147	Barbados .....	512
Eritrea.....	149	Congo .....	521
Gambia.....	152	Guyana.....	525
Georgia .....	155	Lebanon .....	535
Germany .....	159	Madagascar.....	537
Ghana .....	161	Mongolia.....	541
Greece .....	162	Nigeria.....	545
Guatemala .....	170	Papua New Guinea.....	547
Guinea-Bissau .....	178	Peru .....	549
Guyana .....	179	Portugal .....	556
Haiti .....	180	Saint Lucia .....	559
Honduras.....	185	Saint Vincent and the Grenadines .....	560
Hungary .....	190	Sao Tome and Principe.....	562
Iraq .....	192	Senegal .....	567
Jamaica.....	194	Singapore .....	570
Japan.....	200	Sri Lanka .....	578
Jordan.....	202	Syrian Arab Republic.....	583
Kazakhstan .....	210	Tajikistan.....	584
Kuwait .....	213	Thailand .....	588
Lebanon .....	215	Trinidad and Tobago.....	590
Lesotho .....	218	Tunisia.....	594
Liberia.....	221	Ukraine.....	596
Madagascar.....	225	United Arab Emirates.....	598
Malaysia .....	226	United Kingdom of Great Britain and Northern Ireland (Gibraltar) .....	601
Maldives.....	236	United Republic of Tanzania.....	603
Mali .....	239	Uruguay .....	606
Malta.....	241	Venezuela, Bolivarian Republic of.....	609
Mauritius.....	246	Viet Nam .....	611
Montenegro .....	256	Zambia .....	615
Mozambique .....	260	<b>C102</b>	
Netherlands.....	264	Mauritania .....	756
New Zealand .....	269		

Mexico .....	759	Nigeria.....	545
<b>C103</b>		Papua New Guinea.....	548
Equatorial Guinea.....	765	Peru .....	551
<b>C105</b>		Poland .....	554
Algeria .....	320	Romania.....	558
Angola .....	321	Saint Vincent and the Grenadines .....	560
Azerbaijan.....	327	Sao Tome and Principe.....	563
Bahrain.....	330	Saudi Arabia .....	565
Bangladesh.....	335	Senegal .....	569
Belize .....	336	Slovenia.....	571
Botswana .....	338	Spain.....	575
Burundi .....	341	Sri Lanka .....	580
Cameroon .....	342	Sweden.....	582
China (Hong Kong Special Administrative Region) .....	346	Switzerland .....	582
Democratic Republic of the Congo .....	352	Tajikistan.....	586
Egypt.....	355	Togo.....	589
Eritrea.....	359	Trinidad and Tobago.....	592
Ethiopia .....	361	Tunisia.....	594
Fiji.....	362	United Arab Emirates.....	598
Madagascar .....	365	United Kingdom of Great Britain and Northern Ireland .....	599
Syrian Arab Republic .....	367	United Republic of Tanzania.....	603
Turkmenistan .....	368	Uzbekistan .....	607
Uganda.....	370	Venezuela, Bolivarian Republic of.....	610
Zimbabwe .....	372	Viet Nam .....	612
<b>C106</b>		Zambia .....	616
Haiti .....	723	<b>C112</b>	
<b>C107</b>		Liberia .....	787
Panama .....	796	<b>C113</b>	
<b>C110</b>		Liberia .....	787
Guatemala .....	803	<b>C114</b>	
<b>C111</b>		Liberia .....	787
Afghanistan .....	510	<b>C115</b>	
Barbados.....	513	Belize .....	729
Congo .....	522	Lebanon .....	735
China .....	514	Turkey .....	742
Ghana .....	523	<b>C118</b>	
Guyana .....	526	Guinea.....	750
Iraq .....	532	<b>C119</b>	
Islamic Republic of Iran .....	527	Madagascar.....	737
Lebanon .....	536	Sierra Leone .....	741
Madagascar .....	538	Turkey .....	742
Malawi .....	539	<b>C120</b>	
Mongolia.....	541	Madagascar.....	737
Namibia.....	542		

<b>C122</b>			
	Bosnia and Herzegovina .....	681	Burundi .....
	Comoros .....	689	Cameroon .....
	China .....	683	Central African Republic .....
	Djibouti.....	690	Colombia.....
	India.....	693	Comoros .....
	Madagascar.....	696	Congo .....
	Romania .....	698	Côte d'Ivoire .....
	Uganda.....	700	China .....
<b>C124</b>			Democratic Republic of the Congo .....
	Bolivia, Plurinational State of.....	404	Djibouti .....
<b>C125</b>			Dominica.....
	Trinidad and Tobago.....	787	Egypt .....
<b>C127</b>			Eritrea.....
	Madagascar.....	738	Ethiopia .....
	Turkey.....	742	Guyana.....
<b>C129</b>			Lebanon .....
	Guatemala .....	641	Madagascar.....
	Hungary .....	646	Papua New Guinea.....
	Kazakhstan .....	652	Sierra Leone .....
	Madagascar.....	656	Syrian Arab Republic.....
	Montenegro .....	661	Uganda.....
	North Macedonia.....	664	<b>C141</b>
	Republic of Moldova .....	665	Guatemala .....
	Ukraine.....	677	174
<b>C131</b>			<b>C144</b>
	Bolivia, Plurinational State of.....	709	Antigua and Barbuda.....
	Ukraine.....	717	Democratic Republic of the Congo .....
<b>C135</b>			Djibouti .....
	Jordan.....	206	El Salvador .....
	Republic of Korea .....	294	Grenada .....
<b>C136</b>			Madagascar.....
	Bolivia, Plurinational State of.....	732	Venezuela, Bolivarian Republic of.....
<b>C138</b>			629
	Afghanistan .....	377	<b>C147</b>
	Albania .....	380	Dominica.....
	Algeria .....	384	783
	Antigua and Barbuda.....	389	<b>C149</b>
	Armenia.....	390	Guatemala .....
	Azerbaijan.....	391	804
	Bahamas .....	392	<b>C150</b>
	Benin .....	398	Congo .....
	Bolivia, Plurinational State of.....	404	636
	Bosnia and Herzegovina .....	410	Dominica.....
	Burkina Faso.....	413	638
			Mexico.....
			659
			<b>C151</b>
			Antigua and Barbuda.....
			101
			<b>C152</b>
			Congo.....
			789
			<b>C155</b>
			Belize .....
			729

Lesotho .....	736	Burundi .....	418
Malawi .....	738	Cameroon .....	422
Mexico .....	739	Central African Republic .....	426
Turkey .....	742	Colombia .....	436
<b>C156</b>		Congo .....	440
Guinea .....	525	Costa Rica .....	441
Slovenia .....	574	Côte d'Ivoire .....	444
Spain .....	577	Chad .....	429
<b>C158</b>		Chile .....	430
Democratic Republic of the Congo .....	705	China .....	433
Papua New Guinea .....	706	Democratic Republic of the Congo .....	447
<b>C160</b>		Djibouti .....	454
San Marino .....	669	Ecuador .....	457
<b>C161</b>		Egypt .....	461
Turkey .....	742	Ethiopia .....	469
<b>C162</b>		Fiji .....	470
Bolivia, Plurinational State of .....	732	Ghana .....	471
Uganda .....	744	Haiti .....	478
<b>C167</b>		Kiribati .....	480
Turkey .....	742	Lebanon .....	484
<b>C169</b>		Madagascar .....	487
Honduras .....	793	Saint Vincent and the Grenadines .....	492
Peru .....	797	Senegal .....	493
<b>C172</b>		Sierra Leone .....	499
Spain .....	807	Solomon Islands .....	501
<b>C173</b>		Syrian Arab Republic .....	503
Ukraine .....	717	Uganda .....	506
<b>C176</b>		<b>C183</b>	
Turkey .....	742	Latvia .....	765
<b>C181</b>		Mali .....	767
Ethiopia .....	691	<b>C184</b>	
<b>C182</b>		Malawi .....	738
Afghanistan .....	378	<b>MLC, 2006</b>	
Albania .....	381	Congo .....	783
Algeria .....	385	Gabon .....	784
Angola .....	388	Maldives .....	784
Bangladesh .....	394	<b>C187</b>	
Barbados .....	396	Malawi .....	738
Belize .....	398	Turkey .....	742
Benin .....	401	<b>General observations</b>	
Bolivia, Plurinational State of .....	407	Afghanistan .....	89
Bosnia and Herzegovina .....	411	Albania .....	89
Botswana .....	412	Antigua and Barbuda .....	89
Burkina Faso .....	414	Botswana .....	89
		Congo .....	90

Chad .....	89	Gabon.....	816
Democratic Republic of the Congo .....	90	Gambia.....	817
Dominica.....	90	Grenada .....	817
Equatorial Guinea.....	91	Guinea.....	817
Gabon.....	91	Guinea-Bissau .....	817
Guinea .....	91	Guyana.....	818
Haiti .....	91	Haiti .....	818
Lebanon .....	92	Hungary .....	818
Madagascar .....	92	Iraq .....	818
Saint Lucia .....	92	Kazakhstan .....	819
Sao Tome and Principe.....	93	Kyrgyzstan .....	819
South Sudan .....	93	Lebanon .....	820
Syrian Arab Republic .....	93	Liberia .....	820
Tunisia .....	93	Libya .....	820
Tuvalu.....	94	Malawi.....	821
Uganda.....	94	Malaysia .....	821
Vanuatu.....	94	Maldives.....	821
Yemen .....	94	Malta .....	822
<b>Submission to the competent authorities</b>		Marshall Islands .....	822
Albania .....	811	Mexico.....	822
Angola .....	811	Mongolia.....	823
Antigua and Barbuda.....	811	Mozambique .....	823
Armenia.....	812	North Macedonia.....	823
Bahamas .....	812	Pakistan .....	823
Bahrain.....	812	Papua New Guinea.....	823
Barbados.....	813	Republic of Moldova .....	824
Belize .....	813	Rwanda .....	824
Bolivia, Plurinational State of.....	813	Saint Lucia .....	824
Brunei Darussalam.....	813	Saint Vincent and the Grenadines .....	825
Central African Republic .....	814	Seychelles .....	825
Comoros .....	814	Sierra Leone .....	826
Congo .....	814	Solomon Islands .....	826
Croatia.....	815	Somalia .....	826
Chad .....	814	Syrian Arab Republic.....	827
Chile.....	814	Timor-Leste .....	827
Democratic Republic of the Congo .....	815	Togo.....	828
Dominica.....	815	Tuvalu.....	828
El Salvador .....	815	Uruguay .....	828
Equatorial Guinea.....	816	Vanuatu.....	828
Eswatini.....	816	Yemen .....	829
		Zambia .....	829

## Index of comments by country

<b>Afghanistan</b>		C105.....	327
	C100.....	509	
	C111.....	510	
	C138.....	377	
	C182.....	378	
	General observations.....	89	
<b>Albania</b>			
	C087.....	97	
	C098.....	98	
	C138.....	380	
	C182.....	381	
	General observations.....	89	
	Submission to the competent authorities .....	811	
<b>Algeria</b>			
	C006.....	383	
	C029.....	319	
	C098.....	99	
	C105.....	320	
	C138.....	384	
	C182.....	385	
<b>Angola</b>			
	C105.....	321	
	C182.....	388	
	Submission to the competent authorities .....	811	
<b>Antigua and Barbuda</b>			
	C138.....	389	
	C144.....	619	
	C151.....	101	
	General observations.....	89	
	Submission to the competent authorities .....	811	
<b>Armenia</b>			
	C017.....	747	
	C138.....	390	
	Submission to the competent authorities .....	812	
<b>Austria</b>			
	C029.....	323	
<b>Azerbaijan</b>			
	C029.....	324	
	C105.....	327	
	C138.....	391	
<b>Bahamas</b>			
	C087.....	102	
	C138.....	392	
	Submission to the competent authorities .....	812	
<b>Bahrain</b>			
	C029.....	328	
	C105.....	330	
	Submission to the competent authorities .....	812	
<b>Bangladesh</b>			
	C029.....	333	
	C059.....	393	
	C081.....	633	
	C105.....	335	
	C182.....	394	
<b>Barbados</b>			
	C087.....	103	
	C097.....	777	
	C100.....	512	
	C111.....	513	
	C182.....	396	
	Submission to the competent authorities .....	813	
<b>Belarus</b>			
	C087.....	104	
<b>Belize</b>			
	C087.....	115	
	C098.....	116	
	C105.....	336	
	C115.....	729	
	C155.....	729	
	C182.....	398	
	Submission to the competent authorities .....	813	
<b>Benin</b>			
	C138.....	398	
	C182.....	401	
<b>Bolivia, Plurinational State of</b>			
	C029.....	337	

C077.....	403	Submission to the competent	
C078.....	403	authorities .....	814
C124.....	404	<b>Chad</b>	
C131.....	709	C029.....	345
C136.....	732	C087.....	124
C138.....	404	C182.....	429
C162.....	732	General observations.....	89
C182.....	407	Submission to the competent	
Submission to the competent		authorities .....	814
authorities .....	813	<b>Chile</b>	
<b>Bosnia and Herzegovina</b>		C182.....	430
C090.....	409	Submission to the competent	
C122.....	681	authorities .....	814
C138.....	410	<b>China</b>	
C182.....	411	C111.....	514
<b>Botswana</b>		C122.....	683
C105.....	338	C138.....	431
C182.....	412	C182.....	433
General observations.....	89	<b>China (Hong Kong Special</b>	
<b>Brunei Darussalam</b>		<b>Administrative Region)</b>	
Submission to the competent		C087.....	125
authorities .....	813	C105.....	346
<b>Burkina Faso</b>		<b>Colombia</b>	
C029.....	339	C029.....	348
C138.....	413	C098.....	129
C182.....	414	C138.....	434
<b>Burundi</b>		C182.....	436
C026.....	710	<b>Comoros</b>	
C029.....	340	C098.....	134
C105.....	341	C122.....	689
C138.....	417	C138.....	438
C182.....	418	Submission to the competent	
<b>Cambodia</b>		authorities .....	814
C087.....	117	<b>Congo</b>	
<b>Cameroon</b>		C029.....	350
C087.....	122	C081.....	636
C094.....	769	C087.....	135
C105.....	342	C100.....	521
C138.....	420	C111.....	522
C182.....	422	C138.....	439
<b>Central African Republic</b>		C150.....	636
C029.....	344	C152.....	789
C094.....	769	C182.....	440
C138.....	424	MLC, 2006 .....	783
C182.....	426	General observations.....	90

Submission to the competent authorities .....	814	C098.....	142
<b>Costa Rica</b>		C182.....	457
C182.....	441	<b>Egypt</b>	
<b>Côte d'Ivoire</b>		C029.....	354
C138.....	443	C098.....	146
C182.....	444	C105.....	355
<b>Croatia</b>		C138.....	460
Submission to the competent authorities .....	815	C182.....	461
<b>Democratic Republic of the Congo</b>		<b>El Salvador</b>	
C029.....	351	C144.....	622
C094.....	770	Submission to the competent authorities .....	815
C105.....	352	<b>Equatorial Guinea</b>	
C138.....	446	C001.....	723
C144.....	620	C014.....	723
C158.....	705	C030.....	723
C182.....	447	C087.....	147
General observations.....	90	C098.....	147
Submission to the competent authorities .....	815	C103.....	765
<b>Djibouti</b>		General observations.....	91
C019.....	748	Submission to the competent authorities .....	816
C024.....	748	<b>Eritrea</b>	
C037.....	748	C029.....	356
C038.....	748	C087.....	148
C087.....	135	C098.....	149
C094.....	771	C105.....	359
C122.....	690	C138.....	463
C138.....	452	<b>Eswatini</b>	
C144.....	621	Submission to the competent authorities .....	816
C182.....	454	<b>Ethiopia</b>	
<b>Dominica</b>		C105.....	361
C029.....	353	C138.....	465
C081.....	638	C181.....	691
C087.....	136	C182.....	469
C094.....	772	<b>Fiji</b>	
C138.....	456	C105.....	362
C147.....	783	C182.....	470
C150.....	638	<b>France</b>	
General observations.....	90	C094.....	772
Submission to the competent authorities .....	815	<b>Gabon</b>	
<b>Ecuador</b>		C087.....	151
C087.....	137	MLC, 2006 .....	784
		General observations.....	91

Submission to the competent authorities .....	816	Submission to the competent authorities .....	817
<b>Gambia</b>		<b>Guyana</b>	
C087.....	152	C098.....	179
C098.....	152	C100.....	525
Submission to the competent authorities .....	817	C111.....	526
<b>Georgia</b>		C138.....	475
C087.....	154	Submission to the competent authorities .....	818
C098.....	155	<b>Haiti</b>	
<b>Germany</b>		C001.....	723
C087.....	156	C012.....	752
C098.....	159	C014.....	723
<b>Ghana</b>		C017.....	752
C087.....	160	C024.....	752
C098.....	161	C025.....	752
C111.....	523	C030.....	723
C182.....	471	C042.....	752
<b>Greece</b>		C077.....	477
C098.....	162	C078.....	477
<b>Grenada</b>		C081.....	642
C081.....	640	C087.....	180
C087.....	165	C098.....	180
C144.....	627	C106.....	723
Submission to the competent authorities .....	817	C182.....	478
<b>Guatemala</b>		General observations.....	91
C081.....	641	Submission to the competent authorities .....	818
C087.....	166	<b>Honduras</b>	
C098.....	170	C081.....	644
C110.....	803	C087.....	181
C129.....	641	C098.....	185
C141.....	174	C169.....	793
C149.....	804	<b>Hungary</b>	
<b>Guinea</b>		C081.....	646
C087.....	177	C087.....	188
C118.....	750	C098.....	190
C156.....	525	C129.....	646
General observations.....	91	Submission to the competent authorities .....	818
Submission to the competent authorities .....	817	<b>India</b>	
<b>Guinea-Bissau</b>		C081.....	648
C026.....	711	C122.....	693
C098.....	178	<b>Iraq</b>	
		C098.....	192
		C111.....	532

Submission to the competent authorities .....	818	General observations.....	92
<b>Islamic Republic of Iran</b>		Submission to the competent authorities .....	820
C111.....	527	<b>Lesotho</b>	
<b>Italy</b>		C087.....	217
C087.....	194	C098.....	218
<b>Jamaica</b>		C155.....	736
C087.....	194	<b>Liberia</b>	
C098.....	194	C087.....	219
<b>Japan</b>		C098.....	221
C087.....	195	C112.....	787
C098.....	200	C113.....	787
<b>Jordan</b>		C114.....	787
C081.....	651	Submission to the competent authorities .....	820
C098.....	202	<b>Libya</b>	
C135.....	206	Submission to the competent authorities .....	820
<b>Kazakhstan</b>		<b>Madagascar</b>	
C081.....	652	C081.....	656
C087.....	206	C087.....	223
C098.....	210	C098.....	225
C129.....	652	C100.....	537
Submission to the competent authorities .....	819	C105.....	365
<b>Kiribati</b>		C111.....	538
C182.....	480	C119.....	737
<b>Kuwait</b>		C120.....	737
C087.....	211	C122.....	696
C098.....	213	C127.....	738
<b>Kyrgyzstan</b>		C129.....	656
C087.....	215	C138.....	486
Submission to the competent authorities .....	819	C144.....	627
<b>Latvia</b>		C182.....	487
C183.....	765	General observations.....	92
<b>Lebanon</b>		<b>Malawi</b>	
C017.....	755	C111.....	539
C019.....	755	C155.....	738
C029.....	364	C184.....	738
C081.....	655	C187.....	738
C098.....	215	Submission to the competent authorities .....	821
C100.....	535	<b>Malaysia</b>	
C111.....	536	C081.....	658
C115.....	735	C098.....	226
C138.....	482	Submission to the competent authorities .....	821
C182.....	484		

<b>Malaysia (Sarawak)</b>		C087.....	254
C014.....	724	C098.....	256
<b>Maldives</b>		C129.....	661
C087.....	232	<b>Morocco</b>	
C098.....	236	C094.....	773
MLC, 2006.....	784	<b>Mozambique</b>	
Submission to the competent authorities.....	821	C014.....	725
<b>Mali</b>		C081.....	662
C098.....	239	C087.....	259
C183.....	767	C098.....	260
<b>Malta</b>		Submission to the competent authorities.....	823
C087.....	240	<b>Myanmar</b>	
C098.....	241	C087.....	260
Submission to the competent authorities.....	822	<b>Namibia</b>	
<b>Marshall Islands</b>		C111.....	542
Submission to the competent authorities.....	822	<b>Netherlands</b>	
<b>Mauritania</b>		C098.....	264
C026.....	711	<b>Netherlands (Sint Maarten)</b>	
C081.....	658	C087.....	267
C087.....	243	<b>New Zealand</b>	
C102.....	756	C098.....	269
<b>Mauritius</b>		<b>Nicaragua</b>	
C012.....	757	C087.....	275
C017.....	757	C098.....	276
C019.....	757	<b>Niger</b>	
C081.....	659	C087.....	277
C087.....	245	C098.....	277
C098.....	246	<b>Nigeria</b>	
<b>Mexico</b>		C026.....	712
C087.....	249	C081.....	664
C102.....	759	C087.....	278
C150.....	659	C095.....	712
C155.....	739	C098.....	281
Submission to the competent authorities.....	822	C100.....	545
<b>Mongolia</b>		C111.....	545
C100.....	541	<b>North Macedonia</b>	
C111.....	541	C013.....	740
Submission to the competent authorities.....	823	C081.....	664
<b>Montenegro</b>		C087.....	282
C081.....	661	C098.....	284
		C129.....	664
		Submission to the competent authorities.....	823

<b>Pakistan</b>			
C098.....	285		
Submission to the competent authorities .....	823		
<b>Panama</b>			
C107.....	796		
<b>Papua New Guinea</b>			
C098.....	288		
C100.....	547		
C111.....	548		
C138.....	490		
C158.....	706		
Submission to the competent authorities .....	823		
<b>Peru</b>			
C100.....	549		
C111.....	551		
C169.....	797		
<b>Philippines</b>			
C087.....	289		
<b>Poland</b>			
C111.....	554		
<b>Portugal</b>			
C100.....	556		
<b>Republic of Korea</b>			
C135.....	294		
<b>Republic of Moldova</b>			
C047.....	725		
C081.....	665		
C095.....	713		
C098.....	295		
C129.....	665		
Submission to the competent authorities .....	824		
<b>Romania</b>			
C098.....	296		
C111.....	558		
C122.....	698		
<b>Rwanda</b>			
Submission to the competent authorities .....	824		
<b>Saint Lucia</b>			
C017.....	760		
C087.....	299		
C098.....	300		
C100.....	559		
General observations.....	92		
Submission to the competent authorities .....	824		
<b>Saint Vincent and the Grenadines</b>			
C100.....	560		
C111.....	560		
C182.....	492		
Submission to the competent authorities .....	825		
<b>San Marino</b>			
C160.....	669		
<b>Sao Tome and Principe</b>			
C098.....	300		
C100.....	562		
C111.....	563		
General observations.....	93		
<b>Saudia Arabia</b>			
C111.....	565		
<b>Senegal</b>			
C100.....	567		
C111.....	569		
C182.....	493		
<b>Seychelles</b>			
Submission to the competent authorities .....	825		
<b>Sierra Leone</b>			
C017.....	761		
C029.....	366		
C081.....	671		
C094.....	774		
C119.....	741		
C138.....	497		
C182.....	499		
Submission to the competent authorities .....	826		
<b>Singapore</b>			
C100.....	570		
<b>Slovenia</b>			
C111.....	571		
C156.....	574		
<b>Solomon Islands</b>			
C182.....	501		
Submission to the competent authorities .....	826		

<b>Somalia</b>		C111.....	592
Submission to the competent authorities .....	826	C125.....	787
<b>South Sudan</b>		<b>Tunisia</b>	
General observations.....	93	C100.....	594
<b>Spain</b>		C111.....	594
C097.....	777	General observations.....	93
C111.....	575	<b>Turkey</b>	
C156.....	577	C098.....	303
C172.....	807	C115.....	742
<b>Sri Lanka</b>		C119.....	742
C098.....	301	C127.....	742
C100.....	578	C155.....	742
C111.....	580	C161.....	742
<b>Sweden</b>		C167.....	742
C111.....	582	C176.....	742
<b>Switzerland</b>		C187.....	742
C111.....	582	<b>Turkmenistan</b>	
<b>Syrian Arab Republic</b>		C105.....	368
C029.....	367	<b>Tuvalu</b>	
C100.....	583	General observations.....	94
C105.....	367	Submission to the competent authorities .....	828
C138.....	502	<b>Uganda</b>	
C182.....	503	C026.....	714
General observations.....	93	C081.....	676
Submission to the competent authorities .....	827	C095.....	714
<b>Tajikistan</b>		C105.....	370
C047.....	726	C122.....	700
C081.....	672	C138.....	506
C095.....	714	C162.....	744
C097.....	778	C182.....	506
C100.....	584	General observations.....	94
C111.....	586	<b>Ukraine</b>	
<b>Thailand</b>		C081.....	677
C100.....	588	C095.....	717
<b>Timor-Leste</b>		C100.....	596
Submission to the competent authorities .....	827	C129.....	677
<b>Togo</b>		C131.....	717
C111.....	589	C173.....	717
Submission to the competent authorities .....	828	<b>United Arab Emirates</b>	
<b>Trinidad and Tobago</b>		C100.....	598
C100.....	590	C111.....	598
		<b>United Kingdom of Great Britain and Northern Ireland</b>	
		C111.....	599



## List of Conventions and Protocols by Subject

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

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

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

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

### 2 Forced labour

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

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

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

### 4 Equality of opportunity and treatment

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

### 5 Tripartite consultation

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

**6 Labour administration and inspection**

- C063 Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
- ★ C081 *Labour Inspection Convention, 1947 (No. 81)*
- C085 Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
- C129 *Labour Inspection (Agriculture) Convention, 1969 (No. 129)*
- C150 Labour Administration Convention, 1978 (No. 150)
- C160 Labour Statistics Convention, 1985 (No. 160)
- P081 Protocol of 1995 to the Labour Inspection Convention, 1947

**7 Employment policy and promotion**

- C002 Unemployment Convention, 1919 (No. 2)
- C034 *Fee-Charging Employment Agencies Convention, 1933 (No. 34)*
- C088 Employment Service Convention, 1948 (No. 88)
- C096 Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
- C122 *Employment Policy Convention, 1964 (No. 122)*
- C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
- C181 Private Employment Agencies Convention, 1997 (No. 181)

**8 Vocational guidance and training**

- C140 Paid Educational Leave Convention, 1974 (No. 140)
- C142 Human Resources Development Convention, 1975 (No. 142)

**9 Employment security**

- C158 Termination of Employment Convention, 1982 (No. 158)

**10 Wages**

- C026 Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
- ★ C095 Protection of Wages Convention, 1949 (No. 95)
- C099 Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
- C131 Minimum Wage Fixing Convention, 1970 (No. 131)
- C173 Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)

## 11 Working time

- C001 Hours of Work (Industry) Convention, 1919 (No. 1)
- C004 Night Work (Women) Convention, 1919 (No. 4)
- C014 Weekly Rest (Industry) Convention, 1921 (No. 14)
- C020 Night Work (Bakeries) Convention, 1925 (No. 20)
- C030 Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
- C031 Hours of Work (Coal Mines) Convention, 1931 (No. 31)
- C041 Night Work (Women) Convention (Revised), 1934 (No. 41)
- C043 Sheet-Glass Works Convention, 1934 (No. 43)
- C046 Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)
- C047 Forty-Hour Week Convention, 1935 (No. 47)
- C049 Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
- C051 Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)
- C052 Holidays with Pay Convention, 1936 (No. 52)
- C061 Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61)
- C067 Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)
- ★ C089 Night Work (Women) Convention (Revised), 1948 (No. 89)
- ★ C101 Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
- C106 Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
- C132 Holidays with Pay Convention (Revised), 1970 (No. 132)
- C153 Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153)
- C171 Night Work Convention, 1990 (No. 171)
- C175 Part-Time Work Convention, 1994 (No. 175)
- P089 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

## 12 Occupational safety and health

- C013 White Lead (Painting) Convention, 1921 (No. 13)
- C045 Underground Work (Women) Convention, 1935 (No. 45)
- C062 Safety Provisions (Building) Convention, 1937 (No. 62)
- C115 Radiation Protection Convention, 1960 (No. 115)
- C119 Guarding of Machinery Convention, 1963 (No. 119)
- C120 Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
- C127 Maximum Weight Convention, 1967 (No. 127)
- C136 Benzene Convention, 1971 (No. 136)
- C139 Occupational Cancer Convention, 1974 (No. 139)
- C148 Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
- ★ C155 Occupational Safety and Health Convention, 1981 (No. 155)
- C161 Occupational Health Services Convention, 1985 (No. 161)
- C162 Asbestos Convention, 1986 (No. 162)
- C167 Safety and Health in Construction Convention, 1988 (No. 167)
- C170 Chemicals Convention, 1990 (No. 170)
- C174 Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
- C176 Safety and Health in Mines Convention, 1995 (No. 176)
- C184 Safety and Health in Agriculture Convention, 2001 (No. 184)
- C187 Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- P155 Protocol of 2002 to the Occupational Safety and Health Convention, 1981

<b>13 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 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 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)

**19 Dockworkers**

- C027 Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
- C028 Protection against Accidents (Dockers) Convention, 1929 (No. 28)
- C032 Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)
- C137 Dock Work Convention, 1973 (No. 137)
- C152 Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

**20 Indigenous and tribal peoples**

- C050 Recruiting of Indigenous Workers Convention, 1936 (No. 50)
- C064 Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)
- C065 Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65)
- C086 Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86)
- C104 Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104)
- C107 Indigenous and Tribal Populations Convention, 1957 (No. 107)
- C169 Indigenous and Tribal Peoples Convention, 1989 (No. 169)

**21 Specific categories of workers**

- C083 Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83)
- ★ C110 Plantations Convention, 1958 (No. 110)
- C149 Nursing Personnel Convention, 1977 (No. 149)
- C172 Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
- C177 Home Work Convention, 1996 (No. 177)
- C189 Domestic Workers Convention, 2011 (No. 189)
- P110 Protocol of 1982 to the Plantations Convention, 1958

**22 Final Articles Conventions**

- C080 Final Articles Revision Convention, 1946 (No. 80)
- C116 Final Articles Revision Convention, 1961 (No. 116)

## ► Reader's note

---

### Overview of the ILO supervisory mechanisms

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

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

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

### Role of employers' and workers' organizations

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

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

---

<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. 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.

<sup>3</sup> General Report, paras 111–120.

## 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;
- the information and reports concerning Conventions and Recommendations communicated by Member States in accordance with article 19 of the Constitution;

---

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

- 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. This year's General Survey is entitled *Securing decent work for nursing personnel and domestic workers, key actors in the care economy*.

## 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.

---

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

<sup>7</sup> General Report, para. 23.

<sup>8</sup> General Report, para. 86. 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 context of the adoption of a five-year cycle of recurrent discussions by the Governing Body in November 2016. In the context of discussing measures to strengthen the supervisory system in November 2018, the Governing Body invited the Committee of Experts to make proposals on its possible contribution to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular by considering measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents (document GB.334/INS/5).

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

- **Part II: Observations concerning particular countries** on the fulfilment of obligations in respect of the submission of reports, the application of ratified Conventions grouped by subject matter and the obligation to submit instruments to the competent authorities.

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

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

### Composition

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

### Work of the Committee

The Conference Committee on the Application of Standards meets annually at the Conference 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

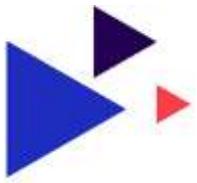
---

<sup>11</sup> The report is published in the *Record of Proceedings* of the Conference. Since 2007, it has also been issued in a separate publication. See, for the last report, *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, International Labour Conference, 109th Session, Geneva, 2021.

to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of missions. The Conference Committee may also request a government to submit additional information or address specific concerns in its next report to the Committee of Experts. The Conference Committee also draws the attention of the Conference to certain cases, such as cases of progress and cases of serious failure to comply with ratified Conventions.

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

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



## 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 92nd Session from 24 November to 11 December 2021. In the context of the ongoing COVID-19 pandemic, the Committee conducted its 92nd Session in a hybrid modality involving in-person participation by 11 members and online conferencing by six experts. The Committee has the honour to present its report to the Governing Body.

### A. Composition of the Committee

2. The composition of the Committee is as follows: Mr Shinichi AGO (Japan), Ms Lia ATHANASSIOU (Greece), Ms Leila AZOURI (Lebanon), Mr James J. BRUDNEY (United States of America), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr Alain LACABARATS (France), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom of Great Britain and Northern Ireland), Mr Sandile NGCOBO (South Africa), Ms Rosemary OWENS (Australia), Ms Mónica PINTO (Argentina), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Ms Kamala SANKARAN (India), Ms Deborah THOMAS-FELIX (Trinidad and Tobago) and Mr Bernd WAAS (Germany). Appendix I of the General Report contains brief biographies of all the Committee members.
3. During its session, the Committee functioned with a reduced composition of 17 members following the end of the mandate of Judges Abdul G. Koroma and Lelio Bentes Corrêa and the resignation of Professor Vitit Muntarbhorn upon his appointment as United Nations Special Rapporteur on the Human Rights Situation in Cambodia. The Committee took note of this development and expressed its deep appreciation for the contribution that Professor Muntarbhorn made to its work during his 12-year tenure. The Committee wished Professor Muntarbhorn every success in fulfilling his important new mandate.
4. With regard to the process for filling the three currently open vacancies, the Committee took note of discussions on the methods of appointment of its members at the 341st and 343rd Sessions of the Governing Body (March and November 2021). It welcomed the decision to give wide publicity to these vacancies through a call for expressions of interest on the ILO's global and regional public website. The Committee expressed the firm hope that the three vacancies will be filled in time for the Committee's next meeting in November–December 2022 and that the new process will continue to lead to the selection of experts of the highest independence, expertise, professional standing and moral integrity.
5. This year, Ms Graciela Dixon Caton continued her mandate as Chairperson and Ms Rosemary Owens was elected as Reporter. Ms Dixon Caton was also re-elected for a second term as Chairperson for the period 2022–24.

### B. Working methods

6. Consideration of its working methods by the Committee of Experts has been an ongoing process since its establishment. In this process, the Committee has always given consideration to the views expressed by the tripartite constituents most recently in the context of Governing Body discussions on strengthening the supervisory system.

7. 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 21st time. The Subcommittee took note of the impact of the introduction of digital working methods and other adaptations introduced, inter alia, in the context of the COVID-19 pandemic and the organization of virtual sessions through videoconferencing facilities. The Subcommittee held an exchange on the improvements, challenges and opportunities generated by these developments for the effective holding of its sessions.
8. The Subcommittee also took note of the Governing Body's decision <sup>1</sup> to consider proposals at its 344th Session (March 2022) for extending the duration of the Committee's annual session to ensure that sufficient time is allocated for the discharge of its workload and held a preliminary discussion on the modalities of an extended session to take place in 2022.
9. The Subcommittee also considered ways to enhance a constructive dialogue with Member States for a more clear, concise and actionable communication of the Committee's recommendations which would, among other things, facilitate follow-up by the constituents at country level. One of the methods it considered in this regard was the use of hyperlinks to facilitate references to, for example, its previous comments, General Surveys and general observations.
10. The Subcommittee took stock of the positive impact that the recent practice of urgent appeals has had on the examination of files where reports have not been received for more than three years. It welcomed the positive comments made by the Conference Committee on this practice at the 109th Session (2021) of the International Labour Conference. The Subcommittee examined ways to enhance the visibility of urgent appeals in its General Report through the introduction of summary tables on the urgent appeals examined at its current session and those initiated for the next session. <sup>2</sup> It also held a discussion on the most appropriate ways to follow up on comments adopted in the absence of a report on the basis of an urgent appeal, emphasizing the importance of reinforced technical assistance by the Office.
11. The Subcommittee held a discussion on the need to plan appropriately given the implications for its workload regarding the handling of an increased number of reports expected following the marked increase in ratifications achieved, inter alia, as a result of the Director-General's Centenary ratification campaign and its aftermath.
12. Based on the preparatory work of the Subcommittee, the Committee examined the request put forward by Government members of the Conference Committee to consider the possibility of allowing a representative of the Government group to attend the next special sitting to which the Worker and Employer Vice-Chairpersons are invited. <sup>3</sup> The Committee replied positively to this request and asked its Chairperson to follow up on this matter.
13. The Committee also decided, based on a proposal by the Subcommittee, to extend a request to the Office of the High Commissioner for Human Rights for a meeting to be organized between the Chairperson of the Committee of Experts and the Chairpersons of the UN treaty bodies in order to explore synergies and questions of common interest in the context of a repositioned UN

---

<sup>1</sup> GB.343/LILS/3, para. 42, as amended by the Governing Body.

<sup>2</sup> See paras 73, 74 and 77 of the Report.

<sup>3</sup> ILC.109/Record No. 6A/P.I, para. 408.

development system and the UN Secretary-General's initiative known as the Call to Action for Human Rights. More information on this subject is provided in section II.D of this report on collaboration with the United Nations.

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

14. The Chairperson of the Committee was invited to participate in the general discussion of the Conference Committee at the 109th Session of the International Labour Conference which took place virtually in June 2021 after being deferred for one year due to the COVID-19 pandemic. In addition, the Chairperson of the Committee on Freedom of Association was again invited to address the Conference Committee in order to present the Committee's Annual Report.
15. As has become customary, the Chairperson of the Committee of Experts extended an invitation to the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) to participate in a special sitting of the Committee at its present session. They both accepted this invitation.
16. In welcoming the two Vice-Chairpersons, the Chair of the Committee noted the positive synergies afforded by the meeting as both committees shared the same goal of maintaining an effective supervisory system and so supporting the role it plays in making decent work a reality, especially in this challenging time. 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.
17. The Employer Vice-Chairperson then addressed a number of points to the meeting:
  - The importance of the alignment of the two supervisory bodies around the common objective of long-lasting improved compliance with international labour standards both in law and practice was emphasized by the Employer Vice-Chairperson. She indicated that the global tripartite consensus around the Centenary Declaration on the Future of Work should be the key framework leading to a sustainable and resilient recovery from the COVID-19 pandemic. In fully recognizing the dramatic upheaval in the world of work, the ILO should listen to its constituents in order to understand their national circumstances and be able to give practical and effective guidance in respect of the application of international labour standards. The key consideration should continue to be national social dialogue and tripartism. The ILO, including the Conference Committee, the Committee of Experts and the Office supporting the work of both Committees, must continue to show its capacity for a pragmatic, balanced approach supporting a fast, resilient labour market recovery from the pandemic.
  - This was an opportune moment for the supervisory system to pause and reflect on its effectiveness, the extent to which comments were geared to generate adequate responses, the way in which practical guidance was provided to ensure sustainable compliance in law and practice, and finally, how to safeguard the system's cohesion in the future. She encouraged the Committee to reflect on these questions.
  - She emphasized the role of open dialogue and close cooperation among the Conference Committee, the Committee of Experts, the Office and the tripartite constituents at this challenging time. She called on the Committee of Experts to ensure that its comments, while non-binding, were sensitive to and responsive to the views expressed in the Conference Committee, in observations by employers' and workers' organizations under article 23 of the ILO Constitution and in Governing Body discussions in order to respond to them in a balanced manner.

- The long-standing issue of the right to strike was an example of an area where experts needed to better integrate the diversity of industrial relations systems in their assessments of compliance. The Employer Vice-Chairperson reiterated the view of the employers' group that the right to strike had no basis in the text of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) nor in its legislative history. The Conference Committee had overcome turbulent times by finding a *modus vivendi* on the right to strike that had enabled it to deliver its supervisory work. The Committee of Experts should contribute to this way forward by producing comments that helped build on this consensus rather than detract from it.
  - The Employers' group had also highlighted in the Conference Committee their concerns over a number of interpretations of Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Employer Vice-Chairperson called upon the Committee of Experts to fully respect and appreciate the flexibility afforded by Article 4 of Convention No. 98 and allow employers and workers to find means of implementation which aligned with their national conditions, practices and traditions of industrial relations. Past experience had shown that where the two supervisory bodies reached convergent views, more positive responses were obtained from governments and the social partners leading to faster, better and more effective compliance. This was the key to a clear, effective and authoritative supervisory system.
  - The Employer Vice-Chairperson also suggested certain changes in the substance and format of the report to achieve greater impact, including by:
    - adhering faithfully to the text of Conventions when assessing compliance;
    - avoiding generating confusion by asking governments to provide information on the application of the provisions of recommendations which complemented ratified conventions as there was no reporting obligation for recommendations;
    - clarifying the distinction between direct requests and observations, and avoiding excluding a large part of comments from tripartite scrutiny by including in observations all comments containing a substantive assessment of compliance;
    - providing clear explanations of the reasons for proposing a case for discussion at the Conference (double footnoted cases). The Conference Committee was asked to enhance transparency in the selection of cases and additional information from the Committee of Experts would help to increase transparency and enable the Vice Chairpersons to determine whether a case would be selected for discussion;
    - indicating how the needs of sustainable enterprises were incorporated in the Committee of Experts' assessments of compliance. She indicated that these should become more visible in order to ensure a more balanced supervision of standards in the world of work. This was a key consideration for the employers, especially as sustainable enterprises were expected to play a key role in the context of recovery from the pandemic; and
    - improving transparency by making government reports under article 22, as well as the social partners comments, accessible online.
- 18.** She concluded by saying that open transparent dialogue did not undermine the independence of the Committee of Experts but rather strengthened it as the entire system was strengthened.
- 19.** The Worker Vice-Chairperson emphasized the complementarity between the two Committees and their respective independence, and made the following points:
- He recalled the strong attachment of the Workers' group to the independence and impartiality of the Committee of Experts, both in the way it carried out its work and in the way in which its members were appointed. Independence was a condition *sine qua non* for the Committee's credibility which was the cornerstone of the ILO supervisory system.

- The Workers' group also attached great importance to the Committee's autonomy as regards its working methods. While agreeing with the Employers that article 22 of the Constitution did not compel governments to report on the application of Recommendations, nothing in that article prevented governments from providing information relative to the application of Recommendations that were linked to Conventions that they had voluntarily ratified. This communication of information could take place at the initiative of a government or on the basis of a request by the Committee of Experts and was part of the continuous dialogue that the latter had with governments in complete autonomy.
  - While fully respecting the Committee's autonomy, the Worker Vice-Chairperson asked for clarification on the context in which questions raised by social partners in direct requests combined with a government's inadequate response to the Committee's previous comments, might give rise to an observation. He also emphasized how much the Workers' group appreciated General Surveys which made it possible to have a comprehensive picture on the state of application of various instruments on a particular topic and made it easier to understand trends and developments, linking the standards concerned to the Decent Work Agenda of which they were a very important component.
  - The Worker Vice-Chairperson was pleased to note the Governing Body decision to examine the extension of the Committee's session at its March 2022 meeting with a view to facilitating the management of the workload which was increasing steadily.
  - In the light of the wave of restrictions and derogations from workers' rights introduced as a result of the COVID-19 pandemic, he reiterated the request he had made in the Conference Committee for specific follow-up to be given by the Committee of Experts to these exceptional measures and asked that a specific section of the Committee's report be dedicated to this question. The world of work was in turmoil and there was no Member State that remained unaffected by the pandemic. The Centenary Declaration was very important, but it had been adopted at a moment when no one was aware of the sudden disruption that would take place a few months later. The world had stopped turning and was still not turning as it did prior to the pandemic. Workers faced very difficult circumstances, especially the most vulnerable and those in fragile situations such as seafarers. The ILO was founded on a promise of social justice and a fair world in which workers would not be a commodity nor victimized. In these dramatic times, the Committee should take on this core mission and place it at the heart of its activities in order to make sure that the pandemic did not stop the ILO from creating a fair and more inclusive society. The question to answer at the next Conference Committee would be how to take action in order to maintain the progress achieved over previous years and avoid moving into regression.
- 20.** Finally, the Worker Vice Chairperson reiterated the Workers' full respect for the Committee and its pronouncements including with regard to the right to strike and the right to collective bargaining.
- 21.** The Committee of Experts thanked the two Vice-Chairpersons for their important comments. It stressed that the examination of its working methods was an ongoing task and, in relation to that task, it always welcomed and gave serious consideration to the views of the constituents. Based on these views, the Committee had decided this year to make increased use of hyperlinks, where appropriate, in order to produce a more succinct and user-friendly report. It had also decided to strengthen the practice of urgent appeals, which seemed to deliver positive results by motivating governments to submit overdue reports. With regard to technical assistance on the ground, the Committee had been informed that assistance by the Office to Member States had been extended and reinforced including through tailored support to address urgent appeals. On the introduction of double footnotes, the Committee had always considered that the urgency of the matter was the most important criterion and considered that this urgency was well reflected in the content

of the corresponding observations. The Committee was also conscious of the need to maintain balance with regard to regions and Conventions. The Committee had heard the call for additional clarity on this matter. This was not an exact science and the aim had always been the greatest possible transparency and predictability. The Committee also referred to the question of consolidated comments, which had been raised at the Conference Committee, in order to clarify that this approach was implemented only where it added value in providing clear, comprehensive and practical recommendations. The Committee also acknowledged the views expressed on the right to strike by the Employers and the Workers as well as its own position on the matter, which had been expressed on more than one occasion. The Committee reiterated its appreciation for the special sitting as a positive opportunity to nourish the dialogue between the two supervisory bodies.

22. In conclusion, the Committee assured the two Vice Chairpersons that it had listened to their comments and would review them within the context of its independent functioning so as to continue to discharge the mandate entrusted to it. The Committee had a clear understanding of its own role and mandate and was aware of the pivotal role that it played in the supervisory system. The Committee had not suspended its work at all during the COVID-19 pandemic and had managed to ensure continuity in the discharge of its mandate by closely following developments in the world of work where enterprises and workers had been enveloped in the unprecedented crisis brought about by the pandemic. Finally, the Committee of Experts informed the two Vice-Chairpersons that it had noted the request from a Government group during the 2021 session of the Conference Committee and that it considered extending an invitation to the special sitting to a Government representative to be eventually identified by the Conference Committee.

## D. Mandate

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

## E. The role of international labour standards and effective and authoritative supervision as the foundation of the global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient

24. In its previous General Report, the Committee highlighted the role of international labour standards and authoritative supervision in addressing the impact of the COVID-19 pandemic emphasizing, inter alia, that the “crisis exposed the blind spots of pre-existing legal and policy frameworks exacerbating inequality and poverty and stalling, or even reversing, the progress made towards sustainable development and towards realizing the SDG 8 vision of full, productive and freely chosen employment and decent work for all”.<sup>4</sup> The Committee notes with interest the rich discussion which its observations elicited in the Conference Committee on the Application of Standards and in particular, the recent experience shared by the tripartite constituents on the application of international labour standards in their respective countries.
25. The Committee also notes that the ILO Director-General referred to its observations in his Report to the International Labour Conference entitled *Work in the time of COVID*<sup>5</sup> and expanded on this subject further at a meeting with all Committee members during the Committee’s session. The Committee is grateful to the Director-General for making time to do so. It shares the Director-General’s view that the exacerbation of global inequalities calls upon the ILO to reaffirm its primary mandate of promoting social justice as has been elaborated and strengthened over the years by the 1944 *Declaration of Philadelphia*, the 1998 *Declaration on Fundamental Principles and Rights at Work*, the 2008 *Declaration on Social Justice for a Fair Globalization* and the *Centenary Declaration on the Future of Work* in 2019. The Committee was inspired by the Director-General’s call to translate these foundational documents into concrete action making a difference in the lives of people in the midst of the COVID-19 pandemic.
26. The Committee welcomes the adoption by the International Labour Conference of a “*Global Call to Action for a human-centred COVID-19 recovery*”, in which Member States commit to reinforcing respect for international labour standards, and to promoting their ratification, implementation and supervision, with particular attention to areas where serious gaps have been revealed by the crisis. The Call to Action provides that the ILO “must play a leadership role with its constituents and in the international system in advancing a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient. Through focused and accelerated implementation of the ILO Centenary Declaration for the Future of Work, it will strengthen its support of Member States’ recovery efforts and leverage the support of other multilateral organizations and international institutions while contributing actively to the efforts of the United Nations system to expedite delivery of the 2030 Agenda.” This road map for an economic and social recovery from the crisis that is fully inclusive, sustainable and resilient calls for “the promotion of legal and institutional frameworks based on international labour standards, including fundamental principles and rights at work, and a particular emphasis on occupational safety and health in the light of the experience of the COVID-19 pandemic”.<sup>6</sup>
27. The Committee notes that the Call to Action is adopted at a time when the public health crisis generated by the pandemic continues unabated, exacerbating with every wave its devastating

<sup>4</sup> ILC, 109th Session (2021), Report III/Addendum (Part A), General Report, para. 47.

<sup>5</sup> ILC, 109th Session (2021), Document ILC.109/I/B.

<sup>6</sup> Global Call to Action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient, ILC, 109th Session (2021), paras 12 and 13(b)(i).

impact on the world of work and broadening pre-existing inequalities. To date, the number of people who have died from the virus has increased to over 5 million worldwide. Containment measures, including lockdowns and related mobility restrictions have sapped economic activity, decimated the livelihoods of often the most vulnerable workers and disrupted supply chains and the lives of workers dependent on them. Meanwhile, downward pressure on the working conditions of key and frontline workers has intensified to the detriment of physical and mental health.

28. According to the ILO Monitor of October 2021, labour market recovery from the pandemic shock has stalled during 2021.<sup>7</sup> The loss of global working hours in the third quarter of 2021 compared to pre-pandemic levels amounts to the equivalent of 137 million jobs. Progress in vaccination has emerged as a critical factor for labour market recovery, exposing inequalities between developed and developing countries. The employment loss in low-income countries, where the share of fully vaccinated people is only 1.6 per cent, is 50 per cent larger than in high-income countries where the vaccination rate stands at 60 per cent. Fiscal stimulus packages continued to be the other key factor in the trajectories of recovery. Estimates show that on average, an increase in fiscal stimulus of 1 per cent of annual GDP increased annual working hours by 0.3 percentage points relative to the last quarter of 2019. However, fiscal capacities have been uneven: around 86 per cent of global stimulus measures has been concentrated in high-income countries. The “productivity gap” between developing and advanced economies has grown to the highest level since 2005 as lower-income countries, lower-productivity enterprises and lower-paid workers have been disproportionately harmed by the pandemic. Young people, especially young women, continue to face greater employment deficits.
29. The Committee notes that the follow up to the Call to Action includes Office activities aimed at building support for international labour standards across the multilateral system. The Committee encourages the Office to engage with the UN system in the framework of the [Secretary-General’s Call to Action for Human Rights](#) with a view to ensuring that international labour standards, including supervisory body comments continue to inform the recovery process in consonance with the UN human rights mechanisms. The Committee also encourages further engagement with multilateral development banks in developing their social safeguards and advising them on standards-related issues that arise in the application of these safeguards in the interest of coherence between national policies that derive from standards-related commitments and resources drawn from development financing.
30. The Committee welcomes the planned development of a tracking framework enabling the Office to produce evidence-based assessments of the quantity, quality and social inclusivity of the recovery at the country level and to examine how the recovery strategies can be improved, from a human-centred perspective. The Committee considers such tracking framework will usefully complement its own legal assessment of measures taken by Member States to address the impact of the pandemic.
31. It also notes that as part of the follow up to the Call to Action, the ILO will invite all Member States to convene national dialogues on human-centred recovery with a view to building country strategies and host a Multilateral Policy Forum to take place in the early months of 2022. At a time when multilateral cooperation obtains crucial importance in promoting a human-centred recovery, the Committee recalls that the Declaration of Philadelphia, its echo resonating in the ILO Centenary Declaration, assigns to the ILO a special responsibility to examine and consider all international economic and financial policies and measures in the light of the fundamental objective of ensuring that “all human beings, irrespective of race, creed, or sex, have the right to

---

<sup>7</sup> ILO Monitor: COVID-19 and the world of work, 8th edition, 27 October 2021, p. 1.

pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.”<sup>8</sup> It trusts that the ratification and application of international labour standards will be an integral part of the follow up to the Call to Action along with tripartism. It also notes that social protection stands to be of particular significance as the crisis has elevated public and political awareness of the importance of social protection as an indispensable frontline and preventive public health response as well as a measure for stabilizing household incomes and responding to crises.

- 32.** The Committee considers that the implementation of these initiatives should be facilitated by their alignment with “[Our Common Agenda](#)” proposed in September 2021 by the UN Secretary-General to accelerate the achievement of the Sustainable Development Goals (SDGs). As part of its principal commitment to leave no one behind, the Common Agenda recommends a renewed social contract anchored in human rights; a new era for universal social protection, including healthcare and basic income security, reaching the 4 billion unprotected; and to reinforce adequate housing, education and lifelong learning and decent work.
- 33.** The Common Agenda also proposes a renewed commitment to abide by international law and justice, envisioning human rights as a problem-solving measure, including by comprehensive anti-discrimination laws and promoting participation; enshrining a new vision for the rule of law; and a global road map for the development and effective implementation of international law. In this regard, the Committee refers to its previous report for its observations on the relevance of international labour standards in giving expression to the human rights at work that are relevant to tackling response and recovery.
- 34.** The Committee stresses that for human rights to be “problem-solving measures”, it is critical to give effect to the full spectrum of civil, political, economic, social and cultural rights and the international labour standards giving expression to each of those rights. At a time when civic space has been shrinking under pressure from emergency measures, yet social dialogue is more than ever needed to forge consensus on the priority components of an inclusive, sustainable and resilient recovery in light of national circumstances, it must once again recall its long-standing view 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>9</sup> It draws attention once again to the parameters of international law which are relevant in this regard.<sup>10</sup>
- the principle of legality so that those constraints must not be arbitrary and must be based on law;
  - the principle of necessity requiring the executive branch to prove that limitations are genuinely necessary according to the circumstances;
  - the principle of proportionality positing the need to test constraining measures as proportionate to the risks and exigencies of the situation;
  - the principle of non-discrimination against particular groups in society, while also respecting the corresponding requirements put forward in the respective human rights treaties.
- 35.** The Committee is concerned that 20 years after the [World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance](#), people of African descent, minority

<sup>8</sup> Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia), 1944, section II(a).

<sup>9</sup> ILC, 109th Session (2021), Report III /Addendum (Part A), General Report, para. 52.

<sup>10</sup> ILC, 109th Session (2021), Report III /Addendum (Part A), General Report, para. 51.

communities, indigenous peoples, migrants, refugees, and displaced persons continue to confront stigmatization, discrimination, and violence. Reversing their vulnerability and marginalization, exacerbated where different grounds of discrimination intersect, requires specific emphasis on repealing all discriminatory laws, including laws giving rise to discrimination in employment and occupation, as proposed in the UNSG Call to Action for Human Rights and the UN Common Agenda.

- 36.** The Committee notes that the COVID-19 pandemic has had a disproportionate negative impact on specific groups of workers, including women, particularly those that also belong to disadvantaged groups. Multiple and intersectional discrimination have compounded existing inequalities, affecting both health and economic outcomes. As noted in the Global Call to Action, women have suffered disproportionate job and income losses.<sup>11</sup> Many continue to work on the front lines of the pandemic, while at the same time performing the majority of unpaid care work inside and outside of their homes, underscoring the need for a gender-responsive recovery.
- 37.** The Committee welcomes the decision of the Governing Body to place the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work on the agenda of the 2022 International Labour Conference. It notes that certain occupational safety and health principles already highlighted in its previous report as emerging from international labour standards such as the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Health Services Convention, 1985 (No. 161) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), were proposed for accelerated action in the ILO Global Call to Action: the provision of tailored practical information and guidance; support for risk management including for the prevention of new outbreaks or other occupational risks; the introduction of appropriate control and emergency preparedness measures; and elaboration of protocols for compliance with health measures and other COVID-19 based rules and regulations.
- 38.** The Committee notes that according to new global estimates,<sup>12</sup> the number of children in child labour has risen to 160 million worldwide – an increase of 8.4 million children in the last four years – with millions more at risk due to the impacts of COVID-19. The estimates point to a significant rise in the number of children aged 5 to 11 years in child labour, who now account for just over half of the total global figure. The number of children aged 5 to 17 years in hazardous work – defined as work that is likely to harm their health, safety or morals – has risen by 6.5 million to 79 million since 2016. The Committee deeply regrets that progress to end child labour has stalled for the first time in 20 years, reversing the previous downward trend that saw child labour fall by 94 million between 2000 and 2016. It renews its call on Member States to take advantage of the momentum generated by the universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) to make special efforts to protect the very foundation of an inclusive, sustainable and resilient recovery from the pandemic.
- 39.** The estimates also provide a useful reminder of the centrality of the right to social security and universal social protection, as expressed in the Social Security (Minimum Standards) Convention, 1952 (No. 102) and the Social Protection Floors Recommendation, 2012 (No. 202), to the realization of other fundamental rights, such as the abolition of child labour: 9 million additional children are at risk of being pushed into child labour by the end of 2022 as a result of the pandemic. A

---

<sup>11</sup> Global Call to Action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient, ILC 109th Session (2021), para. 4.

<sup>12</sup> *Child labour: Global estimates 2020 – Trends and the road forward*, ILO and UNICEF, New York, 2021.

simulation model<sup>13</sup> shows this number could rise to 46 million if they and their families do not have access to critical social protection coverage.

40. The Committee is of the view that in light of the disruptive impact of the pandemic on the world of work as well as unprecedented transformational pressures arising from climate, digital and demographic factors, it is crucial for its effectiveness and authority for it to be able to focus on the application of [standards that are the most up to date](#) and which respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises.<sup>14</sup> In that context, the Committee wishes to draw the attention of all Member States to its individual comments on the application of Conventions classified as outdated, encouraging them to consider ratifying the corresponding up-to-date instruments as recommended by the ILO Governing Body based on the work of the [Standards Review Mechanism Tripartite Working Group](#).
41. The Committee noted that the Director-General's term of office would end in 2022 and took the opportunity at the end of its meeting with him to express its deep appreciation for his exemplary leadership, including in the area of international labour standards, and his support for strengthening the ILO's supervisory mechanisms. The Committee wishes the Director-General well in his future endeavours.

## F. The impact of the COVID-19 pandemic on the application of international labour standards

42. As indicated by the Committee in its 2021 report, the central role of international labour standards as the tried-and-trusted foundation of the Decent Work Agenda is to reaffirm the framework within which any response to the COVID-19 pandemic may be formulated, in order to prevent regression and put recovery efforts on a stable footing, answering the call of the 2030 Development Agenda to leave no one behind. Standards and effective and authoritative supervision are a fundamental part of the solution to this crisis, in line with the guidance given in the Centenary Declaration on the Future of Work for addressing the profound transformative changes of today's world of work.<sup>15</sup> The Committee identified the following principles:<sup>16</sup>
- (i) "The crisis does not suspend obligations under ratified international labour standards; any derogations should be exercised within clearly defined limits of legality, necessity, and proportionality and non-discrimination. Similarly, the obligation to report on measures taken to give effect to ratified and non-ratified standards under articles 19, 22 and 35 of the ILO Constitution is not suspended. Member States are invited to seek the support of the Office, which is now more necessary than ever, in order to ensure that rights at work are not sacrificed as a result of the crisis and that the ILO's normative system fulfils its primary purpose of providing much needed guidance towards building back better.
  - (ii) Consistent with lawful measures to protect the health of the public, every effort should be made to prevent a downward spiral in labour conditions and pursue a virtuous cycle of recovery and development with the support of the Office and development partners fully respecting rights at work. Recovery measures weakening the protection afforded by labour laws will only further undermine social cohesion and stability and erode citizens' confidence that policymakers heard the call for public policies to be responsive to people's needs. This

<sup>13</sup> *ibid.*, pp. 8–9.

<sup>14</sup> Centenary Declaration, section IV.A.

<sup>15</sup> ILC, 109th Session (2021), Report III /Addendum (Part A), General Report, para. 48.

<sup>16</sup> ILC, 109th Session (2021), Report III /Addendum (Part A), General Report, para. 49.

is simply the wrong solution. An open global economy as the driver of recovery, is more than ever linked to respect for rights at work.

(iii) Social dialogue is critically important in all aspects of the development, implementation, monitoring and review of COVID-19 policy responses to ensure that these are grounded in respect for rights at work, tailored to national circumstances and benefiting from local ownership.”

- 43.** This year, the Committee has recognized in its observations and direct requests the widespread ramifications of the COVID-19 pandemic and has noted the many instances in which measures have been taken by governments in light of its devastating impact on various economic sectors and sections of the labour workforce. The Committee is particularly concerned at the situation of groups in vulnerable situations who are exposed to the brunt of the pandemic, especially women, young workers, migrant workers, persons belonging to racial, ethnic or linguistic minorities, older workers, domestic workers, indigenous and tribal peoples, people living with or affected by HIV or AIDS and rural workers.
- 44.** In this context, the Committee considers that its 2022 General Survey on *Securing decent work for nursing personnel and domestic workers, key actors in the care economy* is extremely timely. The Survey examines the application of the Nursing Personnel Convention, 1977 (No. 149) and its Recommendation (No. 157), as well as the Domestic Workers Convention, 2011 (No. 189) and its Recommendation (No. 201). The Committee notes that nursing and domestic work are both highly feminized occupations which form part of the larger care economy, in which women are over-represented. Many are also migrant workers, which increases their risk of decent work deficits. The General Survey highlights that the pandemic has placed the situation of nursing personnel into stark relief. While nurses have been hailed as heroes during the crisis, COVID-19 has also shone a spotlight on serious issues, including: understaffing due to persistent nursing shortages worldwide, long and stressful working hours, poor remuneration, precarious employment and heightened exposure to risk, particularly due to lack of access to personal protective equipment (PPE) and vaccines. Moreover, as noted in the General Survey, the ILO estimates that 73.7 per cent of domestic workers have been affected by the pandemic, suffering devastating job and income losses. They are also frontline workers, predominately women and often from disadvantaged groups. Domestic workers typically work long hours, often in informal jobs which are poorly remunerated and offer little or no access to social protection. Many live in their employers' households, where they are exposed to risk of infection due to their caregiving responsibilities. Moreover, both nursing personnel and domestic workers encounter high levels of workplace harassment, violence and abuse. The Committee underlines that the Global Call to Action calls for protection for workers at higher risk of exposure to COVID-19, calling for them to have access to vaccines and personal protective equipment.<sup>17</sup>
- 45.** The Committee recalls from its 2021 General Report that, in addition to nursing personnel and domestic workers, other frontline workers and key workers ensuring continuity of functions critical to economic, environmental and public safety, such as seafarers and other transport workers, rural workers, food supply workers, waste pickers and law enforcement workers have continued to provide essential public goods during the pandemic. The Committee refers to the [general observation](#) adopted in 2020 on the Employment Policy Convention, 1964 (No. 122), as well as the [2021 Addendum](#) to the 2020 General Survey on *Promoting employment and decent work*

<sup>17</sup> Global Call to Action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient, ILC 109th Session (2021), section B.c.

*in a changing landscape*. It emphasizes the need to ensure that these categories of workers benefit from the full legal protection to which they are entitled under international law.<sup>18</sup>

46. Given the role of seafarers in maintaining the maritime supply chain during the pandemic thereby preventing a disruption in the global trade of essential goods, such as food and medicine, the Committee decided to include a specific comment on the situation of these frontline workers in this year's General Report.

## COVID-19 and maritime labour issues

47. The Committee reiterates its **deep concern** regarding the challenges and the impact that restrictions and other measures adopted by governments around the world to contain the spread of the COVID-19 pandemic have had, and continue to have, on the protection of seafarers' rights as laid out in the Maritime Labour Convention, 2006, as amended (MLC, 2006).
48. The Committee notes the observations of the International Transport Workers' Federation (ITF) and of the International Chamber of Shipping (ICS), received on 4 October 2021, indicating that all ratifying States have failed to comply, to some extent, with several provisions of the MLC, 2006, during the pandemic. The Committee further notes the replies received from, and the information provided by, the Governments of France, Honduras, Indonesia, Morocco, Myanmar, Panama, Philippines, Portugal, Thailand, and Turkey concerning both its general observation and the observations of the ITF and the ICS.
49. The Committee recalls its [general observation on matters arising from the application of the Maritime Labour Convention, 2006, as amended \(MLC, 2006\) during the COVID-19 pandemic](#), adopted in 2020, which remains applicable in its entirety.
50. The Committee acknowledges the fact that, following the publication of its general observation on 10 December 2020, immediate action was taken at the international, regional and national level, as a response to its urgent call to restore the protection of seafarers' rights and fully comply with the provisions of the MLC, 2006. The Committee welcomes in particular the continuous cooperation between the ILO, the International Maritime Organization (IMO), other United Nations agencies and the ITF and ICS to address the crisis, as well as the [Resolutions](#) adopted at the Fourth Meeting (Part I) of the Special Tripartite Committee of the MLC, 2006 (STC) on this issue.
51. The Committee welcomes the fact that a number of countries which have ratified the MLC, 2006 have succeeded in adopting strategies and measures in line with the international guidance, in order to preserve public health in the context of the pandemic, while ensuring respect for seafarers' rights. These measures include, among others: (1) ensuring a high number of safe crew changes at their ports; (2) ensuring medical care on board and on shore, including dental care; (3) attending COVID-19 outbreaks on board and providing care in national hospitals when needed; (4) keeping borders open for the transit of seafarers in line with strict national protocols; (5) revising previous temporary guidance on Seafarer Employment Agreement's extensions to comply with the requirements of the Convention; (6) reinitiating rigorous port State control inspections focusing on employment agreements and wages; (7) developing services online to support shipowners and seafarers; (8) rehabilitating welfare services in port and keeping them open even if with some restrictions, for example, setting up Wi-Fi in ports to allow seafarers to establish online contact with welfare services; and (9) prioritizing seafarers for vaccination within national programmes.
52. The Committee also notes that in some cases consultations have taken place between different government entities and social partners to develop measures at national level and with consular

<sup>18</sup> ILC, 109th Session (2021), Report III/Addendum (Part A), General Report, para. 87.

services to find solutions to concrete cases. Some governments indicated that they have taken part in increased international communication and collaboration, including in multilateral forums, to promote the designation of seafarers as key workers and facilitate their repatriation.

53. According to the observations of the ITF and the ICS, many of the requests formulated in the general observation have not been addressed by a number of flag States, port States and labour-supplying States.
54. The Committee is **deeply concerned** that violations of the Convention may further increase due to new restrictions adopted by governments to contain the variants of COVID-19. In this regard, the Committee notes with **deep regret** the existence of cases of denial of access to medical care ashore for seafarers, even in situations of the utmost urgency, as well as cases of consistent refusal to allow sick seafarers to disembark or to allow for the bodies of deceased seafarers to be removed from the vessels and for their repatriation.
55. Moreover, the Committee must again express its **deep regret** that a number of ratifying countries, continue to invoke force majeure as an overall reason to deny the right to shore leave and extend the duration of periods of service on board, beyond the agreed date and, in some cases, beyond the default maximum period of 11 months. These types of occurrences endanger not only the health and safety of the seafarers concerned but also the safety of navigation. In the same context, some labour-supplying countries have continued to refuse to accept the return of their national seafarers. As a result, these seafarers have been stranded without earnings, and with great uncertainty as to their return to their home country.
56. ***As stated in the 2020 general observation and given that almost two years have passed since the beginning of the pandemic, the Committee stresses that the notion of force majeure should not be regarded as a valid reason to deprive seafarers of their rights, as there are options available worldwide to comply with the provisions of the MLC, 2006.***
57. ***The Committee recalls the resolutions adopted by the STC, as well as the ILO Governing Body's Resolution concerning maritime labour issues and the COVID-19 pandemic, and the UN General Assembly's Resolution on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to supply global supply chains, and urges all ILO Member States to designate and treat seafarers as key workers. The Committee also urges them to facilitate crew changes, provide access to medical care ashore when needed, and prioritize seafarers for vaccination.***
58. ***As the world continues to rely on shipping and seafarers for the transport of more than 90 per cent of world trade, including food, medicines, and vital medical supplies, the Committee urges ratifying States, which have not yet done so, to adopt, without delay, all necessary measures to fully restore the protection of seafarers' rights and fully comply with their obligations under the MLC, 2006.***
59. ***The Committee will continue to examine issues raised regarding compliance with the MLC, 2006, during the pandemic and requests governments to provide information in their next reports on any temporary measures adopted in this regard, their duration and their impact on seafarers' rights. The Committee further encourages social partners, in accordance with article 23 of the ILO Constitution, to continue submitting observations on the implementation of the Convention. The Committee finally reminds governments that they may avail themselves of the technical assistance provided by the Office, in close cooperation with the IMO, the World Health Organization and with the United Nations Country Teams.***

## ► II. Compliance with standards-related obligations

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

60. 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

61. 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.
62. 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>19</sup>
63. 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>20</sup>

#### Compliance with reporting obligations

64. This year a total of 2,006 reports (1,865 reports under article 22 of the Constitution and 141 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by Member States, compared to 2,004 reports last year. At the end of the present session of the Committee, 1,357 reports were received by the Office corresponding to

<sup>19</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>20</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, paras 93–97) (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.

67.6 per cent of the reports requested.<sup>21</sup> Last year, the Office received a total of 859 reports, representing 42.9 per cent. The Committee notes in particular that 65 of the 111 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 5 of the 20 first reports due had been received).

65. The Committee observes that the number of reports received by the due date of 1 September increased this year after a sharp decrease last year in the unprecedented circumstances of the COVID-19 pandemic (841 reports representing 41.9 per cent of reports requested, compared with 26.5 per cent at the previous session). While the Committee welcomes this development, it also notes with **concern** that only half of reports due were received by the deadline.
66. Moreover, a number of article 22 and 35 reports are received each year after the deadline and their examination might be deferred due to their late arrival. This year, out of 2,006 reports due, 516 (25.7 per cent) were received after this deadline. The Committee wishes to recall that late submission of reports disturbs the sound operation of the supervisory mechanism as the examination of some of these reports in subsequent Committee sessions prevents the experts from fully focusing on the specific thematic areas due for discussion each year and also prevents governments and the social partners from obtaining timely feedback on their reports.
67. In the aftermath of the COVID-19 pandemic, the Committee would like to express its appreciation to the Member States which made special efforts to ensure compliance with their reporting obligations. ***It invites 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 at its next session.***
68. The Committee recalls that ILO technical assistance remains fully at the disposal of Member States to help them comply with their constitutional obligations and invites them to avail themselves thereof to ensure the effective functioning of the supervisory system. It urges in particular those Member States who have received Office assistance to make special efforts to ensure timely submission of their reports.
69. 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.
70. Furthermore, as of 2017 the Committee has gradually introduced a practice of urgent appeals according to which it may examine how a Convention is implemented in a ratifying country on the basis of information at its disposal if the Government has failed to submit a first report after ratification. As of 2018, the practice of urgent appeals was extended to all reports 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 had not been received for three years or more,<sup>22</sup> that if no report is supplied

<sup>21</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>22</sup> The introductory text ("chapeau") now reads: 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

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

71. 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
Barbados	97, 102, 128
Belize	29, 97, 100, 111, 115, 138, 154, 155, 156, 182
Brunei Darussalam	138
Congo	29, 81, 87, 150, 152, 182, 188
Djibouti	17, 18, 19, 24, 29, 37, 38, 105, 138, 182
Dominica	12, 14, 19, 26, 29, 81, 87, 95, 97, 100, 105, 111, 135, 138, 150, 169, 182
Equatorial Guinea	1, 14, 29, 30, 87, 98, 103, 105, 111, 138, 182
Grenada	97
Guinea	118
Guyana	97
Haiti	12, 17, 19, 24, 25, 29, 42, 77, 78, 87, 98, 100, 111, 138, 182
Papua New Guinea	100, 111
Saint Lucia	5, 17, 19, 29, 87, 98, 100, 111, 154, 182
Saint Vincent and the Grenadines	100
Tajikistan	97
Uganda	17, 95, 123, 124, 143, 162

72. 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 **18** countries: **Afghanistan, Antigua and Barbuda, Botswana, Chad, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Haiti, Lebanon, Madagascar, Saint Lucia, South Sudan, Syrian Arab Republic, Tuvalu, Uganda, Vanuatu** and **Yemen**. *The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions.*
73. In particular, 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 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: **Congo, Dominica, Equatorial Guinea, Lebanon, Madagascar, Saint Lucia** and **Vanuatu**.

supplied replies to the points raised by 1 September 2022, 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.

74. 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: <sup>23</sup>

State	Conventions Nos
Afghanistan	100, 111, 140, 141, 142, 144
Antigua and Barbuda	87, 135, 144, 151
Barbados	87, 100, 111, 122, 144
Belize	87, 88, 98, 140, 144
Chad	87
Congo	98, 100, 105, 111, 144, 149
Djibouti	71, 81, 87, 98, 100, 111, 122, 144
Dominica	94, 144, 147
Equatorial Guinea	68, 92
Grenada	100, 105, 111, 138, 144, 182
Guinea	140
Kenya	142
Lebanon	29, 81, 88, 100, 105, 111, 122, 138, 142, 150, 159, 172, 182
Madagascar	29, 88, 100, 105, 111, 117, 122, 138, 144, 159, 182
Mongolia	181
Mozambique	88
Papua New Guinea	29, 98, 122, 158
Saint Kitts and Nevis	MLC, 2006
Saint Lucia	108, 158
Saint Vincent and the Grenadines	122
Sao Tome and Principe	138, 182
Somalia	29
Tajikistan	103, 105, 149
Uganda	29, 81, 94, 105, 138, 182
Vanuatu	182

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

State	Conventions Nos
Albania	– Since 2018: MLC, 2006
Congo	– Since 2015: Convention No. 185, – Since 2016: MLC, 2006, and – Since 2018: Convention No. 188

<sup>23</sup> See para. 70 of the General Report.

State	Conventions Nos
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Gabon	– Since 2016: MLC, 2006
Guinea	– Since 2019: Convention No. 167
Sao Tome and Principe	– Since 2019: Convention No. 183
Tunisia	– Since 2019: MLC, 2006

76. The Committee urges the governments concerned to make a special effort to supply the first reports due.
77. The Committee launches an urgent appeal drawing the attention of the following Governments which have not sent a first report for more than three years to the fact that if the first report is not received in time for examination by the Committee at its next session, it may proceed to examine the application of the Convention in the countries concerned on the basis of public information at its disposal:

**List of cases in which the Committee has launched an urgent appeal to submit a first report at the Committee's next session**

State	Conventions Nos
Albania	MLC, 2006
Guinea	C.167
Sao Tome and Principe	C.183
Tunisia	MLC, 2006

78. 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 has been an additional factor aggravating such difficulties.<sup>24</sup> The Committee would like to express its appreciation to the governments which submitted eight first reports this year.<sup>25</sup> ***It recalls the importance for governments to request assistance from the Office, and for such assistance to be provided rapidly, for the preparation of first reports.***
79. The Committee is pleased to note that this year, all countries provided information concerning communication of reports to workers' and employers' organizations in all or the majority of their reports. The Committee recalls that, in accordance with the tripartite nature of the ILO, this constitutional obligation is intended to enable representative organizations of employers and workers to participate fully in supervision of the application of international labour standards.<sup>26</sup>

<sup>24</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>25</sup> Guinea (Conventions Nos 176, 187 and 189), Jamaica (Convention No. 189), Maldives (MLC, 2006), Romania (MLC, 2006), Sri Lanka (MLC, 2006) and United Republic of Tanzania (Convention No. 185).

<sup>26</sup> General Report, paras 111 et seq.

In the context of COVID-19, participation by employers' and workers' organizations in the supervision of international labour standards is even more important.

## Replies to the comments of the Committee

80. Governments are requested to reply in their reports to the observations and direct requests made by the Committee. 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, Belize, Plurinational State of Bolivia, Botswana, Chad, Comoros, Congo, Democratic Republic of Congo, Djibouti, Dominica, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Guinea, Haiti, Hungary, India, Jamaica, Jordan, Kenya, Kiribati, Lebanon, Madagascar, Morocco, Netherlands (Sint Maarten), North Macedonia, Papua New Guinea, Philippines, Romania, Saint Lucia, Samoa, San Marino, Sao Tome and Principe, Serbia, Singapore, Slovenia, Somalia, South Sudan, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Tajikistan, Timor-Leste, Tunisia, Tuvalu, Uganda, United Kingdom (British Virgin Islands), United Republic of Tanzania, Vanuatu and Yemen.**<sup>27</sup>
81. The Committee notes with **concern** that the number of comments to which replies have not been received remains significantly high. The Committee underlines that the value attached by ILO constituents to the dialogue with the supervisory bodies on the application of ratified Conventions is considerably diminished by the failure of governments to fulfil their obligations in this respect. ***The Committee urges the countries concerned to provide all the information requested and recalls that they may avail themselves of the technical assistance of the Office in this regard.***

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

82. 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.
83. The Committee notes that pursuant to the discussions of the Conference Committee in June 2021 and technical assistance provided by the Office, 2 out of 5 first reports have been received after the launching of urgent appeals.<sup>28</sup>
84. 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.

<sup>27</sup> See also paras 73 and 74 of the General Report.

<sup>28</sup> Maldives (MLC, 2006), Romania (MLC, 2006).

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

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

### Observations and direct requests

87. First of all, the Committee considers that it is worthy of note that in 166 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.
88. 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>29</sup>
89. 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.
90. This year the Committee made 525 observations and 1,031 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

91. 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 (109th Session, June 2021) in the following cases:

<sup>29</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, 109th Session, June 2021)**

State	Conventions Nos	Page
Belarus	87	104
Bolivia (Plurinational State of)	131	709
Cambodia	87	117
China – Hong Kong Special Administrative Region	87	125
El Salvador	144	622
Ghana	182	471
Honduras	169	793
Iraq	111	532
Kazakhstan	87	206
Kiribati	182	480
Maldives	MLC, 2006	784
Namibia	111	542
Romania	98	296
Tajikistan	81	672
Turkmenistan	105	368
Zimbabwe	105	372

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

92. 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
Venezuela (Bolivarian Republic of)	26, 87, 144
Zimbabwe	87

**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	Convention No.
Lesotho	26

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

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

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

State	Conventions Nos	Page
China – Hong Kong Special Administrative Region	87	125
Guatemala	87	166
Honduras	98	185
Jordan	98	202
Kyrgyzstan	87	215
Malaysia	98	226
Maldives	87, 98	232, 236
Romania	98	296

## Special notes

94. 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 2022.
95. 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.
96. The criteria to which the Committee has regard are the following:
- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers' health, safety and

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

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

97. 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.
98. 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.
99. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2022 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 2022**

State	Conventions Nos
Azerbaijan	105
Central African Republic	182
China	111
Malawi	111
Myanmar	87

100. In addition, the Committee has requested a full reply to its comments, or a detailed report, 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
Bangladesh	81
Belarus	87
Belize	115/155, 151, 154
Bolivia (Plurinational State of)	131, 136/162, 167
Bosnia and Herzegovina	138
Brazil	98
Burundi	26
Chile	MLC, 2006
Congo	87, 152, 188
Dominica	87
Ecuador	87, 98, 131
El Salvador	144

List of the cases in which the Committee has requested a full reply to its comments outside of the reporting cycle	
State	Conventions Nos
Equatorial Guinea	1/14/30, 87, 98
Eritrea	98
Guatemala	98, 141
Guinea-Bissau	26
Haiti	87, 98
Honduras	87, 169
Jamaica	MLC, 2006
Japan	87
Jordan	98
Kazakhstan	81/129
Malawi	155/184/187
Malaysia	MLC, 2006
Malaysia – Peninsular	19
Malaysia – Sarawak	19
Maldives	MLC, 2006
Mauritius	MLC, 2006
Mongolia	MLC, 2006
Montenegro	MLC, 2006
Nicaragua	87
Nigeria	MLC, 2006
Peru	169
Saint Lucia	87
Tajikistan	95
Thailand	188
Turkmenistan	105
Uganda	26/95, 162
Ukraine	95/131/173, 100, 115
Venezuela (Bolivarian Republic of)	26/95

List of the cases in which the Committee has requested detailed reports outside of the reporting cycle	
State	Convention No.
Iraq	87
Netherlands – Sint Maarten	87

## Cases of progress

101. 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.
102. 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.

**103.** Since first identifying cases of satisfaction in its report in 1964,<sup>30</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; and
- to provide an example to other governments and social partners which have to address similar issues.

**104.** Details concerning these cases of progress are found in Part II of this report and cover 28 instances in which measures of this kind have been taken in 22 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
Angola	105
Belize	105
Burkina Faso	29
Colombia	98, 182
Cote d'Ivoire	138
Ecuador	182
Georgia	87, 98
Guyana	138

<sup>30</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
Latvia	98, 183
Mexico	87
Mongolia	100, 111
Montenegro	98
New Zealand	98
Nigeria	111
Peru	111
Portugal	100
Republic of Moldova	81/129
Solomon Islands	182
Spain	111
Thailand	100
United Arab Emirates	100
Zambia	100, 111

- 105.** 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 **3,161** since the Committee began listing them in its report.
- 106.** Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.<sup>31</sup> In general, cases of *interest* cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners.** The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:
- draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;
  - consultations within the government and with the social partners;
  - new policies;
  - the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;
  - judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or
  - the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

<sup>31</sup> Report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference, para. 122.

- 107.** 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 **150** instances in which measures of this kind have been adopted in **83** countries. The full list is as follows:

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Angola	29
Bangladesh	59, 81
Barbados	29
Belize	115
Benin	138
Bosnia Herzegovina	138
Bulgaria	77/78/124
Burkina Faso	105, 182
Burundi	12, 138
Cambodia	87
Cameroon	94
Central African Republic	94
Chile	138, 182
China	122
Colombia	98, 138
Côte d'Ivoire	138
Croatia	MLC, 2006
Cyprus	29
Czechia	144
Democratic Republic of the Congo	158
Egypt	105, 138
Fiji	29, 138
Georgia	87, 98, 122
Germany	87, 122
Greece	87, 98
Guinea-Bissau	17
Guyana	182
Honduras	98, 169, MLC, 2006
Iceland	144
India	122
Ireland	MLC, 2006
Italy	87, 151
Japan	144
Kyrgyzstan	87, 98, 160
Latvia	81/129, 98
Lithuania	181
Luxembourg	115, 159
Malawi	158, 159
Malaysia	98
Malaysia – Peninsular	19
Malaysia – Sarawak	19

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

State	Conventions Nos
Maldives	98
Mali	144
Malta	98
Mauritania	122
Mauritius	12/17/19, 98, 159
Mexico	98
Mongolia	98, 100, 103, MLC, 2006
Montenegro	139/148, 151, 159
Morocco	122
Myanmar	63
Namibia	111
Netherlands	160
New Zealand	98, 144
Niger	98
Nigeria	155
Norway	176
Panama	111, 169
Papua New Guinea	138
Peru	100, 169
Poland	111
Portugal	97, 111, 143, 156
Republic of Korea	135, MLC, 2006
Republic of Moldova	122, 184
Rwanda	122
Saudi Arabia	111
Senegal	111
Seychelles	MLC, 2006
Sierra Leone	105, 138
Solomon Islands	182
Spain	97, 100, 122, 156
St Vincent and the Grenadines	105
Sweden	143
Switzerland	100, 111, 189
Tajikistan	81, 160
Togo	111
Tunisia	111
Turkey	55/68/69/92/108/133/134/146/164/166
Uganda	122
Ukraine	23/69/92/108/133/147, 111
United Kingdom of Great Britain and Northern Ireland	111
United Kingdom of Great Britain and Northern Ireland – Bermuda	MLC, 2006

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

State	Conventions Nos
United Kingdom of Great Britain and Northern Ireland – Gibraltar	MLC, 2006
Uruguay	32
Uzbekistan	111
Viet Nam	98, 111
Zimbabwe	105

## Practical application

- 108.** 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.
- 109.** The Committee notes that reports often contain supplementary information on the practical application of Conventions including information on national jurisprudence, statistics and labour inspection.
- 110.** In the context of the COVID-19 pandemic 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

- 111.** 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

**112.** 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

**113.** 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.

**114.** In light of the November 2018 Governing Body decision (GB.334/INS/5) expanding the reporting cycle for technical Conventions from five to six years and expressing its understanding that the Committee would further review, clarify and, where appropriate, broaden the criteria for breaking the reporting cycle with respect to technical Conventions, the Committee proceeded with the review of the criteria mentioned above at its 89th Session (2018).

**115.** 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.

**116.** 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.

**117.** The Committee would thus review the application of a **technical Convention** outside of a reporting year following observations submitted by employers' and workers' organizations having due regard to the following elements:

- the seriousness of the problem and its adverse impact on the application of the Convention;
- the persistence of the problem; and

- the relevance and scope of the government's response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.
- 118.** 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 the paragraph above, even in the absence of a reply from the government concerned.
- 119.** 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.
- 120.** The Committee notes that since its last session, it has received **1,280** observations (compared to 757 last year), 356 of which (compared to 230 last year) were communicated by employers' organizations and 924 (compared to 527 last year) by workers' organizations. The great majority of the observations received (**901** compared to 695 last year) related to the application of ratified Conventions; <sup>32</sup> **264** of these observations (compared to 243 last year) concerned the application of fundamental Conventions, **82** (compared to 75 last year) related to governance Conventions and **555** (compared to 377 last year) concerned the application of other Conventions. Moreover, **379** observations were received in relation to the 2022 General Survey on *Securing decent work for nursing personnel and domestic workers, key actors in the care economy*. The Committee notes that, 573 of the observations received this year on the application of ratified Conventions were transmitted directly to the Office. In 328 cases, the governments transmitted the observations made by employers' and workers' organizations with their reports. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

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

- 121.** 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.
- 122.** The Committee notes that the Office reacted swiftly to the COVID-19 pandemic by providing much needed technical assistance for labour law reforms aimed at addressing the immediate impact of the pandemic and by supporting social dialogue processes in this framework. The Office reallocated resources to addressing the COVID-19 pandemic with special emphasis placed on international labour standards and social dialogue. Moreover, comprehensive partnerships have been established with major donors in support of Member States facing serious reporting and application gaps in Africa, Asia and Latin America. These projects draw upon the guidance of the

<sup>32</sup> Appendix III to this Report.

ILO supervisory bodies in order to strengthen national capacities to engage in trade relationships based on respect for fundamental principles and rights at work, which are now more important than ever for sustainable recovery.

**123.** The Committee notes in particular, that:

- The Trade for Decent Work project which is supported by the European Commission currently covers 13 countries in Asia, Africa and the Americas in order to promote improved compliance with ratified fundamental Conventions and SDG 8, as well as improved labour relations and working conditions.
- Moreover, a project on “Supporting the State of Guatemala in meeting the commitments in the road map on freedom of association and collective bargaining (ILO Conventions Nos 87 and 98)” is under elaboration with the support of the European Union following the closing of an article 26 complaint against Guatemala.
- SDG indicator 8.8.2 continues to represent a unique indicator in the UN system drawing directly on the textual sources of ILO supervisory bodies’ reports in order to assess progress made towards meeting SDG commitments. It is the only indicator in the 2030 Agenda to draw upon supervisory body comments in assessing progress towards meeting the goal of national compliance with labour rights and especially freedom of association and collective bargaining.
- The first phase of the technical cooperation programme established in agreement with the Government of Qatar in 2018 ended in June 2021, having led to a historical breakthrough through the enactment of the abolition of the sponsorship system along with other improvements to the labour law which have been noted in the Committee’s comments concerning the application of ratified Conventions by this country. The Committee looks forward to continued progress during the project’s second phase which aims, inter alia, at effective implementation of the reforms and sustainability of results.

**124.** The Committee welcomes information according to which the ILO International Training Centre in Turin (ITC–ILO) has swiftly reacted to the pandemic by converting its capacity-building programmes and notably the International Labour Standards Academy into online courses to be delivered virtually. It also welcomes the new regional focus of the Academy which this year brought together more than 120 participants from Latin America and the Caribbean representing the ILO constituents, judges, law professors and other legal professionals and the media from across the region. The Committee notes the ILS 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 ILS Academy, the ITC–ILO delivered:

- Online courses on reporting in English and French as well as tailor made training on reporting to constituents from 20 countries in the Africa region.
- ILS training to more than 70 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.

**125.** 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
Angola	12/17/18/19
Belize	105
Bolivia (Plurinational State of)	131
Bosnia Herzegovina	138
Central African Republic	94
Chile	MLC, 2006
Colombia	29
Congo	81, 188
Djibouti	29, 138, 182
Dominica	29, 105, 138
El Salvador	144
Equatorial Guinea	182
France	94
Ghana	182
Grenada	81
Guinea	100, 121, 187
Guyana	94, 100, 138
Haiti	12/17/24/25/42, 138
Iraq	22/23/92/146/147, 111
Lesotho	26
Malawi	100, 111, 155/184/187
Malaysia – Peninsular	19
Malaysia – Sarawak	14, 19
Maldives	MLC, 2006
Mali	13
Mauritania	62
Mauritius	12/17/19, MLC, 2006
Mexico	45
Morocco	94
Mozambique	1/30, 17/18
Myanmar	63
Netherlands – Aruba	94
Nigeria	26/95, 81
Panama	169
Papua New Guinea	100, 111, 138
Republic of Moldova	95
Romania	MLC, 2006
Saint Vincent and the Grenadines	100, 111
San Marino	160
Seychelles	100
Sierra Leone	17, 100, 138
Solomon Islands	138, 182
Togo	100, MLC, 2006

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

State	Conventions Nos
Trinidad and Tobago	147
Tunisia	100
Turkey	55/68/69/92/108/133/134/146/164/166
Turkmenistan	105
Uganda	26/95
Ukraine	95/131/173, 100
United Republic of Tanzania	185
Uruguay	23/108/134, 100
Venezuela (Bolivarian Republic of)	22
Zambia	100
Zimbabwe	105

## C. Reports under article 19 of the Constitution

- 126.** 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 Nursing Personnel Convention, 1977 (No. 149), the Domestic Workers Convention, 2011 (No. 189), the Nursing Personnel Recommendation, 1977 (No. 157) and the Domestic Workers Recommendation, 2011 (No. 201).<sup>33</sup> The General Survey has been prepared on the basis of a preliminary examination by a working party comprising five members of the Committee in accordance with the practice followed in previous years.
- 127.** The Committee notes with *regret* that, for the past five years, none of the reports on unratified Conventions and on Recommendations requested under article 19 of the Constitution have been received from the following **23** countries: **Angola, Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Grenada, Guyana, Haiti, Lesotho, Liberia, Maldives, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Somalia, South Sudan, Timor-Leste, Tuvalu and Yemen.**
- 128.** 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. Collaboration with the United Nations

- 129.** In recent years, the Office has engaged closely with the UN system in the area of human rights coordination with a view to ensuring that international labour standards remain part and parcel of human rights norms and standards which lie at the basis of the 2030 Agenda and are promoted through the repositioned UN Development System. These system-wide processes included notably the UNSDG Task Team on Human Rights, Leaving No-One Behind and the Normative

<sup>33</sup> Report III(Part B), International Labour Conference, 110th Session, Geneva, 2022.

Agenda, which concluded its work in March 2021, and the Interagency Working Group on the Secretary-General's Call to Action for Human Rights.

- 130.** The Call to Action for Human Rights was launched in February 2020 at the occasion of the 75th anniversary of the UN and has recently been linked to the Secretary-General's "Our Common Agenda" presented to the UN General Assembly in September 2021. The Call to Action for Human Rights establishes a whole-of-system approach to human rights to the effect that no UN organization can any longer develop its action at country level without linking this to human rights in coordination with the UN system. It aims at creating enhanced synergies and impact on the ground, notably at country level, drawing on each organization's specificities and recognized strengths.
- 131.** In this context, the Committee would like to recall that labour rights are human rights. The ILO pioneered human rights through standard-setting, before the birth of the United Nations and the articulation of human rights. Ever since the ILO was created in 1919, its international labour standards have sought to set forth the aspirations, values and rights that were eventually expressed in the United Nations Charter (1945) and proclaimed in the Universal Declaration of Human Rights (1948): faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and determination to promote social progress and better standards of life in larger freedom. Nowhere more than in the world of work – the sphere of human activity driving social and economic progress – must human rights be protected by the rule of law, including international labour standards, if "freedom from fear and want" is to be realized as "the highest aspiration of the common people".<sup>34</sup> International labour standards have become the touchstone for law and actions by governments, employers, workers and everyone actively engaged with human rights at work.
- 132.** International labour standards are not only the foundation of the institutions that permit labour markets around the world to deliver economic and social progress to billions of people. As precursors, they have inspired the core international human rights instruments to date, notably the two International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.
- 133.** Today, international labour standards give expression to human rights in the civil and political sphere, such as the right to freedom of thought, conscience and religion; the right to freedom of expression; the right to freedom of association; the right of peaceful assembly; the right to equal and effective protection against discrimination; and the right to freedom from slavery, servitude and forced or compulsory labour.
- 134.** In the economic, social and cultural sphere, international labour standards substantiate within the world of work human rights such as the right to work; the right to social security; the right to safe and healthy working conditions; the right to fair wages and equal remuneration for work of equal value without distinction of any kind; the right to rest, leisure and reasonable limitation of working hours and periodic holidays with pay; or the right to maternity protection.
- 135.** International labour standards complement international human rights law by adding key dimensions that facilitate the duty of States to respect, protect and fulfil the human rights at work of individuals within their territory and/ or jurisdiction, notably:

---

<sup>34</sup> Preamble, Universal Declaration of Human Rights.

- pursuing social dialogue at all levels (including labour dispute settlement mechanisms) as an essential means of realizing human rights at work, complementing laws or regulations;
- establishing labour market institutions that make the protection or promotion of human rights at work a daily practice (examples include standards for labour inspection services promoting compliance with measures taken to realize the right to safe and healthy working conditions; or standards for public employment services pursuing the best possible organization of the labour market with a view to realizing the right to work without discrimination and “leaving no one behind”);
- benchmarking or operationalizing human rights at work declared in UN instruments (examples include providing a system of minimum working ages to support children’s right to be protected from economic exploitation and from performing hazardous or harmful work; or stipulating measures to prevent forced labour and trafficking of persons for forced labour).

**136.** Respecting human rights and relevant international standards is also a corporate responsibility. The ILO has developed a close collaboration with the UN Working Group on Business and Human Rights (UNWBG) established by the UN Human Rights Council in 2011, to “promote the effective and comprehensive dissemination and implementation of the Guiding Principles on Business and Human Rights” (Ruggie principles). This collaboration is based on the provisions of the ILO [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) which draws on relevant international labour standards and follows up on the Committee’s comments on the application of these standards in an implicit albeit important way. For example, the ratification and implementation of relevant international labour standards is taken into account when governments elaborate national action plans (NAPs), as requested by the UNWBG, in order to provide a framework for the implementation of the UNGPs. The work of the ILO supervisory bodies, including this Committee, serves as the basis for identifying actions to be incorporated in NAPs in relation to the implementation of standards.

**137.** The Committee invites the UN treaty bodies to a joint reflection over ways to strengthen synergies and complementarities with the Committee drawing on each body’s respective and distinct mandates. It also asks the Office to make available information on the relationship between international labour standards and human rights on the ILO website and to take all necessary steps within the limits of available resources in order to help build the capacities of a wide range of stakeholders across the UN system on this subject.

## **E. 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:

- (a) information on measures taken to submit to the competent authorities the instruments adopted by the Conference from June 1970 (54th Session) to June 2019 (108th Session) (Conventions Nos 131 to 190, Recommendations Nos 135 to 206 and Protocols); and
- (b) replies to the observations and direct requests made by the Committee at its 91st Session (November–December 2020).

**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 Protocol of 2014 to the Forced Labour

Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, as well as the Violence and Harassment Convention (No. 190), and the Violence and Harassment Recommendation, 2019 (No. 206), adopted at the 108th Session of the Conference, were submitted and the date of submission. In addition, Appendix IV summarizes the information supplied by governments with respect to the instruments adopted in earlier years and submitted to the competent authorities in 2021.

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. 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 117 governments have provided information on the submission of the Protocol of 2014 to the Forced Labour Convention, 1930, whereas 102 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 **58** Member States: **Antigua and Barbuda, Argentina, Austria, Barbados, 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, Mali, Malta, Mauritania, Mozambique, Namibia, Netherlands, New Zealand, Niger, Norway, Pakistan, Panama, Peru, Poland, Portugal, Russian Federation, Saudi Arabia, Sierra Leone, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, United Kingdom, Uzbekistan and Zimbabwe. *The Committee encourages all governments to continue their efforts to submit the instruments adopted by the Conference at its 103rd Session to their legislatures and to report on any action taken with regard to these instruments.***

## 104th Session

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) on 12 December 2016. The Committee notes that 101 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 82 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 60 governments have provided information on the submission of Convention No. 190, whereas 55 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 **10** Member States: **Argentina, Ecuador, Fiji, Greece, Italy, Mauritius, Namibia, Somalia, South Africa** and **Uruguay**. ***The Committee welcomes the information provided to date and encourages all governments to submit Convention No. 190 and Recommendation No. 206 to their legislatures and to report on any action taken with regard to this instrument.***

## Cases of progress

145. The Committee notes with ***interest*** the information provided by the Governments of the following countries: **Armenia, Barbados, Mongolia, Pakistan** and **Uruguay**. It welcomes the efforts made by these Governments in overcoming significant delays in submission and taking important steps toward fulfilling their constitutional obligation to submit to their legislature the instruments adopted by the Conference over a number of years.

## Special problems

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

147. The Committee notes that, at the closure of its 92nd Session on 11 December 2021, the following 45 (31 in 2017, 39 in 2018, 36 in 2019 and 48 in 2020) Member States were in the category of “serious failure to submit”: **Albania, Angola, Bahamas, Bahrain, Belize, Plurinational State of Bolivia, Brunei Darussalam, Central African Republic, Chad, Comoros, Congo, Democratic Republic of the Congo, Dominica, El Salvador, Equatorial Guinea, Eswatini, Fiji, Gabon, Gambia, Grenada, Guinea, Guinea-Bissau, Haiti, Hungary, Kazakhstan, Kuwait, Lebanon, Liberia, Libya, Malaysia, Maldives, Marshall Islands, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Solomon Islands, Syrian Arab Republic, Timor-Leste, Tuvalu, Vanuatu, Yemen and Zambia.**
148. 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 109th Session of the Conference (June 2021), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to their national legislatures. Following the concerns raised by the Committee of Experts, the Conference Committee also expressed great concern at the failure to respect this obligation. It pointed out that compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national legislatures, is of the utmost importance in ensuring the effectiveness of the Organization’s standards-related activities.
149. 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 wishes 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 technical assistance that the Office is prepared to provide, 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

150. 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).
151. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire appended to the Memorandum adopted by the Governing Body in March 2005. The Committee must receive for examination a summary or a copy of the documents submitting the instruments to the legislative bodies, an indication of the date of submission, and be informed of the proposals made as to the action to be taken on the instruments submitted. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to the legislature and a decision has been taken on them. The Office must be informed of this decision, as well as of the submission of instruments to the legislature. The Committee hopes to continue to note cases of progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

- 152.** Lastly, recalling all the challenges posed by operating at a time when a pandemic is raging, and in particular the challenges posed by convening the meeting of the Committee in a hybrid modality this year, 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 in such difficult circumstances.

Geneva, 11 December 2021

Graciela Josefina Dixon Caton  
Chairperson

Rosemary Joan Owens  
Reporter

## ► Appendix to the General Report

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

#### Mr Shinichi AGO (Japan)

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

#### Ms Lia ATHANASSIOU (Greece)

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

#### Ms Leila AZOURI (Lebanon)

Doctor of Law; Professor of Labour Law at the Faculty of Law at Sagesse University, Beirut until 2020; former Director of Research at the Doctoral School of Law of the Lebanese University; 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); member, UAW Ethics Advisory Committee; former Visiting Fellow, Oxford University, United Kingdom; former Visiting Faculty, Harvard Law School; former Professor of Law, The Ohio State University Moritz College of Law; former Chief Counsel and Staff Director of the United States Senate Subcommittee on Labour; former attorney in private practice; and former law clerk to the United States Supreme Court.

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

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

**Mr Rachid FILALI MEKNASSI (Morocco)**

Doctor of Law; former Professor at the University Mohammed V of Rabat; member of the Higher Council of Education, Training and Scientific Research; consultant with national and international public bodies, Professor Filali Meknassi was the founder and director of several national NGOs and responsible for numerous development cooperation projects, 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 is a member of several scientific committees and institutes and the author of about 100 publications in French and Arabic, some of which have been translated into Spanish and English.

**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. Currently a member of the ethical support and monitoring service of the Higher Council of the Judiciary and of several other ethics boards.

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

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

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

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

**Mr Sandile NGCOBO (South Africa)**

Former Chief Justice of the Republic of South Africa; former Judge and acting Judge President of the Labour Appeal Court of South Africa; former Judge of the Supreme Court, Cape of Good Hope Provincial Division; acting Judge of the Supreme Court of Namibia; presiding officer of the Electoral Tribunal of the Independent Election Commission during the first democratic election in

South Africa in 1994; visiting Professor of Law at the Harvard Law School, the University of New York Law School, and former visiting Professor of Law at the Columbia University School of Law and the Cornell Law School; former Chairperson of the South African Presidential Remuneration Review Commission of Inquiry; former attorney in law firms in South Africa and the United States.

### **Ms Rosemary OWENS (Australia)**

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

### **Ms Mónica PINTO (Argentina)**

Professor Emerita, Universidad de Buenos Aires. Member of the Institut de droit international. Counsel in international law cases and arbitrator/member of ad hoc Committees in foreign investment cases. She has appeared before universal and regional human rights instances, arbitral tribunals and the International Court of Justice as counsel and as expert. Former Dean of the Law School, UBA (2010–18). Visiting Professor at University of Columbia, Paris I & II, Rouen. She taught at The Hague Academy of International Law, at the Inter-American and European Institutes on Human Rights. She held several mandates for the UN in the area of human rights. Judge and President of the Administrative Tribunals of the World Bank and of the IADB. Vice-President of the Advisory Committee for Nominations for the ICC (2013–18), member of the Independent Expert Review (2020). She published five books and several articles in periodical publications in Latin America, the United States and Europe.

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

Professor of Law (agrégé), Professor Emeritus, Yaoundé University; guest or associate professor at several universities and at the Hague Academy of International Law; on several occasions, President of the jury for the agrégation competition (private law and criminal sciences section) of the African and Malagasy Council for Higher Education (CAMES); former member (1993–2001) of the Scientific Council of the Agence universitaire de la Francophonie (AUF); former member (2002–12) of the Council of the International Order of Academic Palms of CAMES; member of the International Society for Labour and Social Security Law, the International Foundation for the Teaching of Business Law, the Association Henri Capitant and the Society of Comparative Law; founder and Director of the review *Juridis périodique*; President of the Association for the Promotion of Human Rights in Central Africa (APDHAC); Chairperson of the Scientific Board of the Labour Administration Regional African Centre (CRADAT); Chairperson of the Scientific Board of the Catholic University of Central Africa (UCAC).

### **Mr Raymond RANJEVA (Madagascar)**

Honorary President of the Madagascar Academy (National Academy of Arts, Letters and Sciences of Madagascar), elected Member in 1974 and President (2017–21); former member (1991–2009), Vice-President (2003–06) and senior judge (2006–09) of the International Court of Justice (ICJ), and President (2005) of the Chamber formed by the ICJ to deal with the Benin/Niger frontier dispute; Bachelor's degree in Law (1965), University of Madagascar, Antananarivo; Doctorate of Law, University of Paris II; former student of the National School of Administration of Madagascar

(graduated 1966); Agrégé of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972); Doctor honoris causa of the Universities of Limoges, Strasbourg and Bordeaux-Montesquieu; former Professor at the University of Madagascar (1981–91), Dean of the Faculty of Law, Economics, Management and Sociology (1984–88) and several other national and foreign institutions; former First Rector of the University of Antananarivo (1988–90); member of the Malagasy delegation to several international conferences; Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties (1976–77); former first Vice-President for Africa of the International Conference of French-speaking Faculties of Law and Political Science (1987–91); member of the Court of Arbitration of the International Chamber of Commerce; member of the Court of Arbitration for Sport; member and former Vice-President of the Institute of International Law; member of numerous national and international professional and academic societies; Curatorium of the Hague Academy of International Law; member of the Pontifical Council for Justice and Peace; President of the African Society of International Law since 2012; former Vice-Chairman of the International Law Institute (2015–17); Chairperson of the ILO Commission of Inquiry on Zimbabwe; associate of the Académie de Sciences d’Outre-mer (Paris) and President of the African Academy of Religious, Social and Political Sciences since 2021.

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

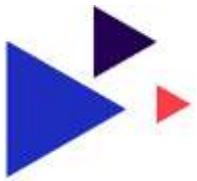
Professor, Faculty of Law, University of Delhi. Formerly, Vice-Chancellor, Tamil Nadu National Law University; Dean, Legal Affairs, University of Delhi; Research Professor, Indian Law Institute; member, Task Force to Review Labour Laws, National Commission for Enterprises in the Unorganised and Informal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

#### **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 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 Fellow; Georgetown University Leadership Seminar Fellow; and Commonwealth Institute of Judicial Education Fellow. She is a published author on Labour 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 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 **concern** that, for the second year, the reports due on ratified Conventions have not been received. Nine reports are now due on fundamental and technical Conventions which should have included information in reply to the Committee's comments. While taking note of the complexity of the national situation, the Committee trusts that all responsible authorities will honour their international commitments and provide information in this regard as soon as the circumstances so permit.

#### Albania

The Committee notes with **deep concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2018 has not been received. The Committee launches an **urgent appeal** to the Government to send its first report concerning the MLC, 2006 without delay, and advises the Government that, even in the absence of this report, the Committee may fully review the application of this Convention at its next meeting on the basis of available information.

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

#### Antigua and Barbuda

The Committee notes with **concern** that, for the second year, the reports due on ratified Conventions have not been received. Twelve reports are now due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

#### Botswana

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

#### Chad

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

that technical assistance was provided on these issues this year by the 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.

## Congo

The Committee notes with **deep concern** that, the first report on the Seafarer's Identity Documents Convention (Revised), 2003, (No. 185), as amended, due since 2015, the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2016, and the first report on the Work in Fishing Convention, 2007 (No. 188), due since 2018, have not been received. The Committee again notes with **deep concern** that, for the fourth year, the reports due on ratified Conventions have not been received. Sixteen reports are now due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments.

On the basis of the decision of the Committee concerning the treatment of urgent appeals for countries that have not supplied reports due for the past three years or more, the Committee decided to examine at this session the application of Conventions Nos 29, 81, 87, 150, 152, 182 and 188 based on public information at its disposal.

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

## Democratic Republic of the Congo

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

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

## Dominica

The Committee notes with **deep concern**, that for the ninth year, the reports due on ratified Conventions have not been received. Twenty-four reports are now due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments.

On the basis of the decision of the Committee concerning the treatment of urgent appeals for countries that have not supplied reports due for the past three years or more, the Committee decided to examine at this session the application of Conventions Nos 12, 19, 26, 29, 81, 87, 95, 97, 100, 105, 111, 135, 138, 150, 169 and 182 based on public information at its disposal.

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

## Equatorial Guinea

The Committee notes with **deep concern** that, for the last 15 years, the reports due on ratified Conventions have not been received. Fourteen reports are now due on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments. Of these 14 reports, two are first reports on the application of the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), and the Accommodation of Crews Convention (Revised), 1949 (No. 92), due since 1998. Even in the absence of these first reports, the Committee decided to examine last year the application of these Conventions on the basis of public information at its disposal.

On the basis of the decision of the Committee concerning the treatment of urgent appeals for countries that have not supplied reports due for the past three years or more, the Committee decided to examine at this session the application of Conventions Nos 87, 98, 100, 103, 105, 111, 138 and 182 based on public information at its disposal.

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

## Gabon

The Committee notes with **deep concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2016 has not been received. Even in the absence of this first report, the Committee decided to examine last year the application of this Convention on the basis of public information at its disposal. The Committee also notes that none of the reports requested this year have been received. Nine reports are now due this year on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments.

Recalling that technical assistance was provided 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 on the application of the MLC, 2006 due since 2016, as well as the other reports due this year in accordance with its constitutional obligation and that they will respond to the Committee's comments.

## Guinea

The Committee notes with **deep concern** that the first report on the Safety and Health in Construction Convention, 1988 (No. 167) due since 2019 has not been received. The Committee also notes that only 6 of the 15 reports requested have been received (9 reports are still due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments).

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

The Committee firmly hopes that the Government will soon submit this first report on the application of Convention No. 167 due since 2019, as well as the other reports due this year, in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

## Haiti

The Committee notes with **concern** that, for the second year, the reports due on ratified Conventions have not been received. Twenty-four reports are now due on fundamental, governance

and technical Conventions, most of which should have included information in reply to the Committee's comments.

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 12, 24, 25, 29, 42, 77, 78, 87, 98, 100, 111, 138 and 182, based on public information at its disposal, because the reports for these Conventions have not been received for three years or more.

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

## Lebanon

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Thirty-five reports are now due on fundamental, governance and technical Conventions, including the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006). In addition most of these reports should have included information in reply to the Committee's comments.

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

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.

## Madagascar

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Thirty-four reports are now due on fundamental, governance and technical Conventions, including the first reports on Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Labour Relations (Public Service) Convention, 1978 (No. 151), Collective Bargaining Convention, 1981 (No. 154), Private Employment Agencies Convention, 1997 (No. 181), and the Domestic Workers Convention, 2011 (No. 189). In addition, most of these reports should have included information in reply to the Committee's comments.

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

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.

## Saint Lucia

The Committee notes with **deep concern** that, for the eighth year, the reports due on ratified Conventions have not been received. Seventeen reports are now due on fundamental and technical Conventions, including the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006). In addition, most of these reports should have included information in reply to the Committee's comments.

On the basis of the decision of the Committee concerning the treatment of urgent appeals for countries that have not supplied reports due for the past three years or more, the Committee decided to examine at this session the application of Conventions Nos 5, 12, 17, 19, 29, 87, 98, 100, 105, 111, 154 and 182, based on public information at its disposal.

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

## Sao Tome and Principe

The Committee notes with **deep concern** that, the first report on the Maternity Protection Convention, 2000 (No. 183), due since 2019 has not been received. The Committee also notes that only five of the ten reports requested this year has been received (five reports are still due this year on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments).

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

The Committee firmly hopes that the Government will soon submit this first report on the application of Convention No. 183 due since 2019 as well as the other reports due this year in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

## South Sudan

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

The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation 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.

## Syrian Arab Republic

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

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

## Tunisia

The Committee notes with **deep concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2019 has not been received. The Committee launches an **urgent appeal** to the Government to send its first report concerning the MLC, 2006 without delay, and advises the Government that, even in the absence of this report, the Committee may fully review the application of this Convention at its next meeting on the basis of available information.

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

## Tuvalu

The Committee notes with **concern** that, for the second year, the report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) which should have included information in reply to the Committee's comments has not been received. Two reports are now due which include the first report on the Worst Forms of Child Labour Convention, 1999 (No. 182).

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

## Uganda

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

The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation 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.

## Vanuatu

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Seven reports are now due on fundamental and technical Conventions, including the first report on the application of the Minimum Age Convention, 1973 (No. 138). In addition, some of these reports should have included information in reply to the Committee's comments. The Committee launches an **urgent appeal** to the Government to send its reports without delay, and advises the Government that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

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 its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

## Yemen

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

The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation 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, Barbados, Belize, Cook Islands, Djibouti, Ethiopia, Gambia, Grenada, Hungary, Iceland, India, Jamaica, Jordan, Kenya, Kiribati, Luxembourg, Malawi, Marshall Islands, Morocco, Netherlands: Sint Maarten, North Macedonia, Palau, Papua New Guinea, Samoa, San Marino, Serbia, Singapore, Slovenia, Solomon Islands, Somalia, Sudan, Suriname, Tajikistan, Timor-Leste, United Kingdom of Great Britain and Northern Ireland: Falkland Islands (Malvinas), United Republic of Tanzania, United Republic of Tanzania: Zanzibar, Viet Nam.*

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

### Albania

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

The Committee takes note of the Government's comments in reply to the observations of the International Trade Union Confederation (ITUC), received in 2020, denouncing the persistence of restrictions on the right of workers to establish trade unions. The Committee observes that these matters are being examined by the Committee on Freedom of Association (Case No. 3388). **Noting that the Government has not provided its comments on the ITUC's observations received in 2019, which alleged violations of trade union rights in practice, the Committee once again requests it to provide its comments in this respect.**

*Article 2 of the Convention. Right to organize of foreign workers.* Further to its previous comments on the exercise of trade union rights by all foreign workers irrespective of their residence status, the Committee notes that the Government indicates in its report that the Act on Foreigners (No. 108 of 2013), as amended by Act No. 13 of 2020, does not address whether foreigners who do not have a working permit have the right to organize in unions. The Committee notes that Act No. 13 of 2020 did not amend section 70 of the Act on Foreigners, which provides that foreign workers with a permanent residence permit shall enjoy economic and social rights on the same terms as nationals. The Committee also notes that the Government has not provided any information on foreign workers' exercise of trade union rights in practice. **The Committee requests the Government to take, without delay, the necessary measures, including consideration of 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 provided by the Convention, particularly the right to join organizations which defend their interests as workers. The Committee requests the Government to provide information on any progress made in this respect.**

*Article 3. Right of organizations to organize their activities and formulate their programmes.* In its previous comments the Committee requested the Government to indicate any legal exceptions to the right to strike other than those provided in section 35 of the Act on civil servants (No. 152 of 2013) as well as to take any necessary measures to ensure that the legislation be amended so as not to unduly curtail the right of unions to organize their activities to defend the interest of workers. The Committee notes the Government's indication that the exercise of the right to strike by civil servants must be in full compliance with section 35 of the Act on civil servants, as well as with the regulations set out in the Labour Code concerning the exercise of this right, which include providing for the possibility of requiring minimum services in essential services like water and electricity supply, as well as in other services of fundamental public importance. The Committee takes note that section 35 of the Act on civil servants remains in force and provides that the right to strike shall not be permitted for a list of services that includes both essential services in the strict sense of the term (such as water and electricity), as well as services which may not be considered essential services in the strict sense of the term – namely transport and public television. The Committee recalls in this regard that the right to strike may be restricted for public servants exercising authority in the name of the State, but as to other public servants and for services which are not considered essential in the strict sense of the term, the introduction of a negotiated minimum service, as a possible alternative to the full prohibition of strike action, could be appropriate in circumstances where 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 (see the

2012 General Survey on the fundamental Conventions, paragraphs 129 and 136). ***The Committee requests 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 establishment of minimum services; and if these civil servants are not able to exercise said right, to take the necessary measures to amend the legislation in light of the above.***

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

The Committee takes note of the Government's comments in reply to the observations of the International Trade Union Confederation (ITUC), received in 2020, denouncing anti-union discrimination acts in the mining sector, in particular against the chairperson of the Trade Union of United Mineworkers of Bulquiza (TUUMB), and alleging the lack of adequate protection against anti-union discrimination. The Committee observes that these matters are being examined by the Committee on Freedom of Association (Case No. 3388). ***Noting that the Government has not provided its comments on the ITUC's observations received in 2019, which alleged lack of adequate protection against anti-union discrimination and severe obstacles to collective bargaining, the Committee once again requests it 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 had observed that despite the Labour Code providing for remedies in cases of anti-union discrimination, in the absence of a special jurisdiction, labour disputes were brought before ordinary courts, considerably delaying the procedures. The Committee had therefore requested the Government to provide detailed information on the practical application of the remedies for anti-union discrimination set out in the law, in particular the availability and use of any applicable enforcement mechanisms, such as judicial actions before the courts, and the duration of proceedings. The Committee notes the information provided by the Government according to which: (i) under section 9 of the Labour Code, issues of discrimination in employment and occupation are also regulated by Act on Protection from Discrimination (No. 10221 of 2010), as amended by Act No. 124 of 2020; (ii) this Act establishes the rules of proceeding for complaints against acts of discrimination before the Commissioner for Protection against Discrimination (CPD) (sections 33 and 33/1), which is an independent administrative authority, and before the court (sections 34 to 38); (iii) the amendments introduced by Act No.124 strengthen the effectiveness of the proceedings before the CPD; and (iv) in 2020, the Court System registered the existence of nine cases of discrimination, three of which gave rise to court rulings.

The Committee takes due note of this information. It also notes that the rules of procedure before both the CPD and the Court provide for an adjustment of the burden of proof in cases of alleged discrimination. At the same time, the Committee observes that the information provided by the Government on the cases of discrimination recorded by the judicial system does not indicate the nature of such cases and whether some of them refer or not to allegations of anti-union discrimination. ***The Committee therefore requests the Government to provide detailed information on the cases of anti-union discrimination resolved or pending before the CPD or the Court and to specify the duration of the proceedings and their concrete outcome.***

*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 continue providing information on the measures to promote collective bargaining at all levels, including at the national level. In this respect, the Committee notes the Government 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 2020 a final total of 20 collective agreements were concluded in the tourism, food, energy and oil

sectors, covering 15 per cent of workers in the private sector; those agreements still being in force as their term is from 3 to 4 years; and (iii) one collective agreement in the health sector has been registered in 2021. Recalling that *Article 4* of the Convention encourages and promotes the conclusion of bipartite collective agreements on terms and conditions of employment at all levels, the Committee **regrets** that no amendments have been made to section 161 of the Labour Code. **The Committee therefore encourages the Government to take further measures to promote collective bargaining including at the national level when the parties so desire. It further requests the Government to continue providing information on the number of collective agreements that have been concluded and that are in force, the sectors covered, and the percentage of workers covered.**

## Algeria

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

The Committee notes the observations, received on 29 March 2021 of the General and Autonomous Confederation of Workers in Algeria (CGATA) on the application of the Convention, as well as the Government's response.

*Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* The Committee recalls having noted, in its previous comments, the observations regularly provided by the national and international trade union organizations concerning acts of anti-union discrimination and interference against autonomous trade unions and their leaders. This issue is addressed regularly by the Committee on the Application of Standards of the International Labour Conference (hereinafter the Conference Committee) on the occasion of their discussion on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which requested the Government to provide information on the situation of trade union leaders and members whose anti-union dismissal had been reported (the latest discussion being in June 2019). The Committee also recalls that several cases concerning harassment and dismissal of trade union leaders and members have been brought before the Committee on Freedom of Association mentioned in the observations of the trade union organizations. Lastly, the Committee recalled that the situation of the dismissed trade unionists and the cases of interference was the subject of the conclusions and recommendations of a high level mission that visited Algiers in May 2019, within the framework of the recommendations made by the Conference Committee.

In its previous comments, noting the observations provided between 2017 and 2019 by the International Trade Union Confederation (ITUC) and the Trade Union Confederation of Productive Workers (COSYFOP), the Committee noted with concern the allegations of anti-union discrimination and interference against COSYFOP and affiliated trade union organizations. The Committee recalls that the observations of COSYFOP alleged the following discrimination and interference measures: (i) harassment of Mr Raouf Mellal, the president of COSYFOP, who was regularly the subject of intimidation and abusive detention and was subjected to physical violence during his detention; (ii) the dismissal of leaders and members of the National Union of Workers of BATIMETAL-COSYFOP, who were only reinstated by the enterprise after they had left the union and the establishment of a union by anti-union interference; (iii) threats of dismissal and criminal prosecution against members of the Workers' Union of the Commission for Electricity and Gas Regulation (STCREG); (iv) the dismissal of all the leaders of the National Union of the Higher Institute of Management and the refusal of the Labour Inspectorate to enforce the provisions for the protection of trade union representatives under the law; and (v) the circular of the Ministry of Labour inciting all the Social Solidarity Funds to dismiss all the members of the National Federation of Workers of the Social Security Funds, affiliated to COSYFOP, which led to the judicial harassment and dismissal of the president of the Federation, who had resigned from COSYFOP

shortly after being reinstated in January 2020. Given the seriousness of these allegations, the Committee requested that the competent authorities conduct the necessary investigations into the alleged acts.

The Committee notes that, in response, the Government indicates that Mr Mellal and other alleged leaders of COSYFOP fraudulently use this registered trade union organization without having complied with the terms for renewing the board as required by law. The Government states that it asked the leaders in question to rectify the situation and informed the social security funds of this infringement. The Government recalls in general that trade union leaders are provided adequate protection through legal provisions, which are enforced by a labour inspection service. The Committee notes that the Government does not provide information in response to the specific allegations of discrimination and interference recalled above. **The Committee urges the Government to provide its comments on the allegations of anti-union discrimination and interference against members of BATIMETAL-COSYFOP, STCREG, the National Union of the Higher Institute of Management and the National Federation of Workers of the Social Security Funds. The Committee also expects that, as required by the Convention, the Government ensures that the leaders and members of these trade union organizations are provided adequate protection against any acts of anti-union discrimination and interference by the employers and administrative authorities concerned.**

In its previous comments, the Committee also noted that observations of the Autonomous National Union of Electricity and Gas Workers (SNATEG) denouncing the mass dismissal of its members by an enterprise in the energy sector and interference in the activities of the union. The Government provided information on the situation of the dismissed trade unionists, recently reporting measures for the reinstatement of most of the workers concerned, situations that are in the process of being resolved and dismissals that have been confirmed on the grounds of serious faults in the case of certain workers. The Committee notes that the Committee on Freedom of Association, which has been dealing with the complaint of SNATEG since 2016, once again issued an opinion on the merits of the case in November 2021. The Committee on Freedom of Association indicated in this regard that it had contradictory information on the issue of the dismissal of certain representatives of SNATEG, given reference to the different legal decisions of the complainant organization and the Government. The Committee notes with **concern** the conclusion of the Committee on Freedom of Association noting an especially large number of leaders and representatives of SNATEG who have been dismissed, in a context of conflict and harassment against them [see 393rd report, November 2021, case No. 3210]. **The Committee requests the Government to indicate the measures taken to follow up on the recommendations of the Committee on Freedom of Association and in particular those requesting details on the situation of the leaders of SNATEG who have still not been reinstated.**

*Revision of the legislation.* With regard to the need to provide adequate protection against acts of anti-union discrimination, the Committee 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 that the high level mission identified difficulties in the application of *Article 1* of the Convention to the founding members of unions. 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 registration period of the established trade union.

The Committee notes that the Government refers to a bill amending and supplementing Act No. 90-14, which will soon be examined by the National Popular Assembly. According to the Government, the proposed amendments are part of the implementation of the recommendations of the Conference Committee concerning sections 4, 6 and 56 of Act No. 90-14. This bill provides for: (i) the

participation of trade unions in legal action as a civil party; (ii) the possibility for the labour inspector covering the relevant area to draw up a statement on refusal to comply with an order, containing the main points that they have been able to gather and which confirm that the dismissal or removal of a worker is linked to trade union activity; and (iii) the tightening of criminal penalties to ensure they are effective and dissuasive in cases of obstruction to the exercise of trade union rights and a breach of the protection of trade union representatives.

According to the Government, this bill has been the subject of broad consultation with the social partners, as well as with the Office. The Government also indicates that it has availed itself of the technical assistance of the Office to strengthen the capacities of the Labour Inspectorate in methods and techniques for identifying anti-union acts, particularly measures of anti-union discrimination in employment.

***Noting this information, which is in keeping with the previous recommendations, the Committee expresses the hope that the Government will continue its efforts, in consultation with the social partners, in the overall examination of the legal framework and practice concerning protection against anti-union discrimination and interference. This examination should include the issue of protection of trade union leaders and members during the period when the union that has been established is applying for registration. The Committee requests the Government to continue reporting progress in this regard and to provide a copy of the amendment to Act No.90-14, once it has been adopted.***

*Article 4. Appointment to the Joint Council of the Civil Service and the National Arbitration Commission.* The Committee notes the observations of the CGATA, contesting the Government's registration of worker representatives of the Joint Council of the Civil Service and the National Arbitration Commission. The CGATA denounces, in particular, the registration of a trade union established by government interference and its probable impact on the work of the bodies in question. In its reply, the Government indicates that the appointments to the Joint Council of the Civil Service and the renewal of the mandate of the National Arbitration Commission were carried out on the basis of the representativity of the two trade unions organizations in question. In this regard, the Committee wishes to recall that the bodies called on to resolve grievances should be independent and should enjoy the confidence of the parties.

*Application of the Convention in practice.* The Committee notes the statistics provided on the number of collective agreements and accords registered by the labour inspectorate between 2016 and 2020, as well as the number of workers covered. ***The Committee invites the Government to continue providing the statistics available concerning the number of collective agreements and accords registered and, as far as possible, to specify the sectors and number of workers covered.***

## 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 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

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

*requests the Government to provide information of any cases concerning anti-union discrimination (especially with respect to the procedures and sanctions imposed).*

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

## Bahamas

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

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. Right of workers and employers, without distinction whatsoever, to establish and join organizations.* Noting that the Industrial Relations Act, 2012 (IRA) does not apply to the prison service (section 3), the Committee had previously requested the Government to specify the manner in which prison staff and the relevant organizations enjoy the rights and guarantees enshrined in the Convention. The Committee notes that the Government reiterates that the Bahamas Prison Staff Association allows for prison staff (denominated correctional officers under the national legislation) to have a public platform to address any concern that its members may have, yet also acknowledges that unfortunately prison and correctional officers do not benefit from all the rights and guarantees enshrined within Convention 87 based on their substantial employment position. The Committee recalls that it had previously expressed its concerns with regard to sections 39 and 40 of the Correctional Officers (Code of Conduct) Rules 2014, which limit the rights of association and representation to approved staff organizations on matters related to the conditions and welfare of the officers as a group. The Committee must emphasize that all workers and employers, without distinction whatsoever, have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization, and that these organizations should enjoy all guarantees under the Convention. **Recalling that the only exceptions from the application of the Convention concern the armed forces and the police, the Committee requests the Government to take the necessary measures – including by revising section 3 of the IRA and the Correctional Officers (Code of Conduct) Rules, 2014 – with a view to ensuring that prison staff enjoy all rights and guarantees under the Convention. The Committee requests the Government to provide information on any developments in this regard.**

*Right of workers and employers to establish organizations without previous authorization.* In its previous comments the Committee noted that under section 8(1)(e) of the IRA, beyond consideration of the specific requirements for registration, the Registrar shall refuse to register a trade union if she/he considers, after applying the rules for the registration of trade unions, that the trade union should not be registered; and that according to section 1 of the First Schedule of the IRA, in applying the rules for the registration of trade unions, the Registrar shall exercise his/her discretion. Thus, the Committee had requested the Government to take the necessary measures to limit the Registrar's powers in relation to the registration of trade unions and employers' organizations. In this respect, the Committee recalls that conferring upon the competent authority a discretionary power to accept or refuse an application for registration can be tantamount in practice to imposing "previous authorization", which is incompatible with *Article 2* of the Convention. **Noting with regret that the Government has provided no information in this regard, the Committee once again requests the Government to revise section 8(1)(e) and the First Schedule of the IRA 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' and employers' organizations to draw up their constitutions and rules and to elect their representatives in full freedom.* In its previous comments, the Committee had noted that section 20(2) of the IRA – which provides that the secret ballot for election or removal of trade union officers and for amendment of the constitution of trade unions shall be held under the supervision of the Registrar or a designated officer – is contrary to the Convention. The Committee had thus expressed the hope that specific measures would be taken for the amendment of said provision. **Noting the Government's indication that section 20(2) of the IRA is presently under review by the National Tripartite Council, and recalling that the amendment of the above-mentioned provision is a long-standing issue, the Committee urges the**

**Government to take all the necessary measures to amend section 20(2) of the IRA in the near future with a view to ensuring that trade unions can conduct ballots without interference from the authorities, and requests the Government to provide information on any progress achieved in this regard.**

*Right of organizations to freely organize their activities and to formulate their programmes.* The Committee had previously noted that, when a strike is organized or continued in violation of the provisions concerning the trade disputes procedure, the IRA provides for excessive sanctions, including imprisonment for up to two years (sections 74(3), 75(3), 76(2)(b) and 77(2)). On that occasion it recalled that no penal sanctions should be imposed against a worker for having carried out peaceful strikes and that such sanctions could be envisaged only where, during a strike, violence against persons or property or other serious infringements of rights have been committed. **Noting that the Government did not provide its observations thereon, the Committee urges the Government to amend the above-mentioned sections of the IRA to ensure that no penal sanctions may be imposed for having carried out a peaceful strike.**

*Article 5. Right to affiliate to an international federation or confederation.* The Committee had previously noted that, under the terms of section 39 of the IRA, it is not lawful for a trade union to be a member of any body constituted or organized outside the Bahamas without a licence from the minister, who has discretionary power in this regard. While having further noted the Government's indication that these approvals are generally granted and do not represent a challenge, the Committee had requested the Government to take measures to align national legislation with such practice and to repeal section 39 of the IRA in order to give full effect to the right of workers' and employers' organizations to affiliate with international organizations of workers and employers. In this respect, the Committee recalls that international solidarity of workers and employers also requires that their national federations and confederations be able to group together and act freely at the international level (see the 2012 General Survey on the fundamental Conventions, paragraph 163). **Noting the Government's indication that section 39 of the IRA is under review by the National Tripartite Council and recalling that the Committee has been requesting the Government to address this matter since 2006, the Committee firmly expects that the Government will take all the necessary measures to ensure that this section will be repealed in the near future and requests the Government to provide information on any developments in this regard.**

**The Committee reminds the Government that it may avail itself of the technical assistance of the Office and hopes that it will be able to observe progress in the near future.**

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.**

## 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 2022, 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.***

## Belarus

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

The Committee notes the observations of the Belarusian Congress of Democratic Trade Unions (BKDP) received on 30 September 2021, and of the International Trade Union Confederation (ITUC), received on 1 and 29 September 2021, and examined by the Committee below.

Follow-up to the conclusions of the Committee on the Application of Standards  
(International Labour Conference, 109th Session, June 2021)

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

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (the Conference Committee) in June 2021 concerning the application of the Convention. The Conference Committee expressed its deep concern that, 17 years after the Commission of Inquiry's report, the Government of Belarus had failed to take measures to address most of the Commission's recommendations and recalled the outstanding recommendations of the 2004 Commission of Inquiry and the need for their rapid, full and effective implementation. The Conference Committee urged the Government to: restore without delay full respect for workers' rights and freedom; implement Recommendation 8 of the Commission of Inquiry on guaranteeing adequate protection or even immunity against administrative detention for trade union officials in the performance of their duties or when exercising their civil liberties (freedom of speech, freedom of assembly, etc); take measures for the release of all trade unionists who remain in detention and for the dropping of all charges related to participation in peaceful protest action; refrain from the arrest, detention or engagement in violence, intimidation or harassment, including judicial harassment, of trade union leaders and members conducting lawful trade union activities; and investigate without delay alleged instances of intimidation or physical violence through an independent judicial inquiry. As regards the issue of legal address as an obstacle to trade union registration, the Conference Committee called on the Government to ensure that there were no obstacles to the registration of trade unions, in law and in practice, and requested the Government to keep it informed of further developments on this matter, in particular any discussions held and outcomes of these discussions in the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (hereinafter, tripartite Council). As regards the demand by the President of Belarus for the setting up of trade unions in all private companies by 2020 on the request of the Federation of Trade Unions of Belarus (FPB), the Conference Committee urged in the strongest terms the Government: to refrain from any interference with the establishment of trade unions in private companies, in particular from demanding the setting up of trade unions under the threat of liquidation of private companies otherwise; to clarify publicly that the decision whether or not to set up a trade union in private companies is solely at the discretion of the workers in these companies; and to put an immediate stop to the interference with the establishment of trade unions and refrain from showing favouritism towards any particular trade union in private companies. As regards the restrictions of the organization of mass events by trade unions, the Conference Committee

urged the Government, in consultation with the social partners, including in the framework of the tripartite Council: to amend the Law on Mass Activities and the accompanying Regulation, in particular with a view to: set out clear grounds for the denial of requests to hold trade union mass events, ensuring compliance with freedom of association principles; widen the scope of activities for which foreign financial assistance can be used; lift all obstacles, in law and practice, which prevent workers' and employers' organizations to benefit from assistance from international organizations of workers and employers in line with the Convention; abolish the sanctions imposed on trade unions or trade unionists participating in peaceful protests; repeal Ordinance No. 49 of the Council of Ministers to enable workers' and employers' organizations to exercise their right to organize mass events in practice; and to address and find practical solutions to the concerns raised by the trade unions in respect of organizing and holding mass events in practice. As regards consultations in respect of the adoption of new pieces of legislation affecting the rights and interests of workers, the Conference Committee requested the Government to amend the Regulation of the Council of Ministers No. 193 to ensure that social partners enjoy equal rights in consultations during the preparation of legislation. As regards the functioning of the tripartite Council, the Conference Committee urged the Government to take the necessary measures to strengthen the tripartite Council so that it could play an effective role in the implementation of the recommendations of the Commission of Inquiry and other ILO supervisory bodies towards full compliance with the Convention in law and practice. The Conference Committee expressed its disappointment at the slow process in the implementation of the recommendations of the Commission of Inquiry. Recent developments indicated a step backward and further retreat on the part of the Government from its obligations under the Convention. The Conference Committee therefore urged the Government to take before the next Conference, in close consultation with the social partners, all necessary steps to fully implement all outstanding recommendations of the Commission of Inquiry. The Conference Committee invited the Government to avail itself of ILO technical assistance and decided to include its conclusions in a special paragraph of the report.

The Committee notes the 394th (March 2021) report of the Committee on Freedom of Association on the measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry.

*Civil liberties and trade union rights.* The Committee recalls that in its previous comments it expressed its deep concern over the serious allegations of extreme violence to repress peaceful protests and strikes, detention, imprisonment and torture of workers while in custody, submitted by the ITUC and BKDP, and the continued deterioration of the situation of human rights in the country following the presidential election in August 2020. The Committee urged the Government to take all necessary measures to implement the above-mentioned Recommendation 8 of the Commission of Inquiry; to take measures for the release of all trade unionists who remain in detention and the dropping of all charges related to participation in peaceful protests and industrial actions; to supply copies of the relevant court decisions upholding detention and imprisonment of workers and trade unionists and to provide a list of the affected persons; and to investigate without delay any alleged instances of intimidation or physical violence through an independent judicial inquiry.

The Committee notes that in its report, the Government expresses its regret at what, in its opinion, is a significant negative shift in the Committee's assessments of the situation in Belarus in relation to the political events that took place in the country following Presidential election. The Government considers that purely political events, not related to the processes of social dialogue in the world of work, should not be the basis for assessing the situation regarding the country's compliance with the provisions of the Convention. The Government emphasizes that external forces interested in destabilizing the country took an active organizational and financial part in the preparation and conduct of illegal street actions that took place after the election of the President, in furtherance of their own geopolitical interests. The Government points out that the main demands put forward by the protesters included the resignation of the Head of State, the holding of new elections and the exoneration of

citizens who had broken the law. The Government explains that these demands have no connection to trade union or labour, social and economic rights. The Government further points out that protests were not peaceful, but rather, were carried out in violation of the law and posed a serious threat to public order, safety, and the health and life of citizens. During the protest actions, numerous incidents of active resistance to the legal requests of law enforcement officers were recorded, involving aggression, the use of violence, damage to official vehicles, blocking the movement of vehicles, and causing damage to infrastructure facilities. The Government considers that the BKDP, the ITUC and the IndustriALL Global Union are deliberately attempting to link illegal protest actions of a political nature with an alleged strike movement in the country. The Government indicates that in practice, the discontent affected only a small segment of workers; no demands were presented to employers concerning the regulation of labour and socio-economic matters. The Government indicates that the citizens referred to in the complaints made by trade union organizations as having allegedly suffered for their participation in peaceful protests and strikes, were charged with disciplinary, administrative and, in certain cases, criminal offences for having committed specific illegal actions. In this regard, the Government indicates that it cannot provide the Committee with copies of court decisions as the national legislation does not permit copies of court decisions and other documents to be shared with persons with no connection to the proceedings. The Government emphasizes, however, that the status of a worker or a trade union leader does not confer additional privileges on the holder and does not guarantee the unconditional right to absolute freedom of actions without regard for the existing national legislation and the interests of the public and the State. The Government considers that trade union activists not only have the same rights as other citizens but also, like everyone, are answerable for violations of the law; therefore, Recommendation 8 of the Commission of Inquiry, in line with *Article 8(1)* of the Convention, does not require the release of trade unionists from liability for any illegal acts that they may commit. In light of the above, the Government considers that the Committee's calls for the release of and the dropping of all charges against trade union activists who were charged with specific violations of the law to be unfounded. The Government insists that using events of a purely political nature to measure the country's implementation of the Commission of Inquiry's recommendations is unreasonable, counterproductive and unacceptable, and that this approach may become a serious obstacle to the continuation of the well-established constructive engagement, both within the country and with ILO experts.

As to the Committee's and the Commission of Inquiry's request to ensure impartial and independent judiciary and justice administration in general, the Government points out that the Republic of Belarus is a State governed by the rule of law. People, their rights and freedoms are of the highest value and concern. All are equal before the law and are entitled without discrimination to equal protection of their rights and interests. Under the provisions of article 60 of the Constitution, everyone is guaranteed protection of their rights and freedoms by a competent, independent and impartial judiciary. In dispensing justice, judges are independent and subject only to the law. Interfering with the activities of judges is prohibited.

The Committee **regrets** that the Government does not address the issue of the alleged intimidation and physical violence against trade unionists. The Committee notes that in her Oral Update on the Situation of Human Rights in Belarus on 24 September 2021, the High Commissioner for Human Rights stated that the scale and pattern of behaviour by the Belarusian authorities to date strongly suggested that limitations to freedoms of expression and assembly were primarily aimed at suppressing criticism of and dissent from Governmental policies, rather than any aim regarded as legitimate under human rights law, such as the protection of public order. The High Commissioner was also alarmed by persistent allegations of widespread and systematic torture and ill-treatment in the context of arbitrary arrests and detention of protesters. The Committee notes with **deep concern** new detailed allegations of criminal prosecution, arrests and imprisonment of trade unionists and the sentencing of three trade unionists to three years of imprisonment. It further notes with **concern** the

allegations of searches of trade union premises and houses of trade union leaders by the police, disruption of trade union meetings by law enforcement forces, and acts of retaliation and pressure on workers to leave trade unions submitted by the BKDP and the ITUC. The Committee recalls that the UN High Commissioner for Human Rights reported to the Human Rights Council in December 2020 that the monitoring and analysis of demonstrations since 9 August 2020 indicated that participants were overwhelmingly peaceful. The Committee once again recalls 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. Among those liberties essential for the normal exercise of trade union rights are freedom of opinion and expression, freedom of assembly, freedom from arbitrary arrest and detention and the right to a fair trial by an independent and impartial tribunal. The Committee further considers that strikes and demonstrations relating to the Government's economic and social policies cannot be regarded as purely political strikes, which are not covered by the principles of the Convention. In its view, trade unions and employers' organizations responsible for defending socio-economic and occupational interests should be able to use strike 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. Moreover, noting that a democratic system is fundamental for the free exercise of trade union rights, the Committee considers that, in a situation in which they deem that they do not enjoy the fundamental liberties necessary to fulfil their mission, trade unions and employers' organizations would be justified in calling for the recognition and exercise of these liberties and that such peaceful claims should be considered as lying within the framework of legitimate trade union activities, including in cases when such organizations have recourse to strikes (see the 2012 General Survey on the fundamental Conventions, paragraph 124).

The Committee once again recalls that the Commission of Inquiry on Belarus considered that adequate protection or even immunity against administrative detention should be guaranteed to trade union officials in the performance of their duties or when exercising their civil liberties (freedom of speech, freedom of assembly, etc.). While noting the Government's reference to paragraph 1 of *Article 8* of the Convention, the Committee recalls that it should be read together with paragraph 2 of the same Article, according to which, the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention. The Committee points out that for a number of years, the ILO supervisory bodies have been expressing concerns at the numerous violations of the Convention in law and in practice in Belarus. ***The Committee therefore once again urges the Government in the strongest of terms to investigate without delay all alleged instances of intimidation or physical violence through an independent judicial inquiry and to provide detailed information on the outcome. The Committee further urges the Government to take measures for the release of all trade unionists who remain in detention and for dropping of all charges related to participation in peaceful protest action. The Committee expects the Government to provide detailed information on all measures taken in this regard.***

The Committee notes the Government's indication that it cannot provide court judgments as per the Committee's request as the legislation in force does not provide for such a possibility, which implies that court decisions and judgments are not public. The Committee emphasizes that when it requests a government to furnish judgments in judicial proceedings, such a request does not reflect in any way on the integrity or independence of the judiciary. The very essence of judicial procedure is that its results are known, and confidence in its impartiality rests on their being known. In addition, the absence of court judgments prevents the Committee from examining or confirming the Government's conclusion that the arrests in question were unrelated to the exercise of basic trade union rights. The Committee further recalls that the International Covenant on Civil and Political Rights, in Article 14, states that everyone shall be entitled to a fair and public hearing. The Committee emphasizes that the right to a fair and public hearing implies the right for the judgment or decision to be made public and that the

publicizing of decisions is an important safeguard in the interest of the individual and of society at large. The Committee also recalls that the absence of guarantees of due process of law may lead to abuses and may also create a climate of insecurity and fear which may affect the exercise of trade union rights. **The Committee requests the Government to take all necessary steps, including legislative, if necessary, to ensure the right to a fair trial. Further in this respect, the Committee, with reference to the recommendations of the Commission of Inquiry, stresses the need to ensure impartial and independent judiciary and justice administration in general in order to guarantee that investigations into these grave allegations are truly independent, neutral, objective and impartial. Accordingly, the Committee also renews its request that the Government take steps, including by legislation if necessary, to supply copies of the relevant court decisions upholding detention and imprisonment of workers and trade unionists.**

*Article 2 of the Convention. Right to establish workers' organizations.* The Committee recalls that in its previous observations, it had urged the Government to consider, within the framework of the tripartite Council, the measures necessary to ensure that the matter of legal address ceases to be an obstacle to the registration of trade unions in practice. In particular, it expected the Government, as a member of the tripartite Council, to submit the Committee's comments on the issue of registration for the Council's consideration at one of its meetings as soon as possible.

The Committee notes the Government's indication that the possibility of implementing the Committee's recommendation may be considered when the tripartite Council resumes its work once the epidemiological situation in the country has improved. To that end, a member of the tripartite Council, submitting this issue for discussion must also establish that the issue is one of concern. In the Government's opinion, in practice, the question of legal address is not an obstacle to registration as trade unions have been offered the possibility to be assigned not only the address where the employer is located, but that of any other location. The Committee notes detailed statistical data on the number of registered trade unions and their organizational structures provided by the Government. It notes, in particular that while in the first six months of 2021, 1,278 organizational structures have been registered, there was only one refusal to register a union; in that particular case because the union's constitution was not in conformity with the legal requirements. The Government considers that the assertions by the BKDP, that the legal requirement for trade unions and their organizational structures to submit a legal address in order to register constitutes an obstacle to trade union activities in Belarus, appear to lack any objective substance.

In this connection, the Committee notes with **concern** new allegations submitted by the BKDP and the ITUC regarding several cases of refusals to register primary organizations of the BKDP affiliates. **The Committee requests the Government to provide its observations thereon. The Committee further once again requests the Government to put the issue of registration of trade union organizations, including the question of legal address requirement, on the agenda of the tripartite Council, as per its previous request and most recent call by the Conference Committee, which considered this issue to be of concern. The Committee expects the Government to provide detailed information on the outcome of the discussion by the tripartite Council.**

As regards the demand by the President of Belarus for the setting up of trade unions in all private companies by 2020 on the request of the FPB, which the Committee considered to be a display of favouritism towards the Federation and interference with the establishment of trade unions in private companies, the Committee notes the Government's indication that the FPB is the country's most representative and active among social partners when it comes to developing, improving and implementing socioeconomic policy. As part of its considerable commitment to protect the labour, social and economic rights of citizens, the FPB constantly brings to the authorities' attention the most current, critical and problematic issues that workers face in exercising their rights. In defending the rights of citizens, the FPB trade unions regularly deal with and actively collaborate with the authorities, including at the highest levels. During a meeting between the Head of State and the chairperson of the FPB as

leader of the country's largest and most representative trade union, the President of Belarus clearly set out the State's position that private companies must not obstruct workers' right to join a trade union, and also expressed his appreciation of the trade unions' work to defend the labour and socioeconomic rights of citizens.

The Committee observes with **deep regret** the absence of information on the measures taken by the Government to refrain from interference with the establishment of trade unions in private companies and the lack of any public clarification that the decision to set up a trade union is solely at the discretion of workers themselves. Instead, the Government provides what appears to be a justification for the favouritism of the FPB at the higher levels of the State. The Committee further notes with **deep concern** that on 5 August 2021, in his televised meeting with the leader of the FPB, the Head of the State reiterated his previous statement and stressed that "if certain private companies had not understood his message, the Government should immediately discuss these issues and make specific proposals, including on liquidation of private companies that refuse to have trade union organizations". The Committee draws the Government's attention to the fact that all three ILO bodies responsible for the supervision and follow-up of the implementation of the recommendations of the Commission of Inquiry on Belarus in relation to the non-observance of this Convention, i.e. this Committee, the Conference Committee and the Committee on Freedom of Association, concluded, that such demands by the country's President constituted an interference with the establishment of trade union organizations and favouritism towards a particular trade union, and therefore a violation of *Article 2* of the Convention. ***The Committee therefore once again urges the Government to refrain from any interference with the establishment of trade unions in private companies, in particular from demanding the setting up of trade unions under the threat of liquidation of private companies otherwise; to clarify publicly that the decision whether or not to set up a trade union in private companies is solely at the discretion of the workers in these companies; and to refrain from showing favouritism towards any particular trade union in private companies. The Committee expects that all steps in this regard will be taken without delay and detailed in the Government's next report.***

*Articles 3, 5 and 6. Right of workers' organizations, including federations and confederations, to organize their activities. Legislation.* The Committee recalls that the Commission of Inquiry had requested the Government to amend Presidential Decree No. 24 (2003) on Receiving and Using Foreign Gratuitous Aid. The Committee recalls in this respect that it had considered that the amendments should be directed at abolishing the sanctions imposed on trade unions (liquidation of an organization) for a single violation of the Decree and at widening the scope of activities for which foreign financial assistance can be used so as to include events organized by trade unions. The Committee recalls that Decree No. 24 had been superseded by Presidential Decree No. 5 (2015) and then by Decree No. 3 of 25 May 2020, under which the foreign gratuitous aid could still not be used to organize or hold assemblies, rallies, street marches, demonstrations, pickets or strikes, or to produce or distribute campaign materials, hold seminars or carry out other forms of activities aimed at "political and mass propaganda work among the population", and that a single violation of the Regulation still bore the sanction of possible liquidation of the organization. The Committee observed that the broad expression "political and mass propaganda work among the population" when applied to trade unions may hinder the exercise of their rights as it was inevitable and sometimes normal for trade unions to take a stand on questions having political aspects that affect their socio-economic interests, as well as on purely economic or social questions.

Further in this connection, the Committee recalls that the Commission of Inquiry had requested the Government to amend the Law on Mass Activities, under which, a trade union that violates the procedure for organizing and holding mass events may, in the case of serious damage or substantial harm to the rights and legal interests of other citizens and organizations, be liquidated for a single violation. The Committee further recalls that it had also noted with regret the Regulation on the procedure of payment for services provided by the internal affairs authorities in respect of protection

of public order, expenses related to medical care and cleaning after holding a mass event (Ordinance of the Council of Ministers No. 49). The Regulation outlines the fees in relation to maintenance of public services and provides for the expenses of the specialized bodies (medical and cleaning services) that must be paid by the organizer of the event.

Reading these provisions alongside those forbidding the use of foreign gratuitous aid for the conduct of mass events, the Committee considered that the capacity for carrying out mass actions would appear to be extremely limited if not non-existent in practice. The Committee therefore urged the Government to amend Decree No. 3 of 25 May 2020 on the registration and use of foreign gratuitous aid, the Law on Mass Activities and the accompanying Regulation, and recalled that the amendments should be directed at abolishing the sanctions imposed on trade unions or trade unionists for a single violation of the respective legislation; at setting out clear grounds for the denial of requests to hold trade union mass events, bearing in mind that any such restriction should be in conformity with freedom of association principles; and at widening the scope of activities for which foreign financial assistance can be used.

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

The Committee notes with **deep regret** that the Government merely reiterates the information it had previously provided and in particular, that it has no intention of amending the legislation as requested by the Commission of Inquiry, whose recommendations the Government accepted as per article 29(2) of the ILO Constitution, with follow-up of the implementation of the recommendations entrusted by the Governing Body to the CFA, this Committee and the Conference Committee. The Committee notes that the Law on Mass Activities was amended on 24 May 2021 and observes with **regret** in this respect that according to the BKDP and publicly available information, the amendment aims at further tightening the requirements for holding public events as follows: the organization of

mass events has to be authorized by municipal authorities; funds cannot be raised, money and other assets cannot be received and used, services cannot be rendered in order to compensate for the cost caused by prosecution for violating the established procedure of organization of mass events; public associations will be held responsible if their leaders and members of their governing bodies make public calls for organizing a mass event before the permission to organize the event is granted.

The Committee further notes with **deep regret** that on 8 June 2021, the Criminal Code was amended so as to introduce the following restrictions and associated penalties: repeated violations of the procedure for organizing and holding of mass events, including public calls therefor, are punishable by arrest, or restraint of liberty or imprisonment of up to three years (section 342-2); insult of a government official is punishable by a fine and/or restriction of liberty or imprisonment for up to three years (section 369); the penalty for “discrediting the Republic of Belarus” was increased from two to four years imprisonment with a fine (section 369-1); section 369-3 of the Criminal Code has been retitled from “violation of procedure for organizing and holding of mass events” to “public calls for the organization or conduct of an illegal meeting, rally, street procession, demonstration or picketing, or the involvement of persons in such mass events”, which became an offence punishable by up to five years of imprisonment. The BKDP points out that criminal liability can now be established simply for organizing peaceful assemblies and that any criticism and slogans are seen by the authorities as insults within the meaning of section 369 of the Criminal Code. The BKDP alleges that there are many precedents of bringing citizens, including members of independent trade unions, to criminal responsibility under section 369 of the Criminal Code. The BKDP also draws attention to the statement of the Minister of Labour and Social Protection to the Conference Committee in June 2021 when she stated that the BKDP spoke out against the Government and took steps against the interest of the State and the Government, calling for a boycott of Belarusian goods and application of sanctions. The BKDP alleges in this respect that its leaders are under the threat of being prosecuted under section 369-1 of the Criminal Code. The Committee recalls that the right to express opinions, including those criticizing the Governments economic and social policy, is one of the essential elements of the rights of occupational organizations. With reference to the considerations above and below, the Committee further once again recalls that the mere fact of participation in peaceful assemblies should not be penalized by detention or imprisonment. The Committee also recalls that simply calling for a demonstration and any other public event, even if declared illegal by the courts, should not result in arrest and that in general, sanctions should be envisaged only where, during such event, violence against persons or property, or other serious infringements of penal law have been committed.

***The Committee therefore reiterates its previous request to amend without further delay and in consultation with the social partners, Decree No. 3, the Law on Mass Activities and the accompanying Regulation (Ordinance No. 49 of the Council of Ministers), as per the outstanding recommendations of the Commission of Inquiry, the Conference Committee, the Committee of Freedom of Association and this Committee. The Committee further requests the Government to repeal the above-mentioned amended provisions of the Criminal Code in order to bring them into compliance with the Government’s international obligations regarding freedom of association.***

*Practice.* The Committee recalls that it had urged the Government to engage with the social partners, including in the framework of the tripartite Council, with a view to addressing and finding practical solutions to the concerns raised by the unions, in particular, the BKDP, in respect of organizing and holding mass events. The Committee further requested the Government to provide statistical information on the requests submitted and permissions granted and denied, segregated by the trade union centre affiliation.

The Committee notes that the Government indicates that the BKDP and its affiliated unions, like the FPB, have repeatedly exercised their right to freedom of assembly and held mass events. The Government reiterates that all decisions to deny the holding of mass events were taken by local executive and regulatory bodies in accordance with the law and with due regard to the obligation to

uphold citizens' right to freedom of association and the right of trade unions to take collective action to defend their members' interests. The Government once again indicates that the most common reasons for refusal to grant authorization to hold a mass event were: the application did not contain the information required by the law; the event was to take place in a location not allowed for such a purpose; the documents submitted did not indicate the precise location of the event; the event was announced in the mass media prior to receiving authorization; another mass event was being held in the same place at the same time. The Government considers that the denials of permission to hold mass events relate not so much to legal requirements that are excessive or difficult to comply with, but rather to inadequate preparation by the organizers and points out that once the shortcomings have been rectified, the organizers can re-apply for authorization. The Government further indicates that the possibility of discussing the issues of the organization and holding of mass events in the framework of the tripartite Council can be reviewed once the Council resumes its work when the epidemiological situation improves. The Government points out, however, that a necessary condition for the review by the Council is that the initiator should submit information which establishes that the issue is one of concern. ***The Committee considers that the Government, as a member of the tripartite Council and as ultimately responsible for ensuring respect for freedom of association on its territory, should be in the position to place on the agenda of the tripartite Council the concerns expressed by the ILO supervisory bodies with regard to the issues of the exercise of the right to demonstrate and hold public meetings in practice. The Committee expects the Government to provide information on the outcome of such discussions with its next report. The Committee requests the Government to provide statistical information on the requests to demonstrate and to hold public meetings that have been submitted, and the permissions granted and denied, segregated by the trade union centre affiliation.***

The Committee recalls the 2019 BKDP and ITUC allegations regarding the cases of Messrs Fedynich and Komlik, leaders of the REP union, found guilty, in 2018, of tax evasion and use of foreign funds without officially registering them with the authorities as per the legislation in force. They were sentenced to four years of suspended imprisonment, restriction of movement, a ban on holding senior positions for five years and a fine of BYN47,560 (over US\$22,500 at that time). In this connection, the Committee also noted the BKDP allegation that the equipment seized during searches in the REP union and BNP premises had not been returned and requested the Government to provide information thereon.

The Committee notes the Government's indication that in view of the application of amnesty legislation to the convicted offenders, the main punishment, in the form of restriction of freedom without being sent to an open-type institution, has been served by Mr Fedynich and Mr Komlik in full. The further fate of the information storage devices seized during the investigation of the criminal case will be decided after completion of a check to establish whether the persons concerned have committed other crimes of a similar nature. The Committee notes that the particulars of these cases are being considered by the Committee on Freedom of Association in the framework of its examination of the measures taken by the Government to implement the recommendations of the Commission of Inquiry.

***Right to strike.*** The Committee recalls that it had been requesting the Government for a number of years to amend sections 388(1), (3) and (4), 390, 392 and 393 of the Labour Code. The Committee ***regrets*** that the Government merely reiterates its previously expressed consideration that the national legislation is in conformity with the international labour instruments, which in any case do not expressly provide for the right to strike; that the legality of the interpretation by the ILO supervisory bodies that Convention No. 87 enshrines the right to strike has repeatedly and rightly been questioned; that only the International Court of Justice has the right to interpret ILO Conventions for subsequent mandatory application of that interpretation by the members States; that in Belarus, according to section 388 of the Labour Code, a strike constitutes a temporary and voluntary refusal by workers to perform their employment duties (fully or in part) for the purpose of settling a collective labour dispute; and that strikes of political nature are forbidden. The Government once again states that unauthorized protest

actions that took place after the presidential election campaign in 2020 and the attempts to organize a strike movement in enterprises without regard for the law have nothing to do with the exercise of trade unions' rights and the work carried by trade unions to protect workers or the social and economic rights of citizens. The Government adds that the broader issues relating to economic and social policy take place in the framework of the social partnership system through negotiations, consultations and the rejection of confrontation. The Government therefore reiterates that amending the legislation regulating strikes would not facilitate the exercise of the right of workers' organizations to act in full freedom, but to the contrary, would create additional opportunities for abuse by every kind of destructive agent and provide an instrument for undermining the country's economic potential.

The Committee deems it important to once again recall that its opinions and recommendations 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 are well recognized, particularly as it has been engaged in its supervisory task for 95 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. It is within this mandate that it has been dealing with the questions pertaining to the right to strike.

The Committee notes with **regret** that the Labour Code was amended on 28 May 2021 to further restrict the right to strike by expressly allowing an employer to dismiss/terminate a labour contract with a worker who is absent from work in connection with serving an administrative penalty in the form of an administrative arrest; who forces other workers to participate in a strike or calls on other workers to stop performing work duties without sound reason; and who participates in an illegal strike or other forms of withholding labour without sound reasons (section 42(7)). Recalling the BKDP allegations that numerous trade unionists who participated in mass events and strikes organized following the August 2020 Presidential election were found guilty of administrative breaches and received corresponding penalty in the form of administrative arrest, the Committee notes that in its latest observations, the BKDP provides a list of workers who in such circumstances were dismissed. The Committee **regrets** that the amendment of the Labour Code would appear to facilitate the dismissal and penalization of workers for exercising their civil liberties and trade union rights. **The Committee is therefore bound to request the Government to take measures, in consultation with the social partners, to revise the above-mentioned legislative provisions, which negatively affect the right of workers' organizations to organize their activities in full freedom, and to provide information on all measures taken or envisaged to that end.**

The Committee recalls that it had previously noted with concern detailed allegations of numerous cases of arrests, detention of and fines imposed on trade unionists for having organized and participated in strikes following the August 2020 events. The Committee notes with **concern** new detailed allegations of retaliation (arrests, detention, fines and dismissals) against trade unionists and workers who participated in trade union led strike actions. **With reference to its considerations regarding the exercise of civil liberties and their importance for exercising trade union rights outlined above, the Committee urges the Government to conduct independent inquiries into the BKDP and the ITUC allegations bearing in mind the above considerations and to provide all relevant particulars on the outcome with its next report.**

*Consultations with the organizations of workers and employers.* The Committee recalls that in its previous comment it had noted that the BKDP alleged lack of consultations in respect of the adoption of new pieces of legislation affecting the rights and interest of workers. The Committee had further noted Regulation of the Council of Ministers No. 193 of 14 February 2009, pursuant to which, draft legislation affecting labour and socio-economic rights and interests of citizens is submitted to the FPB as the most representative organization of workers for possible comments and/or proposals. The

Committee had requested the Government to amend the Regulation so as to ensure that the BKDP and the FPB, as members of both the National Council on Labour and Social Issues (NCLSI) and the tripartite Council, enjoyed equal rights in consultations during the preparation of legislation. The Committee notes that the Government considers that the Regulation is in conformity with international labour standards and reiterates in this respect that the FPB, as an organization with a higher overall number of members, has preferential rights in the processes of consultation on legislation affecting rights and interest of workers. The Committee is bound to emphasize once again that in determining the representativeness of an organization, both the number of members and independence from the authorities and employers' organizations are essential elements for consideration. In light of the above-noted publicly expressed support by the State authorities at the highest level for the FPB, the Committee is once again bound to reiterate its previous comments made in 2007, which recalled the importance of ensuring an atmosphere in which trade union organizations, whether within or outside the traditional structure, are able to flourish in the country before establishing the notion of representativeness. ***The Committee once again requests the Government to amend Regulation No. 193 without further delay and to provide information on all measures taken in this respect.***

With regard to the Committee's request to further strengthen the role of the tripartite Council, which should, as its title indicates, serve as a platform where consultations on the legislation affecting rights and interests of the social partners and workers and employers represented by them can take place, the Committee notes that the Government reiterates that the tripartite Council was set up with the advice of the ILO to consider issues related to the implementation of the recommendations of the Commission of Inquiry as well as other issues that may arise between the Government and its social partners, including the consideration of complaints received from trade unions. The Committee notes that the Government reiterates its willingness to either work to further improve the tripartite Council's function or to create another structure. The Committee also notes that the Government once again expresses its concern over the issue of representation at the Council and the willingness of the parties to accept the decisions that will be made within this tripartite body.

The Committee notes with **concern** the BKDP allegation that laws and regulations affecting labour and social interests of people are adopted without due public discussion and coordination with the interested parties. The BKDP alleges that it is also being excluded from the process and that its chairperson was not invited to the meeting of the NCLSI in 2020, nor to the meeting held on 29 April 2021 by videoconference to discuss the preparation of the draft General Agreement for 2022–2024, nor to the meeting held on 28 July 2021, also by videoconference, to discuss the issue of economic sanctions imposed on the country. The BKDP indicates that on 15 July 2021 it sent a letter to the Ministry of Labour and Social Protection suggesting to convene a meeting of the tripartite Council to discuss the possibility of developing an Action Plan for the implementation of the conclusions of the Conference Committee and the recommendations of the Commission of Inquiry, but that it received no reply. ***The Committee requests the Government to provide its comments thereon.***

The Committee notes the Government's indication that various actions it has taken – the steps to develop the social partnership system which involves all interested trade unions and employers' associations in the dialogue, its constructive cooperation with the ILO to implement the Commission of Inquiry's recommendations and its openness to further cooperation – confirm the commitment of Belarus to the underlying principles and rights at work and its readiness to continue to engage on issues of concern raised by the parties. ***The Committee expects that the Government will fully engage with the social partners, the ILO, as well as relevant national institutions and bodies, with a view to improving the functioning, procedures and the work of the tripartite Council aimed at enhancing its impact in addressing the issues stemming from the recommendations of the Commission of Inquiry and other ILO supervisory bodies.***

*Labour disputes resolution system.* The Committee recalls that it had previously noted the need to continue working together towards building a strong and efficient system of dispute resolution, which

could handle labour disputes involving individual, collective and trade union matters. The Committee notes that the Government emphasizes its commitment to continuing its joint work with the social partners and the ILO to develop such a system. In this connection the Government expresses its appreciation of the assistance received from the ILO to further the work of the tripartite Council, which in the Government's opinion has shown positive and concrete results. ***The Committee requests the Government to actively engage with the social partners with a view to developing a labour dispute resolution system that is robust, efficient and enjoys the confidence of the parties. It requests the Government to indicate all measures and steps taken to that end.***

The Committee recalls that in its 2004 report, the Commission of Inquiry considered that its recommendations should be implemented without further delay and that the majority of its recommendations should be completed at the latest by 1 June 2005. The Committee ***deeply regrets*** that 17 years later, the situation in Belarus remains far from ensuring full respect for freedom of association and the application of the provisions of the Convention and that many of the recommendations of the Commission of Inquiry have not been implemented. The Committee observes that the 2021 Conference Committee urged the Government to take before the 2022 International Labour Conference, in close consultation with the social partners, all necessary steps to fully implement all outstanding recommendations of the Commission of Inquiry. The Committee ***regrets*** to observe that the recent developments, including of legislative nature, as examined above appear to indicate continuing steps backward on some previously achieved progress. ***The Committee therefore urges the Government to pursue its efforts referred to above and expects that the Government, with the assistance of the ILO and in consultation with the social partners, will take the necessary steps to fully implement all outstanding recommendations without further delay.***

***In light of the situation described, the Committee is obliged to note that there has been no meaningful progress towards full implementation of the 2004 Commission of Inquiry recommendations, and notes with grave concern that the recent developments referred to in detail above and the apparent lack of action on the part of the Government to follow up on the conclusions of the Conference Committee in consultation with all the social partners in the country would appear to demonstrate a lack of commitment to ensure respect for its obligations under the ILO Constitution.***

***[The Government is asked to reply in full to the present comments in 2022.]***

## Belize

### 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 2022, 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. Compulsory arbitration.* The Committee recalls that in its previous comments it had requested the Government to amend the Settlement of Disputes in Essential Services Act 1939 (SDESA), as amended on several occasions, which empowers the authorities to refer a collective dispute to compulsory arbitration, to prohibit a strike or to terminate a strike in services that cannot be considered essential in the strict sense of the term, including the banking sector, civil aviation, port authority, postal services, social security scheme and the petroleum sector. The Committee notes with ***regret*** from the information provided by the Government that while the Schedule to the SDESA was amended twice in 2015, the long-standing comments of the Committee were not addressed. Instead, the two amendments expanded the field of application of the SDESA and added to its Schedule the "port services involving the loading or unloading of a ship's cargo", which are also services that do not constitute essential services in the strict sense of the term – that is those the interruption of which would endanger the life, personal safety

or health of the whole or part of the population. **The Committee requests the Government to amend the Schedule to the SDESA so as to permit compulsory arbitration or a prohibition on strikes only in services that are essential in the strict sense of the term, and to provide information on all progress made in this regard.**

**The Committee 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: 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 2022, 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 had noted the observations of the International Trade Union Confederation (ITUC) in 2014. The Committee notes with **regret** that the Government has not yet replied to these observations and requests it once again to provide its comments in this respect.

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

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

*Promotion of collective bargaining in practice.* **The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.**

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

## Cambodia

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021, concerning matters examined in this comment and also denouncing that in August 2021: (i) Rong Chhun, the president of the Cambodian Confederation of Unions (CCU) and ex-president of the Cambodian Independent Teachers' Association (CITA), who was arrested in July 2020 following his advocacy for villagers in a land dispute along the Cambodia–Vietnam border, was sentenced to two years imprisonment; and (ii) Sar Kanika, president of the Cambodian Informal Labourers' Association, who also participated in these trade union activities in defence of the economic interests of farmers, was similarly sentenced to 20 months imprisonment. The Committee welcomes the news on the release of Mr Chhun and Ms Kanika in November 2021.

The Committee notes that the ITUC further denounces that over the past year a number of emergency laws and decrees were passed restricting the exercise of freedom of association. The ITUC alludes in particular to: (i) the Law on the Management of the Nation in Emergencies, alleging that it grants the Government broad powers to ban meetings and gatherings, to survey telecommunications, to ban or restrict news media that may harm “national security” and other measures that are “suitable and necessary”, with infractions punishable by heavy imprisonment terms and fines; and (ii) the Law on Measures to Prevent the Spread of COVID-19 and other Serious, Dangerous and Contagious Diseases, which includes bans on gatherings and unspecified “administrative and other measures that are necessary to respond and prevent the spread of COVID-19”. The ITUC alleges that such vague provisions allow for abuses by the authorities through arbitrarily targeting people and organizations protesting government policies. The ITUC also alleges that a problematic draft public order law would require approval from authorities for the use of public spaces and would permit authorities to stop an event if authorization has not been sought. The ITUC further alleges that Mrs Soy Sros, president of a local union affiliated to the Collective Union of Movement of Workers, was detained on 3 April 2020 by police in the Kompong Speu Province pursuant to a criminal complaint filed against her by the employer for having posted messages on social media related to a labour dispute concerning the unjust dismissal of a number of union members. The Committee notes that, as to the need to investigate allegations of violent repression of trade union activity, and detention or prosecution of trade union leaders for undertaking legitimate trade union activities, the Government: (i) informs that grievance and complaint procedures are in place at all levels and that any individual, including trade unionists, can use and benefit from them; (ii) notes in general that trade unions and trade unionists must submit their grievances to the responsible authorities, who will take immediate action in accordance with applicable rules and procedures, and provide relevant information so that the Ministry of Labour and Vocational Training (MLVT) can provide legal assistance accordingly; and (iii) states that if trade union leaders commit any criminal offence they shall be liable for it. **While observing from publicly available information that there has been some evolution concerning the release of Mrs Soy Sros, the Committee regrets that the Government has not provided more information as to other specific allegations submitted to it by workers' organizations and requests it to provide its detailed comments on all these serious allegations.**

### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the discussion which took place in June 2021 in the Conference Committee on the Application of Standards (the Conference Committee) concerning the application of the Convention by Cambodia. The Committee observes that the Conference Committee expressed deep concern at the continuing acts of violence against workers, the arrests of trade unionists in connection

with their activities as well as the lack of effective and timely investigations in relation to these incidents and urged Government to: (i) investigate all allegations of violent repression of trade union activity and detention of trade union leaders; (ii) take all necessary measures to expedite the investigations into the murders of trade union leaders Chea Vichea and Ros Sovannareth (in 2004) and Hy Vuthy (in 2007) and ensure that the perpetrators of the crimes are brought to justice; (iii) undertake all necessary efforts to settle the legal proceedings against trade unionists in connection with the incidents during the January 2014 demonstrations, ensure that no criminal charges or sanctions are imposed in relation to the peaceful exercise of trade union activities and drop all criminal charges for those trade unionists charged in connection with the January 2014 demonstrations; and (iv) take all necessary measures to stop arbitrary arrest, detention and prosecution of trade unionists for undertaking legitimate trade union activity. The Conference Committee also noted that, while some positive steps have been achieved in bringing the law in line with the Convention, serious compliance issues remain unaddressed, and called upon the Government to: (1) provide the reports of the three committees charged with investigations into the murders of, and violence perpetrated against trade union leaders to the Committee of Experts; (2) ensure that acts of anti-union discrimination are swiftly investigated and that, if verified, adequate remedies and dissuasive sanctions are applied; (3) with the help of ILO technical assistance, develop guidelines, a code of practice or a handbook on the policing and handling of industrial and protest actions; (4) amend the Law on Trade Unions, in consultation with the social partners, to ensure compliance with the Convention; (5) ensure that workers are able to register trade unions through a simple, objective and transparent process; (6) continue to identify appropriate legal measures, in consultation with the social partners, to ensure that teachers, domestic workers and civil servants not covered by the Law on Trade Unions (LTU) have the freedom of association rights under the Convention; (7) repeal the literacy requirement in sections 20, 21 and 38 of the LTU; repeal paragraph 2 of section 28 of the LTU on the automatic dissolution of workers' organizations in case of complete closure of an enterprise or establishment and repeal section 29 of the LTU on the dissolution of employers' and workers' organizations initiated by members of those organizations; (8) discuss with the social partners the possibility of allowing the formation of employers' and workers' organizations by sector or profession; and (9) increase its efforts to make the Arbitration Council an effective and sustainable institution in handling labour disputes and ensure that binding Arbitration Council decisions are effectively enforced in law and in practice. Finally, the Conference Committee recommended that the Government accept a direct contacts mission as soon as possible. In this respect, the Committee welcomes that by a communication of 10 August 2021 the Government accepted the direct contacts mission and is in contact with the ILO in order to organize its realization whenever feasible in the context of the COVID-19 pandemic.

### Trade union rights and civil liberties

*Murders of trade unionists.* With regard to its long-standing recommendation to carry out expeditious and independent investigations into the murders of trade union leaders Chea Vichea and Ros Sovannareth (in 2004) and Hy Vuthy (in 2007), the Committee notes that: (i) as to the murder of Chea Vichea the Government indicates that re-investigation is currently under the authority of the Phnom Penh Police, noting that in spite of the challenges the police have been making an effort to end the case, and reiterating that close collaboration of family members and all parties concerned remains indispensable; (ii) with regard to the murder of Ros Sovannareth, the Government recalls that the Court of Appeal reconsidered the case and issued a verdict in July 2019, where the suspect Thach Saveth was sentenced to 15 years of imprisonment for premeditated murder; and (iii) concerning the murder of Hy Vuthy, the Government recalls that Chan Sophon, the suspect who was arrested in September 2013, filed an appeal and was released in February 2014, and notes that the other suspect who was also sentenced in absentia, Phal Vannak, is under arrest warrant. The Committee notes, on the other hand, that the ITUC denounces once again the nonresolution and lingering impunity with regard to these

murders 17 and 14 years after they occurred. The Committee reiterates its **deep concern** at the lack of progress concerning the investigations, and refers in this respect to the conclusions and recommendations of the Committee on Freedom of Association in its examination of Case No. 2318 (see 396th Report, November 2021, paragraphs 166 to 172). **Recalling once again the need to conclude the investigations and to bring to justice the perpetrators and the 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.* Concerning the trade unionists facing criminal charges in relation to incidents during the January 2014 demonstrations, in its previous comment the Committee had noted with interest that the six trade union leaders that had initially been sentenced to a suspended three years and six months imprisonment were acquitted of all charges on 28 May 2019; had further noted, as to other trade unionists under judicial procedures, that a working group had been established to follow up with the court in order to expedite the settlement; had taken note of detailed statistics concerning the settlement efforts; and had requested the Government to continue providing information on pending procedures. The Committee notes that in its latest report the Government: (i) reiterates that the riot that took place could not be considered as peaceful exercise of trade union activities, and that it was a politically motivated act; (ii) states that the complaints were submitted to the competent courts that ruled at their discretion in accordance with the evidence provided (some suspects were discharged if they were innocent in accordance with procedural rules); (iii) indicates that as of November 2021 there were few criminal cases under the court proceedings and none of these cases were related to the exercise of freedom of association; and (iv) recalls that the MLVT and the Ministry of Justice have been working together to provide legal support to trade unionists whose court cases are still pending. The Committee notes, on the other hand, that the ITUC: (i) recalls that garment workers were protesting for a liveable minimum wage and that, in return, military police opened fire killing and wounding several of them; (ii) laments that after seven years there remain unsolved cases concerning the arbitrary arrests and detention of trade unionists following the 2014 protests; and (iii) denounces that several trade unionists still have criminal or civil charges pending against them for their peaceful participation in the demonstrations. The Committee further notes that, in reply to the request of the Conference Committee to provide the reports of the three committees charged with investigations into the murders of, and violence perpetrated against, trade union leaders, the Government reiterates that it cannot share the detailed reports of the three committees as they pertain to internal affairs of the country, but that, as reported to the direct contacts mission in 2016, the conclusions of the three committees were submitted to the competent courts for further proceedings and the Government will be able to share the outcome of the court proceedings once available. **The Committee requests the Government to continue providing information on the pending legal procedures against trade unionists, in particular on any verdicts issued, as well as 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.**

*Training of police forces in relation to industrial and protest action.* In its previous comments, recalling that the intervention of the police should be in proportion to the threat to public order and that the competent authorities should receive adequate instructions so as to avoid the danger of excessive force in trying to control demonstrations that might undermine public order, the Committee encouraged the Government to consider availing itself of the technical assistance of the Office in relation to the training of police forces, with a view, for example, to the development of guidelines, a code of practice or a handbook on handling industrial and protest action. The Committee duly notes that the Government informs that: (i) 120 police officers from four different units received the training co-organized by the MLVT and the Office of the High Commissioner for Human Rights, with the support of the ILO; (ii) follow-up trainings took place in 2020, with a total of 550 police officers participating in

trainings on the rights to strike and peaceful demonstration; and (iii) in light of the outcomes of such trainings, the MLVT will continue liaising with relevant institutions to conduct consultations on the development of a guideline on measure on labour disputes and industrial action, and a request for technical support will be submitted to the ILO in due course. ***The Committee requests the Government to continue providing information in this regard, in particular as to the development, with the assistance of the ILO, of guidelines, a code of practice or a handbook on the policing and handling of industrial and protest actions, and as to the number of police officers participating in training sessions, the duration of such training, and the subjects covered, including as to whether the disciplinary consequences of using excessive force are part of the training.***

### Legislative issues

The Committee notes that the Government reiterates the information provided on the amendments to the LTU that entered into force in January 2020, stating that they resulted in an increment in the number of professional organizations registered, and indicating that out of the 5,650 professional organizations registered, 5,352 are local worker unions, 247 federations of worker unions, 40 confederations of worker unions and 11 employer associations. The Committee notes the Government's indication that it is unnecessary to further amend the LTU; the Government notes that a key priority is to raise awareness of trade unionists on the provisions of the LTU, it welcomes further consultations to review the content of the LTU and its implementation and it would like to seek ILO support to organize trainings on the LTU to build the capacity of social partners. The Government further encourages workers and trade unionists to bring any complaint to the MLVT in the event of any irregularity with respect to registration, representation and exercise of freedom of association under the LTU. On the other hand, the Committee notes that the ITUC alleges that the amendments to the LTU failed to bring it into conformity with the Convention and that trade unions report that the Government did not meaningfully engage with them and refused to consider the unions' proposed amendments, which would have ensured compliance with the Convention.

*Article 2 of the Convention. Rights of workers and employers, without distinction whatsoever, to establish and join organizations.* In its previous comments the Committee has been urging the Government to take appropriate measures, in consultation with the social partners, to ensure that civil servants – including teachers – who are not covered by the LTU are fully ensured their freedom of association rights under the Convention, and that the legislation is amended accordingly. The Committee notes that the Government reiterates that the LTU is applicable to teachers working for private institutions and that civil servants and public school teachers can enjoy freedom of association pursuant to the Law on Associations and Non-Governmental Organizations (LANGO). The Government adds that the Convention does not require that the freedom of association of all individuals be covered by a single legal instrument, and indicates that these different regimes are due to the administrative system and division of authorities of the state institutions in charge of the registration of professional organizations. In this respect, the Committee must recall once again its prior emphasis that some provisions in the LANGO contravene freedom of association rights of civil servants under the Convention, as that law lacks provisions recognizing civil servants' associations' right to draw up constitutions and rules, the right to elect representatives, the right to organize activities and formulate programmes without interference of the public authorities, and the right to affiliate to federations or confederations, including at the international level, and subjects the registration of these associations to the authorization of the Ministry of Interior. In addition, the Committee has been noting that workers' organizations and associations express deep concern at the lack of protection of teachers' trade union rights (referring in particular to sanctions and threats to teachers seeking to organize). The Committee notes that the ITUC observations allege again that the regressive framework of the LANGO is not compliant with the Convention. ***Regretting the continuing absence of progress in this respect, the Committee must once again urge the Government to take appropriate measures, in consultation with***

***the social partners, to ensure that civil servants – including public sector teachers – who are not covered by the LTU are fully ensured their freedom of association rights under the Convention, and that the legislation applicable to them is amended accordingly.***

As to domestic workers, the Committee notes that the Government states that the LTU is applicable to them. Furthermore, concerning the possibility of forming organizations by sector or profession, the Government indicates that there is no prohibition on the formation of organizations by sector or profession as long as the criteria stipulated in the LTU are met, and claims that the Convention does not require national law to expressly stipulate such provision. The Government adds that it would like to seek ILO assistance to organize trainings to promote public awareness of workers and employers in this regard. Having duly noted these indications, the Committee recalls that workers' organizations have been expressing deep concern as to the difficulties faced by domestic workers and also workers in the informal economy in general seeking to create or join unions, since the LTU provides for an enterprise union model, whose requirements are often very difficult to meet by these workers, and that the law in practice does not allow for the creation of unions by sector or profession. The Committee further notes that the ITUC once again highlights in its observations, as one of the most relevant shortcomings of the national legislation, that domestic workers, workers in the informal economy and others not organized on an enterprise model, still cannot in practice form and join unions. ***The Committee encourages the Government to promote the full and effective enjoyment of the rights under the Convention by domestic workers and workers in the informal economy. For these workers and other workers who are not easily organized on an enterprise level model, the Committee requests the Government to take any necessary measures to allow the formation of unions by sector or profession, in consultation with the social partners and with the assistance of the ILO.***

*Article 3. Right to elect representatives freely. Requirements for leaders, managers, and those responsible for the administration of unions and of employer associations.* In its previous comment the Committee had requested the Government to take the necessary measures to amend sections 20, 21 and 38 of the LTU to remove the requirement to read and to write Khmer from the eligibility criteria of foreigners. The Committee notes that the Government indicates in this respect that the LTU was amended through tripartite consensus and that the requirement is not incompatible with the Convention. On the other hand, the Committee notes that the ITUC observations denounce again the requirement as one of the important pending hurdles to conform the LTU to the Convention. The Committee further recalls that the legal imposition of literacy requirements for the eligibility of representatives is incompatible with the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 104). ***The Committee requests once again that the Government take the necessary measures to remove the requirement to read and to write Khmer from sections 20, 21 and 38 of the LTU. The Committee requests the Government to provide information on any developments in this respect.***

*Article 4. Dissolution of representative organizations.* In its previous comments the Committee had requested the Government to amend paragraph 2 of section 28 of the LTU, providing that a union is automatically dissolved in the event of a complete closure of the enterprise or establishment. The Committee observed that the 2019 amendments to the LTU retained under paragraph 2 of section 28 the automatic dissolution of a union in the event of a complete closure of its enterprise or establishment, but included an additional condition: complete payment of workers' wages and other benefits. The Committee notes that the Government reiterates that the amendment was made to ensure the interests of workers and trade unions when the enterprise is closed down, that the amendment was thus welcomed by the unions, and that as local unions are legally attached to the existing enterprise where they are formed, when that enterprise no longer legally exists the local union should no longer exist either. In this respect, the Committee must recall that, while the payment of wages and other benefits may be one of the reasons why a union may have a legitimate interest to continue to operate after the dissolution of the enterprise concerned, there may be other legitimate reasons for it to do so (such as

defending other legitimate claims, including against any legal successors of the former company). **Recalling that the dissolution of a workers' or employers' organization should only be decided under the procedures laid down by their statutes, or by a court ruling, the Committee requests once again that the Government take the necessary measures to amend section 28 of the LTU accordingly by fully removing its paragraph 2.**

*Grounds to request dissolution by Court.* The Committee has also been requesting the Government to take the necessary measures to amend section 29 of the LTU, which affords any party concerned or 50 per cent of the total of members of the union or the employer association the right to file a complaint to the Labour Court to request a dissolution. Observing that the 2019 amendments to the LTU did not modify the provision in question, and noting that members can always decide to leave the union, the Committee recalled in its previous observation that the manner in which members may request dissolution should be left to the organization's by-laws. **Noting that the Government does not provide any additional comments in this regard, the Committee once again requests it 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.**

### Application of the Convention in practice

*Independent adjudication mechanisms.* In its previous comments the Committee has been recalling the importance of ensuring the effectiveness of the judicial system as a safeguard against impunity, and an effective means to protect workers' freedom of association rights during labour disputes, as well as to address the serious concerns raised on the independence of the judiciary and its impact on the application of the Convention. The Committee has also welcomed the Government's commitment to strengthen the Arbitration Council (AC) and trusted that the AC would continue to remain easily accessible and to play its important role in the handling of collective disputes, and that any necessary measures would be undertaken to ensure that its awards, when binding, are duly enforced. The Committee notes with **interest** the Government's indication that the new amendment to the Labour Law has expanded the jurisdiction of the AC to also cover individual disputes, and that the Government reiterates its firm commitment to supporting the operation of the AC and ensuring the sustainability of this institution. The Committee further notes that the Government indicates, as to the AC decisions, that the disputing parties are required to choose between a binding or a non-binding award from the outset, and that in case of non-compliance with a binding award the party concerned may file a complaint to the competent court to seek enforcement. **Emphasizing the importance of the independence of adjudication mechanisms, the Committee invites the Government to continue to provide information on the operation of the AC, including on the number and nature of disputes brought before it and as to the extent of compliance with non-binding AC awards, as well as the use of the courts to ensure that the AC awards, when binding, are duly enforced, including the number of court rulings issued to this end.**

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

## Cameroon

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

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC), dated 16 September 2021, which relate to issues examined in the present comment.

The Committee notes with **regret** that the Government has not provided the requested detailed information in response to the 2016 observations of the International Trade Union Confederation (ITUC)

concerning repeated police violence against strikers (in the construction sector), as well as cases of interference by the authorities in trade union elections (in the agriculture, construction and health sectors), vandalism on the premises of a trade union and trade union harassment (in the banking sector). The Government confined itself to indicating that the acts denounced by the ITUC were unproven. The Committee also **regrets** that the Government has not provided comments in reply to the ITUC's observations of 2020 concerning allegations of favouritism by the authorities towards unrepresentative organizations. **The Committee urges the Government to provide detailed information in response to its requests on all these matters.**

In its previous comments on the failure to register eight unions of public sector education employees following the 2016 observations by Education International (EI), the Committee urged the Government to take the necessary measures to ensure the registration of the public sector education employees' organizations. **Also regretting the failure to provide comments on this subject, the Committee urges the Government to provide detailed information on the situation of the trade union organizations concerned.**

*Article 3 of the Convention. Act on the suppression of terrorism.* In its comments relating to the Act on the suppression of terrorism (Act No. 2014/028 of 23 December 2014), the Committee has drawn the Government's attention on several occasions to the wording of section 2(1), under the terms of which "the death penalty shall be imposed on anyone who ... commits or threatens to commit any act that may cause death, endanger physical safety, result in bodily injury or damage to property or harm natural resources, the environment or the cultural heritage with the intention of: (a) intimidating the public, causing a situation of terror or forcing a victim, the Government and/or a national or international organization to carry out or refrain from carrying out a given act, adopting or renouncing a particular position or act according to certain principles; (b) disrupting the normal operation of public services or the delivery of essential public services, or creating a public crisis ...". The Committee has repeatedly expressed deep concern at the fact that some of the situations envisaged in the Act of 23 December 2014 could apply to acts related to the legitimate exercise of activities by the representatives of trade unions or employers in accordance with the Convention, with particular reference to protest action and strikes that would have direct repercussions for public services. The Committee also recalls that, in light of the penalty that may be imposed, such a provision could be particularly intimidating for the representatives of trade unions or employers who speak out or take action within the context of their duties. In this regard, it notes the observations of the UGTC to the effect that the Act has made trade union action more fragile since its adoption.

The Committee notes that the Government emphasizes that the wording of section 2 of the Act respecting the definition of "terrorist act" is inspired, among other sources, by the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism and its Protocol (1999). It also notes that, according to the Government, no individuals have been prosecuted in the national territory for acts of terrorism following trade union protests. **While noting this information, the Committee once again urges the Government to take the necessary measures to amend section 2 of the Act on the suppression of terrorism to ensure that it does not apply to the legitimate activities of workers' and employers' organizations, which are protected under the Convention. In the meantime, the Committee urges the Government to continue providing information on the measures taken to ensure that: (i) the implementation of the Act does not have harmful consequences on officials and members engaged in their functions and performing trade union or employer activities in accordance with Article 3 of the Convention; and (ii) the Act is enforced in such a way that it is not perceived as a threat or intimidation towards trade union members or the trade union movement as a whole.**

*Articles 2 and 5. Legislative reform.* The Committee has been recalling for many years the need to: (i) amend Act No. 68/LF/19 of 18 November 1968 (under the terms of which the legal existence of a trade union or occupational association of public servants is subject to prior approval by the Minister of Territorial Administration); (ii) amend sections 6(2) and 166 of the Labour Code (which lay down penalties

for persons establishing a trade union which has not yet been registered and acting as if the said union had been registered); and (iii) repeal section 19 of Decree No. 69/DF/7 of 6 January 1969 (under the terms of which trade unions of public servants may not affiliate to an international organization without obtaining prior authorization). The Committee notes the observations of the UGTC denouncing the lack of transparency relating to the process of the revision of the Labour Code. The Government confines itself to indicating that the process is still ongoing. **Noting with deep regret that the process of the revision of the Labour Code has still not been completed, the Committee is bound once again to urge the Government to take the necessary measures to complete the legislative revision process without further delay so as to give full effect to the provisions of the Convention on the points recalled above. The Committee trusts that the Government will be cooperative in this regard.**

## Chad

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

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, which allege violations of the trade union rights in law and in practice, as well as the Government's response thereto, dated 11 October 2019.

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

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

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

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

## China

### Hong Kong Special Administrative Region

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

The Committee takes note of the reply of the Government of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China to the observations made by the International Trade Union Confederation (ITUC) in 2016.

The Committee also notes the ITUC observations received on 1 and 23 September 2021, referring to issues examined by the Committee in the present comment, as well as the Government's replies thereto, some of which (those addressing the 1 September observations) were received while the Committee was already in session.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the discussion which took place in June 2021 in the Conference Committee on the Application of Standards (the Conference Committee) concerning the application of the Convention by China – Hong Kong Special Administrative Region. The Committee observes that the Conference Committee called on the Government to: (i) provide full information regarding the outcomes of procedures to examine the police action and arrests made in connection with protests which fall under the scope of the Convention; (ii) take all necessary measures to further guarantee the right for workers' and employers' organizations to organize their activities in line with the Convention and to ensure that trade union leaders and trade union members conducting lawful trade union activities are not arrested, detained or prosecuted; (iii) keep under review, in consultation with the social partners, the application of the National Security Law so that the rights of workers, employers and their organizations under the Convention are fully protected; and (iv) continue to provide up-to-date information on the impact that the National Security Law has on the application of the Convention.

*Trade union rights and civil liberties.* In its last comment, having taken note of allegations of police repression and arrests made in connection to public protests, the Committee requested the Government to ensure that trade unionists are able to engage in their activities in a climate free of violence and intimidation and within the framework of a system that guarantees the effective respect of civil liberties. The Committee notes the Government's indication that: (i) section 27 of the Basic Law and section 18 of the Hong Kong Bill of Rights recognize the right to freedom of association, the right to form and join trade unions and the right to strike; and (ii) the Trade Unions Ordinance seeks to promote sound trade union management and protect the rights of trade union members. The Government highlights that it attaches great importance to ensuring the right of trade unions to organize their activities and formulate their programmes to defend the occupational interests of their members. It points out, however, that in exercising the rights enshrined in the Convention, everyone shall respect the law of the land. The Government indicates that, while the right of peaceful assembly is protected under the Basic Law, such right is not absolute and may be restricted by law in the interest of national security, public safety, and public order and for the protection of the rights and freedoms of others. It further indicates that the duty of the Police is to maintain law and order as well as to prevent and detect crime. The Government further indicates that Hong Kong authorities have been handling and will continue to handle all criminal offences in a fair and impartial manner and in strict accordance with the law, without considering if those concerned are trade unionists. It adds that authorities strive to protect the rights of detainees, including the right to receive legal assistance, communicate with a relative or friend, receive copies of written records under caution, and receive food and drinks and medical attention. The Government points out that developments since the implementation of the

National Security Law (NSL) have been characterized by safety, security and stability and that residents are no longer under the threat of street violence and personal intimidation. It adds that the recent arrest of members of a terrorist group plotting to set bombs in public places illustrates the genuine need for the NSL to prevent and suppress acts and activities endangering national security.

While taking due note of the Government's indications, the Committee notes that the ITUC denounces an acute decline in the respect for civil liberties and freedom of association. The ITUC alleges that trade union rights are seriously under attack and that trade unionists are persecuted for defending the rights of workers and for carrying out legitimate trade union activities. The ITUC refers specifically to the arrest of Mr Lee Cheuk Yan, General Secretary of the Hong Kong Confederation of Trade Unions (HKCTU), noted by the Committee in its last comment, who is facing prosecution for 10 criminal offences in relation to public protests. The ITUC also alleges the arrest of 55 pro-democracy activists and politicians in connection with political party primary polls held in 2020, including three trade union leaders, Ms Carol Ng, Chairperson of the HKCTU, Ms Winnie Yu, Chairperson of the Hospital Authority Employees Alliance (HAEA) and Mr Cyrus Lau, Chairperson of the Nurses Trade Union. The Committee notes that the above-mentioned arrests are the subject of a complaint made by the ITUC and examined by the Committee on Freedom of Association (CFA) (Case No. 3406). The Committee recalls in this regard that the CFA requested the Government to ensure that trade unionists are able to engage in their activities in a climate free of violence and intimidation and within the framework of a system that guarantees the effective respect of civil liberties. It also urged the Government to take all appropriate measures to ensure that Mr Lee Cheuk Yan is not imprisoned for having participated in a peaceful demonstration defending workers' interests (see 395th report, June 2021, para 173).

The Committee notes that the ITUC also alleges the arrest, on 22 July 2021 of five executives of the General Union of Hong Kong Speech Therapists (GUHKST) in relation to a publication of picture books for children with speech problems published by the union with stories based on the pro-democratic protests of the healthcare workers in 2019 and 2020. The ITUC indicates that all five union executives were put under custody pending the hearing scheduled for 24 October 2021. The Committee notes the Government's indication that GUHKST's chairperson and executive committee members were charged for conspiring to print, publish, distribute, display or reproduce seditious publications, which glorify unlawful acts, bring hatred against the HKSAR Government and the administration of justice, and incite other people to commit violence, which are not lawful trade union activities. The Committee recalls 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, with particular reference to: (i) the right to freedom and security of person and freedom from arbitrary arrest and detention; (ii) 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 frontiers; (iii) freedom of assembly; (iv) the right to a fair trial by an independent and impartial tribunal; and (v) the right to protection of the property of trade union organizations (see the 2012 General Survey on the fundamental Conventions, paragraph 59). **Expressing the firm expectation that the Government will ensure full respect of the above, and noting the ITUC's indication that the hearing was scheduled for 24 October 2021, the Committee requests the Government to provide full and detailed information on the outcome and transmit copies of the relevant court judgments.**

*Articles 2, 3, 5 and 8 of the Convention. Application of the National Security Law.* In its last comment, having noted the concerns expressed by the ITUC and the HKCTU on the possible negative effects that the application of the NSL could have on the rights enshrined in the Convention, the Committee requested the Government, in consultation with the social partners, to monitor and provide information on the impact that the Law had already had and may continue to have on the application of the Convention. The CFA referred to this matter in case No. 3406 mentioned above, and drew its

legislative aspects to the attention of the Committee (see 395th report, June 2021, paragraph 173). The Committee notes that the Government indicates in this respect that: (i) it appreciates that at the Conference Committee both the worker and employer representatives from the HKSAR shared the view that the NSL is necessary for restoring stability; (ii) the law reverted the chaotic situation enabling the economy and people's livelihood to revive; and (iii) developments since the implementation of the NSL have been characterized by safety, security and stability. The Government indicates that the NSL has not amended any provision of the Basic Law, that all human rights provisions of the Basic Law have remained untouched and that in fact the NSL clearly stipulates that human rights shall be respected and protected in safeguarding national security. The Government also emphasizes that all persons shall observe the requirements under the law and shall not endanger national security or public safety, public order or the rights and freedoms of others in exercising their rights. It indicates in this respect that section 2 of the NSL stipulates that the provisions in sections 1 and 12 of the Basic Law on the legal status of the HKSAR are the fundamental provisions in the Basic Law, and that no institution, organization or individual in the HKSAR shall contravene these provisions in exercising their rights and freedoms. 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. The Committee also takes note of the Government's indication that it will draw up effective and pragmatic proposals and provisions, conduct public consultation properly, formulate appropriate publicity plans, as well as communicate more with members of the public, with a view to explaining clearly the legislative principles and details and avoiding misunderstandings.

While taking due note of the Government's indications, the Committee notes the ITUC's allegation that since coming into effect on 30 June 2020, the NSL has been used to intimidate and harass trade unions and that its application has resulted in the deregistration or disbanding of trade unions. The ITUC specifically alleges that: (i) in December 2020, 180,000 civil servants were requested to take an oath and sign on a declaration of loyalty, mentioned in section 6 of the NSL, making it impossible to freely express opinions or join an organization or activities deemed by the authority to be inciting discontent, aggravating social instability or undermining the capabilities of the Government. The Union for New Civil Servants protested against the oath requirement and disbanded itself in January 2021. Civil servants refusing to sign the declarations were suspended or dismissed; (ii) after the Hong Kong Education Bureau ceased recognition and working relations with the Hong Kong Professional Teachers' Union (HKPTU), the union withdrew from the pro-democracy movement; disaffiliated from Education International and announced on 10 August 2021 its dissolution and closure of teachers' cooperatives; (iii) the cancellation of the registration of GUHKST was gazetted on 20 August 2021; (iv) on 25 August 2021, the police served notice to Mr Lee Cheuk Yan (currently in prison), as well as 8 other executives of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China to submit under section 43 of the NSL information on activities outside Hong Kong in relation to the Alliance or face a fine and jail term from 6 months to 2 years; (v) the deregistration procedure for the Hospital Authority Employees' Alliance (HAEA) was invoked with a notice served by the Registrar on 3 September 2021, demanding information on events it had held by 17 September 2021; (vi) in a press conference on 19 September 2021, the HKCTU announced that it would invoke the procedure to disband the trade union centre, following persistent stigmatization, vilification and attack on its trade union activities and the use of security and the judiciary to intimidate and harass its members for exercising trade union rights and civil liberties; (vii) trade unions organizing member-exclusive screenings of films were requested by the Office for Films, Newspapers and Articles Administration to provide details and approvals; (viii) the Hong Kong-based labour organization the Asia Monitor Resource Centre has declared that it will disband itself; and (ix) the support provided by the ITUC to the HKCTU is being categorized as criminal collusion under the NSL.

The Committee takes note that, in its reply to the ITUC's allegations, the Government indicates that the allegations are factually incorrect and that trade union officials' freedoms and right to organize activities to promote and defend the occupational interests of trade union members have been and will continue to be fully protected. With respect to the alleged request made to civil servants to take an oath or sign the declaration of loyalty, the Government indicates that this would not affect the civil rights of government employees. In relation to the allegations of the HKPTU, the Government indicates that: (i) the union had engaged in political propaganda under the guise of being a professional education organization, having published teaching resources with contents on civil disobedience; launched territory-wide class and teaching boycotts by teachers, dragging schools into politics, and promoted books that glorify violence; (ii) the Education Bureau ceased recognition and working relations because the union failed to live up to the expectation of a professional education organization; and (iii) the HKPTU initiated voluntary dissolution without any interference from the Registry of Trade Unions. In relation to the allegation concerning Mr Lee Cheuk Yan and the executives of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, the Government indicates that: (i) in order to effectively prevent and suppress offences endangering national security, law enforcement officers need to obtain relevant information about certain foreign or Taiwan political organizations and foreign or Taiwan agents; (ii) pursuant to section 43 of the NSL, the Police issued written notices to the directors of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (including Mr Lee Cheuk Yan) requesting information; (iii) the notice was not issued to Mr Lee in his capacity as a trade unionist, nor does the issuance of such notice necessarily connote wrongdoing or the commission of any offence; and (iv) it is only when the recipient fails to comply with the notice with no valid explanation provided to the court that legal sanctions are imposed. With respect to the allegations on the HAEA, the Government indicates that the Registry of Trade Unions made an inquiry in relation to its activities, which were suspected of being inconsistent with its objects or rules and that the Registry acted in an objective and prudent manner before taking legitimate action in accordance with the Trade Unions Ordinance. In relation to the ITUC's allegation on the screening of films, the Government indicates that under the Film Censorship Ordinance, any person who intends to exhibit a film (including trade unions, at a place to which members have access) shall submit the film to the Film Censorship Authority for approval. The Government emphasizes that there is absolutely no retrogression or infringement of the right to freedom of association and that the isolated incidents quoted by the ITUC are associated with suspected unlawful activities not related to the exercise of trade union rights or voluntary decisions of the trade unions concerned without any interference from the Government.

While taking due note of the Government's indication that it will continue to attach great importance to fulfilling its obligations under the Convention, the Committee **regrets** to note that in spite of its request as well as the request made by the Conference Committee and the CFA, no consultations appear to have taken place with the social partners on the negative effects that the application of the NSL is alleged to have had, and could have, on rights enshrined in the Convention. In addition, while duly noting the statistics supplied by the Government as of 31 October 2021 (1,541 registered trade unions, representing an increase of 66 per cent over end-May 2019), and observing that, according to the Government, such increase of registered trade unions would bear testimony to the free exercise of the rights and freedom of association in the HKSAR, the Committee expresses its **concern** at the ITUC allegations and observes that, according to publicly available information, the HKCTU, established more than three decades ago, was disbanded on 3 October 2021.

The Committee 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 (see the 2012 General Survey, paragraph 55). It also recalls that employers and workers organizations must be allowed to conduct their activities in a climate that is free from pressure, intimidation, harassment, threats or efforts to discredit them or their leaders. **Further recalling that 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, the Committee firmly requests the Government to take all necessary measures to ensure in law and in practice the full enjoyment of the rights enshrined in the Convention. It also requests the Government to provide specific information in relation to the application in practice of the NSL. The Committee also requests the Government to provide further details in relation to the public consultations and publications it has indicated it intends to carry out with a view to providing clarity on the applicable legislative principles, and the Committee expects that such activities will provide an opportunity to assess and address any negative effects that the application of the NSL could have on the rights enshrined in the Convention.***

## Colombia

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

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 2021. The Committee notes that these observations relate to matters examined by the Committee in its comments, as well as allegations of violations of the Convention in practice. The Committee also notes the allegations of anti-union discrimination contained in the observations of the International Trade Union Confederation relating to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), received on 1 September 2021, as well as the Government's comments in this regard.

The Committee also notes the observations of the National Employers' Association of Colombia (ANDI), transmitted by the International Organisation of Employers (IOE) on 1 September 2021, which refer to matters raised in the Committee's previous direct request relating to this Convention and, in relation to the matters examined in the present observation, refer to its 2020 observations.

*Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference.* In its previous comments, having noted the slowness of the various administrative and judicial mechanisms for protection against anti-union discrimination and the recurrent criticisms by the unions concerning their lack of effectiveness, the Committee requested the Government, in consultation with the social partners, to launch a comprehensive examination of these mechanisms with a view to the adoption of the necessary measures to ensure the rapid imposition of effective sanctions in the event of anti-union acts. The Committee notes the Government's indication that, in the context of the national inspection strategy, the Department of Territorial Inspection, Supervision, Control and Management formulates an annual strategic plan which includes within its priorities enterprises which have registered collective accords and contracts.

The Committee notes that the Government also refers to the administrative investigations undertaken by the Ministry of Labour into anti-union discrimination, in relation to which it provides the following statistics: (i) in 2020, there were 351 administrative labour disputes relating to complaints of acts against freedom of association and collective bargaining, of which 83 gave rise to a decision (of which 51 were given effect); (ii) between 1 January and 15 June 2021, there were 92 administrative labour disputes, of which 13 gave rise to a decision (of which four have already been given effect). The Committee notes that the Government also provides information on the general activities of the labour inspectorate, including detailed descriptions of the measures adopted by the labour inspectorate during the health emergency resulting from the COVID-19 pandemic, on inspection procedures relating to penalties and the collection of fines and on the frequent training courses provided to labour inspectors.

The Committee further notes the information provided by the Government on the investigations undertaken under section 200 of the Penal Code, which criminalizes violations of the rights of association and assembly, subjects that have been examined by the Committee in recent years within the context of Convention No. 87 in relation to acts of anti-union violence. The Committee notes the Government's indication that: (i) the Office of the National Public Prosecutor received a total of 90 complaints during the course of 2020, which was clearly lower than in previous years, probably, as emphasized by the Government, due to suspensions of work as a result of the COVID-19 pandemic; (ii) in one case, the issue was the subject of conciliation; in five cases the case was set aside due to related offences, or in other words the Public Prosecutor decided to continue the investigation under other criminal charges; 29 cases were set aside, either because there was no evidence of a crime or the complainant was not legitimate; of the 90 cases, 53 are still active (48 at the pretrial stage and five under investigation). The Committee notes the Government's further indication that the Ministry of Labour and the Office of the National Public Prosecutor have created an elite group with a view to promoting the investigation of anti-union offences.

The Committee also notes that the trade union confederations reiterate their denunciation of the ineffectiveness of the various administrative and judicial protection mechanisms against anti-union discrimination. With reference to administrative labour disputes, the confederations indicate that: (i) the procedure envisaged in section 354 of the Substantive Labour Code is not expeditious and in practice is excessively slow; (ii) on the basis of the statistics provided by the Government, only 11.5 per cent of the administrative labour disputes registered in 2020 and 2021 have so far resulted in a decision, without taking into account the possibility of appeals in those cases; the preliminary verification stage may last four or five years and many disputes from previous years have still not been resolved. The Committee notes that, in relation to the investigations by the Office of the National Public Prosecutor into complaints of violations of section 200 of the Penal Code, the trade union confederations indicate that: (i) following ten years of the labour action plan, in the context of which section 200 was amended, there have still been no investigations or sanctions imposed by the Office of the National Public Prosecutor; (ii) in addition to the consequences of the COVID-19 pandemic, the reduction in 2020 in the number of complaints of violations of section 200 is due to the loss of credibility of the mechanism, which suffers in particular from very long delays. The Committee finally notes that the trade union confederations once again denounce the absence of an expeditious judicial mechanism for protection against acts of interference and anti-union discrimination (with the exception of the special procedure for lifting trade union protection). Providing information on a series of specific cases, they indicate in this respect that: (i) unions only have access to ordinary labour courts through procedures that often take longer than four or five years, which makes the mechanism inoperative for the restoration of rights; and (ii) in the majority of cases, the courts find that appeals for constitutional protection, which are the most expeditious, are not valid to protect freedom of association, as there are other means of defence, such as the ordinary labour courts and the administrative penalty procedure of the Ministry of Labour.

The Committee notes the various elements provided by the Government and the unions. The Committee observes in this respect that: (i) the available data shows that the examination of administrative labour disputes in relation to freedom of association often takes a very long time; (ii) the Government has not provided information on cases in which criminal penalties have been handed down for violations of section 200 of the Penal Code, despite the high number of criminal complaints lodged since 2011; and (iii) the Government has still not expressed a view on the effectiveness of cases brought before labour tribunals. In this context, the Committee *regrets* that the Government has not provided information on the preparation of a comprehensive examination of the existing protection mechanisms against anti-union discrimination in consultation with the social partners, despite the Committee making this request on several occasions since 2016, and the request to the Government made by the Committee on Freedom of Association several times (Case No. 3061, 381st Report, March 2017, and Case No. 3150, 387th Report, October 2018). *In light of the above, recalling the fundamental*

**importance of protection against anti-union discrimination for the effective exercise of freedom of association, the Committee urges 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, in order to ensure that both are examined promptly and effectively. The Committee requests the Government to provide information on the progress made in this regard and recalls that it may avail itself of the technical assistance of the Office.**

*Articles 2 and 4. Collective accords with non-unionized workers.* The Committee recalls that it has been requesting the Government since 2003 to take the necessary measures to ensure that collective agreements with non-unionized workers (collective accords) can only be concluded in the absence of trade union organizations. The Committee notes that the Government reiterates its position, in line with that of the ANDI, that: (i) collective accords with non-unionized workers are a form of social dialogue and collective bargaining recognized and regulated by the law and the case law of the Constitutional Court; and (ii) within this framework, collective accords can only be concluded when there is no union in the enterprise representing over one third of the workers and the conditions negotiated in collective accords and agreements must be the same to prevent anti-union discrimination and any breach of the principle of equality. The Committee notes that the Government also indicates that the undue use of collective accords is being closely monitored by the competent authorities and penalized where necessary, and that their impact on association in unions is under examination in accordance with the considerations of the Organisation for Economic Co-operation and Development (OECD), the United States and Canada. The Government indicates in this regard that: (i) the labour inspection services carried out 23 planned inspections in 2020 of enterprises focusing on the use of collective accords; (ii) on 15 June 2021, the territorial labour inspection departments were examining 62 cases of the undue use of collective accords; (iii) through the Special Investigation Unit, 11 claims were being examined between January 2020 and 15 June 2021 relating to the undue use of collective accords; and (iv) as a result of the action described above, the number of collective accords concluded has decreased significantly, from 253 deposited in 2016 to 73 in 2020.

The Committee also notes that the national union confederations reiterate their previous allegations in their observations concerning the anti-union impact of collective accords, even in cases where the benefits of collective accords, which apply to non-unionized workers, are not more favourable than those agreed in the corresponding collective agreements. The trade union confederations also denounce: (i) the practice of first concluding a collective accord with non-unionized workers so as to then impose during the negotiation of the collective agreement a ceiling on benefits that cannot be improved upon, which removes any relevance from the negotiations undertaken by the union, thereby acting as a powerful disincentive to trade union membership; (ii) the supervision of the Ministry of Labour in relation to the unlawful nature of collective accords is biased and ineffective, as it focuses solely on verification of whether the content of collective accords is more favourable than that of collective agreements, without examining the common practice described in the previous point nor the other anti-union strategies involved in the conclusion of collective accords; and (iii) the lower numbers of collective accords deposited in 2020 is probably the consequence of the COVID-19 pandemic, which also resulted in fewer collective agreements being concluded that year.

While noting the information provided by the Government on the action taken to control the use of collective accords on the basis of the current legislation, the Committee **regrets** to note that there has been no progress in taking into account the comments that it has been making for many years on the need to revise the above-mentioned legislation. The Committee is therefore bound to recall once again that *Article 4* of the Convention recognizes, as the parties to collective bargaining, employers or their organizations, on the one hand, and workers' organizations, on the other, in recognition that the latter offer guarantees of independence that may be absent in other forms of association. The

Committee has therefore always considered that direct bargaining between the enterprise and unorganized groups of workers, in avoidance of workers' organizations, where they exist, is not in accordance with the promotion of collective bargaining, as envisaged in *Article 4* of the Convention. Moreover, the Committee has repeatedly noted that in practice the negotiation of terms and conditions of employment and work by groups that do not offer sufficient guarantees to be considered as workers' organizations can be used to undermine the exercise of freedom of association and weaken the existence of workers' organizations with the capacity to defend the interests of workers independently through collective bargaining. ***In light of the above, the Committee once again urges the Government to take the necessary measures to ensure that the conclusion of collective accords with non-unionized workers (pactos colectivos) is only possible in the absence of trade union organizations. The Committee hopes that the Government will be in a position to report progress in this regard in the near future.***

*Article 4. Personal scope of collective bargaining. Apprentices.* In its previous comments, the Committee requested the Government to take the necessary measures to ensure that the remuneration of apprentices is not excluded by law from the scope of collective bargaining. The Committee notes the Government's reiterated indication that, in accordance with the national legislation and the case law of the Constitutional Court, the apprenticeship contract is not a contract of employment, but is designed to help young persons who are still at the training stage. ***Recalling once again that the Convention does not exclude apprentices from its scope of application and that the parties to collective bargaining should therefore be able to decide to include the subject of their remuneration in their collective agreements, the Committee urges the Government to take the necessary measures to ensure that the remuneration of apprentices is not excluded by law from the scope of collective bargaining.***

*Subjects covered by collective bargaining. Pensions.* After noting the Government's indications that Legislative Act No. 1 of 2005 does not prevent the parties to collective bargaining, in both the public and private sectors, from improving on pensions through supplementary benefits based on voluntary savings, the Committee previously requested the Government to provide specific examples of collective agreements which provide for supplementary pension benefits. The Committee notes that the Government once again indicates that: (i) through voluntary savings, those covered by the Colombian pension system can make periodic contributions, or pay in amounts that are higher than the compulsory contributions set out by law, with a view to receiving a higher pension; and (ii) the possibility for a third party to pay contributions on behalf of the beneficiary makes it possible for the employer to act as a sponsor, and the possibility therefore exists for this supplementary benefit to be covered by collective bargaining. The Committee nevertheless observes that the Government has not provided specific examples of collective agreements which contain clauses of this nature. ***The Committee therefore reiterates its request for information on the application of this possibility in practice. It also invites the Government, in its activities to promote collective bargaining, to inform the social partners of the possibility, within the framework of and in accordance with the General Pensions System, to negotiate clauses in collective agreements providing for supplementary pension benefits.***

*Promotion of collective bargaining in the public sector.* The Committee notes with ***satisfaction*** the Government's indication that a new National State Agreement was concluded on 18 August 2021 with all the confederations in the country which benefits around 1,200,000 public sector workers. The Committee notes in particular the Government's indication that: (i) in accordance with the agreement, Decree No. 961 of 22 August 2021 was adopted setting the remuneration for positions exercised by public employees in the executive branch, autonomous regional and sustainable development corporations, and issuing other provisions; and (ii) the agreement contains a series of clauses intended to reinforce the protection of the exercise of freedom of association in the public sector. The Committee also notes the indications by the CUT, CTC and CGT which: (i) welcome the conclusion of the agreement; (ii) nevertheless regret the high level of non-compliance with previous agreements, as noted by the Commission for the verification of the agreements concluded between the National Government and workers in the State sector, which met in July and August 2021; and (iii) denounce the role played by the

Office of the Comptroller General of the Nation and its departmental offices which, through investigations into potential prejudices to the resources of public bodies, is undermining compliance with the agreements that have been concluded, and is likely to have a dissuasive effect on future negotiations. **The Committee requests the Government to pay due attention to the observations of the trade union confederations and to indicate the action taken in this regard.**

*Promotion of collective bargaining in the private sector.* The Committee recalls that in its previous comments it noted with concern the very low level of coverage of collective bargaining in the private sector. The Committee also noted the indication by the trade union confederations that a series of both legal and practical obstacles and inadequacies resulted in the complete absence of collective bargaining above the enterprise level, which in turn contributed to the very low coverage of collective bargaining in the private sector. The Committee requested the Government, in consultation with the social partners, to take all measures in the near future, including legislative measures where appropriate, to promote the use of collective bargaining in the private sector at all appropriate levels.

The Committee notes the Government's indication that: (i) 194 collective agreements were signed in 2020 (in comparison with 572 in 2019, 490 in 2018 and 380 in 2017); (ii) collaboration with the Government of Canada is continuing for the development of a registration system which will make it possible to determine the coverage rate of collective bargaining; (iii) it is still planned to amend Decree No. 089 of 2014 to facilitate bargaining in a context of a multiplicity of unions by providing that, where there are several unions in the same enterprise, they will be required to form a joint bargaining committee and submit unified claims; and (iii) and the Government continues to be willing to support and accompany, without interference, the social partners when they so request. The Committee also notes that the trade union confederations: (i) place emphasis on the reduction in the number of collective agreements concluded in 2020 and point to the possible effects of the COVID-19 pandemic in this regard; (ii) regret the continuing absence of multi-level bargaining; and (iii) consider that the case of professional football is symptomatic in this respect where the clubs, the Colombian Football Federation (FCF) and the Major Division of Professional Football (*Dimayor*), institutions which, according to the trade unions confederations, are competent to determine the working conditions in the sector, refuse to bargain with the Colombian Association of Professional Footballers (ACOLFUTPRO), in relation to which the Ministry of Labour set aside the complaint by ACOFUTPRO concerning the refusal to negotiate.

While noting the information provided by the Government, reiterating indications provided in previous reports, the Committee **regrets** to note that, despite the very low level of coverage of collective bargaining in the private sector, the Government does not refer to any further specific measures or initiatives adopted to resolve this situation. The Committee particularly notes with **concern** the absence of action to facilitate 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 (with the exception of the provisions of the Substantive Labour Code relating to the possibility of extending collective agreements) and is almost non-existent in practice (with the exception of the banana sector in Urabá; and (iii) 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.

**Recalling once again that, under the terms of Article 4 of the Convention, collective bargaining should be possible at all levels and should be promoted in a manner that is appropriate to national conditions and that, in accordance with Article 5(2)(d) of the Collective Bargaining Convention, 1981 (No. 154), which has been ratified by Colombia, the Government is required to ensure that collective bargaining is not hampered by the absence of rules governing the procedure to be used or by the inadequacy or inappropriateness of such rules, the Committee requests the Government: (i) following consultations with the social partners, to 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) to provide detailed information on the coverage rate of collective bargaining in the private sector.**

*Settlement of disputes. Committee for the Handling of Conflicts referred to the ILO (CETCOIT).* The Committee notes the information provided by the Government on the activities of the CETCOIT, a tripartite body for the resolution of disputes relating to freedom of association and collective bargaining. The Committee notes with **interest** the Government's indication that: (i) in 2020 and 2021, the CETCOIT held 71 meetings, during which 23 cases were identified for the promotion of conciliation decisions and agreements, with 48 follow-up meetings; (ii) agreements were concluded in 95 per cent of the cases, with the signature of 20 reports; (iii) effect was given to the recommendation made by the Committee on Freedom of Association in relation to Case No. 2657; and (iv) the conclusion was facilitated of two collective agreements in the private sector and one agreement in the public sector. **The Committee welcomes the results achieved by the CETCOIT and requests the Government to continue providing information in this regard.**

In its previous comments, the Committee noted the Government's indications that the international affairs subcommittee of the Standing Committee for Dialogue on Wage and Labour Policies would follow up the comments made by the Committee of Experts on the application of the Conventions ratified by Colombia and hoped that the work of the subcommittee would facilitate the adoption of the various measures requested by the Committee to give full effect to the Convention. The Committee **regrets** to note that it has not received further information on this subject. **The Committee finally recalls that the Government may request ILO technical assistance in this regard.**

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

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

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

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

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

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

## Congo

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

The Committee notes with **deep concern** that the Government's report, due since 2016, 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, including a request to investigate serious allegations of arrests and detentions of trade unionists in the context of a teachers' strike in 2013, as well as longstanding recommendations to bring the Labour Code into conformity with the Convention concerning limitations on strike action (minimum services and sanctions) that unduly restrict the right of workers' organizations to organize their activities in full freedom and to formulate their programmes. ***Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation and direct request adopted in 2020 and urges the Government to provide a full reply thereto. To this end, the Committee recalls that the Government may avail itself of the ILO's technical assistance.***

***[The Government is asked to reply in full to the present comments in 2022.]***

## Djibouti

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

The Committee notes the observations of the General Union of Djibouti Workers (UGTD) and the Labour Union of Djibouti (UDT), received on 11 May 2021, alleging persistence in the violations of the Convention that the Committee has been examining for many years. ***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 2022, 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 General Union of Djibouti Workers (UGTD) and the Labour Union of Djibouti (UDT), received on 23 August 2019, and of Education International (EI), received on 20 September 2019, containing grave allegations of anti-union repression. ***The Committee requests the Government to provide its comments in this respect.***

*Article 3 of the Convention. Right of workers' organizations to organize their administration and activities in full freedom.* In its previous comments, the Committee asked the Government to indicate the reasons for the arrest at Djibouti airport in May 2014 of Mr Adan Mohamed Abdou, Secretary-General of the Labour Union of Djibouti (UDT), who was to attend the 103rd Session of the International Labour Conference (May–June 2014) as an International Trade Union Confederation (ITUC) observer, and whose travel documents and luggage were confiscated. The Government merely indicated that it does not recognize Mr Mohamed

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

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

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

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

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

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

**The Committee expects 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, 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 Government is asked to reply in full to the present comments in 2022.]*

## Ecuador

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

The Committee notes the Government's reply to the joint observations of the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC) and the Ecuadorian Confederation of Unitary Class Organizations of Workers (CEDOCUT), received on 1 October 2020, which are concerned with issues that the Committee examines in the present comment. The Committee also notes the observations of Public Services International in Ecuador (PSI-Ecuador), received on 1 September 2021, which are concerned with issues examined in the present comment, as well as the Government's reply in this regard.

*Technical assistance.* The Committee recalls that in December 2019 the Office, at the request of the Government, carried out a technical assistance mission, which presented the tripartite constituents with a draft road map for initiating a tripartite dialogue with a view to adopting measures to address the comments of the ILO supervisory bodies. The Committee notes the Government's indication that the technical assistance provided in 2019 and the draft road map above-mentioned did not result in any practical action. The Committee also takes note of the Government's indication that for the time being it wishes to receive technical assistance only with regard to tripartite dialogue with the aim of improving and strengthening communication between the Government and the social partners. **Noting with regret that no action has been taken to follow up the technical assistance provided by the Office in December 2019 concerning the measures to address the comments of the supervisory bodies, the Committee hopes that the technical assistance that the Government wishes to receive will be provided very soon so that the subsequent strengthening of social dialogue enables progress in taking the necessary measures to bring the legislation into line with the Convention with respect to the points set out below.**

#### Application of the Convention in the private sector

*Article 2 of the Convention.* *Excessive number of workers (30) required for the establishment of workers' associations, enterprise committees or assemblies for the organization of enterprise committees. Possibility of creating trade union organizations by branch of activity.* For several years the Committee has been asking the Government to take the necessary steps, in consultation with the social partners, to revise sections 443, 449, 452 and 459 of the Labour Code in such a way as to: (i) reduce the minimum number of members required to establish workers' associations and enterprise committees; and (ii) enable the establishment of primary-level unions comprising workers from several enterprises. The Committee notes the Government's indication that: (i) fixing a minimum number of workers and limiting associations to the level of an enterprise for the establishment of a trade union is not intended to restrict or limit the creation of this type of organization, but seeks to ensure the representativeness of the trade union organization in its relations with the employers, demonstrating cohesion and agreement on the part of the majority; and (ii) with regard to establishing labour organizations with workers from different

enterprises, the Labour Code does not provide for a form of association that would allow for such organizations. In this regard, the Committee recalls that: (i) the requirement of a reasonable level of representativeness to conclude collective agreements must not be confused with the conditions required for the establishment of trade union organizations; (ii) the minimum number of members must be kept within reasonable limits so as not to obstruct the free establishment of organizations as guaranteed by the Convention; and (iii) the Committee generally considers that the requirement of a minimum number of 30 members to establish enterprise unions in countries where the economy is characterized by the prevalence of small enterprises hinders the freedom to establish trade unions. With regard to section 449 of the Labour Code, which requires trade unions to consist of workers from the same enterprise, the Committee recalls that, under *Articles 2 and 3* of the Convention, it should be possible to establish primary-level trade unions comprising workers from several enterprises. The Committee recalls that ASTAC, in its observations of 2020, indicated that the Ministry of Labour had refused to register it as a trade union on the grounds that it was not formed of workers from the same enterprise. The Committee notes the Government's indication, in reply to ASTAC's observations, that ASTAC brought an action for constitutional protection and, by a ruling issued on 25 May 2021, the Provincial Court of Justice of Pichincha ordered the Ministry, pursuant to revision and analysis of the documents of ASTAC, to proceed with its registration as a trade union and also to regulate the exercise of the right to freedom of association by branch of activity so as to avoid any recurrence of such situations. The Government indicates that, even though it has filed an extraordinary motion for protection which is before the Constitutional Court of Justice, this action does not suspend the obligation to comply with the ruling, and so the Directorate of Labour Organizations at the Ministry of Labour continues to review the requirements of the present procedure for establishing ASTAC, in accordance with the ruling of 25 May 2021. ***Duly noting the ruling concerning ASTAC, the Committee firmly hopes that steps will be taken to proceed with the registration of ASTAC as a trade union. In particular, the Committee welcomes the fact that the ruling contributes towards enabling the establishment of trade union organizations by branch of activity, and trusts that the Committee's view on this important development in the application of the Convention will be brought to the attention of the Constitutional Court of Justice. In light of the above, the Committee fully expects that the Government will 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 requests the Government to keep it informed of developments in this respect.***

*Article 3. Compulsory time limits for convening trade union elections.* The Committee has been asking the Government to amend section 10(c) of Ministerial Decision No. 0130 of 2013 issuing regulations on labour organizations, 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; such amendment being necessary 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 reiteration that the regulations in question were approved with the participation of representatives of several labour organizations and trade union confederations, with the intention of resolving the issues faced by workers' organizations when the latter are without leadership and it is impossible to convene new elections – providing a responsive, simplified mechanism in which the principles of participation, transparency and democracy predominate. The Government also indicates that, with the objective of providing legal certainty during the health emergency resulting from the COVID-19 pandemic, the Ministry of Labour exceptionally authorized the extension of the terms of office of executive committees of labour organizations for up to 90 days when their terms had expired after the last state of emergency. ***Recalling that under Article 3 of the Convention, trade union elections are an internal matter for organizations and should primarily be regulated by their constitutions, and observing that the consequences established by the regulations in the event of failure to respect the***

**prescribed deadlines – the loss of powers and competencies for trade union committees – involve a serious risk of paralysing the capacity for trade union action, the Committee once again requests the Government to amend section 10(c) of the regulations in the manner indicated and to keep it informed of any developments in this respect.**

*Article 3. Requirement of Ecuadorian nationality to be eligible for trade union office.* The Committee recalls that in 2015 it noted with satisfaction 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 for trade union office. The Committee notes that the Government confirms that, as previously indicated by the social partners, section 49 was declared unconstitutional by ruling No. 002-18-SIN-CC of 2018. **The Committee requests the Government to send a copy of the aforementioned ruling.** The Government indicates in this regard that it is up to the legislative authorities to analyse and, if they see fit, to amend this prohibition. **Recalling that under Article 3 of the Convention, workers' and employers' organizations should have the right to elect their representatives in full freedom, the national legislation must allow foreign workers to serve as trade union officials if permitted under their constitutions and rules, at least after a reasonable period of residence in the host country, the Committee accordingly requests the Government to amend section 459(4) of the Labour Code and to keep it informed of any developments in this regard.**

*Elections as officers of enterprise committees of workers who are not trade union members.* The Committee previously indicated to the Government the need to amend section 459(3) of the Labour Code in such a way that workers who are not enterprise committee members may stand for office only if the enterprise committee's own statute envisages that possibility. The Committee notes the Government's indication that the purpose of the legal provision is to ensure that all members have the right to participate and that in any case it will depend on how the right is formulated in the statute. **Recalling that the legislative provision enabling workers who are not trade union members to stand for office on an enterprise committee is contrary to trade union independence as recognized by Article 3 of the Convention, the Committee once again requests the Government to take the necessary steps to amend the above-mentioned provision of the Labour Code and to keep it informed of any developments in this respect.**

### Application of the Convention in the public sector

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and to join organizations of their own choosing.* The Committee previously noted that although section 11 of the Basic Act reforming the legislation governing the public sector (Basic Reform Act), adopted in 2017, establishes the right to organize for public servants, certain categories of public service staff 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 the members of the police and of the armed forces, all workers, including permanent or temporary public servants and those under fixed-term or occasional services contracts, have the right to establish and to join organizations of their own choosing, the Committee asked the Government to take the measures required to bring the legislation into line with the Convention. The Committee notes the Government's indication that: (i) the public institutions of the State are working to ensure that public servants have their respective definitive appointments, provided that their activities are not temporary; and (ii) public servants on statutory, fixed-term contracts and those who are subject to free appointment and removal from office are officials who technically could perform roles equivalent to those of employers in the private sector, and so their participation in the exercise of public servants' right and freedom to organize would cause conflicts of interest. In this regard, the Committee is bound to emphasize that even though barring public servants who exercise authority from the right to join trade unions which represent other public sector workers is not necessarily incompatible with the Convention, this depends on two conditions: (i) senior public

officials should be entitled to establish their own organizations to defend their interests; and (ii) the legislation should limit this category to persons exercising senior managerial or policymaking responsibilities (see 2012 General Survey on the fundamental Conventions, paragraph 66). ***In light of the above and once again recalling that under Articles 2 and 9 of the Convention, with the exceptions previously mentioned, all workers have the right to establish and to join organizations of their own choosing, the Committee once again requests the Government to take the necessary measures to bring the legislation into line with the Convention.***

*Article 2 of the Convention. Right of workers to establish organizations of their own choosing without previous authorization. Organizations of public servants other than the committees of public servants.* The Committee observed that, according to the provisions of the Basic Reform Act and Ministerial Decision MDT-2018-0010 regulating the right to organize of public servants, the committees of public servants, which must comprise "50 per cent plus one" of the staff of a public institution, have the responsibility for defending the rights of public servants and are the only bodies which can call a strike. Recalling that trade union pluralism must be possible in all cases, the Committee has been asking the Government to indicate what means are available to organizations of public servants, other than the committees of public servants, for defending the occupational interests of their members. The Committee notes the Government's indication that: (i) public servants' right to organize is duly guaranteed by the Basic Public Service Act (LOSEP) (amended by the Basic Reform Act); and (ii) Decision No. SNGP0008-2014 of the National Policy Management Secretariat promotes the functioning of organizations which exercise the constitutional right of association and organization without there being any legal basis for dealing with these organizations in the Basic Reform Act. The Committee observes that the Decision No. SNGP0008-2014 to which the Government refers, establishes the competencies of the institutions of the State for regulating social organizations created under the Civil Code. It also notes the Government's indication, in the reply to the observations of PSI-Ecuador, that the LOSEP recognizes the committees of public servants as the only form of organization. In light of the above, the Committee is bound once again to recall 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. ***Underlining the fact that all organizations of public servants must be able to enjoy the various guarantees established in the Convention, the Committee requests the Government to provide information on organizations of public servants other than the committees of public servants and to indicate in detail what means they have for defending the occupational interest of their members. The Committee also requests the Government to provide a copy of the updated text of the LOSEP and to take the necessary steps to ensure that this law does not restrict recognition of the right to organize to the committees of public servants as the sole form of organization.***

*Articles 2, 3 and 4. Registration of associations of public servants and their officers. Prohibition of the administrative dissolution of such associations.* The Committee previously asked the Government to take the necessary measures to ensure that the rules of Decree No. 193, which retains engagement in party-political activities as grounds 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 party politics are the sum total of activities aimed at governing society from a specific ideological or philosophical standpoint and that these activities are prohibited for trade union organizations since the unions' objectives, regardless of political affinity, must seek and focus on the economic and social improvement of their members. It indicates that the amendment of the Decree is a matter for the President of the Republic in any case. ***Recalling that defending the interests of their members requires associations of public servants to be able to express their views on the Government's economic and social policy and that Article 4 of the Convention prohibits the suspension or administrative dissolution of such associations, the Committee firmly urges the Government to take the necessary steps to ensure that the rules of Decree No. 193 do not apply to***

**associations of public servants which have the purpose of defending the economic and social interests of their members.**

*Article 3. Right of workers' organizations and associations of public servants to organize their activities and to formulate their programmes.* The Committee previously asked the Government to take the necessary measures to amend section 346 of the Basic Comprehensive Penal Code (COIP), which provides for 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 Government previously indicated that this matter was going to be referred to the relevant state institutions in order to consider whether the Code should be amended. The Committee notes that the Government focuses its reply on emphasizing that public servants' right to strike is set forth in Chapter III of the LOSEP, and that the criminal penalties are only imposed in cases where strikers act unlawfully, namely, by totally blocking access for the general public to public services, committing acts of violence or causing damage to public property. The Committee recalls in this regard that it 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 (for example, in the case of failure to assist a person in danger, deliberate injury or damage deliberately caused to property) (see 2012 General Survey, paragraph 158). ***In light of the above, the Committee once again urges the Government to take the necessary measures to ensure that section 346 of the Basic Comprehensive Penal Code (COIP) is amended in the manner indicated and to keep it informed of any developments in this regard.***

*Administrative dissolution of the National Federation of Education Workers (UNE).* In its last comment, having noted the registration of social organizations related to the UNE, (which was dissolved by an administrative act issued by the Under-Secretariat of Education in 2016), the Committee asked the Government to take the necessary steps to ensure the registration of the UNE as a trade union organization with the Ministry of Labour, if the organization so requested. It also asked the Government to ensure the full return of the property seized from the UNE as well as the removal of any other consequences resulting from the administrative dissolution of the UNE. The Committee notes the Government's indication that: (i) the UNE opted to register as a social organization and there are no procedures pending at the Ministry of Labour in which the UNE applied for registration as a trade union organization; (ii) in the 2019–21 period, 38 social organizations were registered under the UNE title; and (iii) by a decision of 7 June 2021, the Under-Secretariat of Education of the Metropolitan District of Quito approved the constitution of the organization called the "National Federation of Education Workers (UNE-E)" and granted it legal personality. While duly noting the detailed information from the Government, the Committee notes that, according to PSI-Ecuador, the registration of the UNE as a trade union organization and not as a social organization is facing obstruction because of legal confusion and the lack of application of the Convention in its sector. ***The Committee requests the Government to indicate whether the registration of the UNE-E with the Under-Secretariat of Education of the Metropolitan District of Quito means that the UNE has been able to resume its activities of defending the occupational interests of its members. The Committee also once again requests the Government 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 wishes. The Committee also once again requests the Government 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, and to provide information in this regard.***

The Committee notes with **regret** that to date it has been unable to observe progress on the adoption of measures needed to bring the legislation into line with the Convention. The Committee

notes the Government's indication that, because of the upheaval caused by the COVID-19 pandemic, it is currently giving priority to an Opportunities Bill, which incorporates the different views of the stakeholders in the labour and social spheres and through which the Government is endeavouring to stimulate and revitalize the labour market. **While taking due note of these indications, the Committee recalls the fundamental importance of ensuring the full application of the Convention to tackle the consequences of the pandemic and urges the Government to make the necessary efforts to adopt specific measures in relation to the points highlighted in this comment.** In this regard, the Committee notes that the Ministry of Labour, through the Directorate of Labour Organizations, expresses the intention of collaborating on any legislative initiative aimed at improving the exercise of workers' rights. **The Committee hopes that the technical assistance that the Government wishes to receive to strengthen social dialogue will be provided very soon and that its results enable progress with regard to the matters raised in the present comment. In this regard, the Committee hopes that any legislative reforms undertaken, in consultation with the social partners, will contribute towards ensuring observance of the rights established by the Convention.**

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 2022.]**

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

The Committee notes the Government's reply to the joint observations of the Ecuadorian Confederation of Unitary Class Organizations of Workers (CEDOCUT) and the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC), received on 1 October 2020.

The Committee also notes the observations of Public Services International in Ecuador (PSI-Ecuador), received on 1 September 2021, on issues examined by the Committee in the present comment, and also the Government's reply in this regard.

**Technical assistance.** The Committee recalls that in December 2019 the Office, at the request of the Government, carried out a technical assistance mission which presented the tripartite constituents with a draft road map for initiating a tripartite dialogue with a view to adopting measures to address the comments of the ILO supervisory bodies. The Committee notes the Government's indication that, although the undertaking given previously did not result in practical action, the Government wishes to receive technical assistance, for the time being with regard to tripartite social dialogue. **Noting with regret that the Government has not taken action to follow up the technical assistance provided by the Office in December 2019 concerning measures to respond to the comments of the ILO supervisory bodies, the Committee firmly hopes that the assistance in which the government has expressed an interest will be given practical effect very soon and that any strengthening of social dialogue that results from it enables progress to be made with regard to adopting the measures needed to bring the legislation into line with the Convention with respect 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 many years, 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 that the Government reiterates that the labour regulations in force give an adequate level of protection and that it does not consider it necessary to issue an additional standard in this respect. **Recalling that Article 1 of the Convention covers the prohibition of anti-union discrimination at the time individual workers are hired, so that access to employment is not made subject to the condition that workers shall not join a union or relinquish union membership, as well as practices such as "blacklisting" members to prevent them being hired, the Committee underlines the need for the**

**above-mentioned provisions to be included in the legislation and requests the Government to provide information on any measures adopted in this respect.**

*Article 4. Promotion of collective bargaining.* The Committee recalls that in accordance with section 221 of the Labour Code, collective labour agreements must be concluded with the enterprise committee or, if one does not exist, with the organization with the largest number of worker members, provided that the latter represents over 50 per cent of the workers in the enterprise. The Committee previously urged the Government to adopt the necessary measures, in consultation with the social partners, to amend section 221 so that if there is no organization that represents more than 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 that the Government reiterates that this requirement for the negotiation of a collective agreement is closely connected to the principles of democracy, participation and transparency since the benefits obtained in the collective agreement apply to all workers in the enterprise or institution. The Committee once again points out that while it is acceptable that the union which represents the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights, the Committee considers that in cases where no union meets these conditions, or does not enjoy such exclusive rights, minority trade unions should at least be able to conclude a collective or direct agreement on behalf of their own members (see 2012 General Survey on the fundamental Conventions, paragraph 226). The Committee recalls that, even though the requirement of representativeness for signing collective agreements is fully compatible with the Convention, the level of representativeness set should not be such as to hinder the promotion and implementation of free and voluntary collective bargaining as referred to by *Article 4* of the Convention. The Committee recalls that in previous comments it noted the low rate of coverage of collective bargaining in the private sector. The Committee observes that, according to the statistics provided by the Government, between 2019 and August 2021 a total of 45 collective agreements were signed in the private sector. ***In light of the above, the Committee urges the Government to take the necessary measures, after consulting the social partners, to amend section 221 of the Labour Code so that if there is no organization comprising more than 50 per cent of the workers, trade unions can, either separately or jointly, negotiate at least on behalf of their own members. The Committee requests the Government to provide information on all the measures taken or envisaged in this respect. The Committee also requests the Government to continue providing information on the number of collective agreements signed and in force in the country, and also the sectors of activity (including agriculture and the banana sector) and the number of workers covered by them.***

#### Application of the Convention in the public sector

*Articles 1, 2 and 6. Protection of public sector workers who are not engaged in the administration of the State against acts of anti-union discrimination and interference.* In its previous comments, the Committee noted the protections against anti-union discrimination and interference, including with regard to the “compulsory purchase of redundancy mechanism”, set out in the Basic Act reforming the legislation governing the public service (Basic Reform Act). Having observed that the said Act contained provisions which explicitly protected Civil Service Committee officers, the Committee asked the Government to take the necessary measures to ensure that the legislation contained provisions that explicitly protect the leaders of all organizations of public servants against acts of anti-union discrimination and interference. The Committee also asked the Government to indicate the penalties and compensation applicable to acts of anti-union discrimination and interference committed in the public sector and to provide information on the outcome of the legal action brought to have the compulsory redundancy purchase mechanism declared unconstitutional. The Committee notes the Government’s indication that protection against acts of discrimination and the right to form trade unions are established through explicit standards, both in the Constitution of the Republic and section 187 of the Labour Code and in the Basic Public Service Act (LOSEP), which prohibits all acts of

discrimination against public servants. The Government considers that the labour regulations in force provide an adequate level of protection for public servants. The Committee observes that the Committee on Freedom of Association recently examined allegations of dismissals of leaders of organizations of public servants, stating that it trusted that the Government would take the necessary measures to ensure that the legal provisions applicable to the public sector, currently focusing on the protection of Civil Service Committee officers, protect all leaders of public servants' organizations against possible acts of anti-union discrimination (see Report No. 393, March 2021, Case No. 3347, paragraph 433). The Committee once again emphasizes that it is important that the legislation should grant the same type of protection against possible acts of anti-union discrimination and interference to all leaders of all organizations of public servants on equal terms. **The Committee therefore urges 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, and also provisions that establish penalties constituting a deterrent against committing such acts. The Committee requests the Government to provide information on any measures taken or envisaged in this regard.** Furthermore, with regard to the legal action brought to have the compulsory redundancy purchase mechanism declared unconstitutional, the Committee notes the indication by PSI-Ecuador that the Constitutional Court, by a ruling issued on 28 October 2020, declared the compulsory nature of the purchase of redundancy with compensation to be unconstitutional. The Committee recalls that the compulsory redundancy purchase mechanism allowed the public administration, in exchange for payment of compensation, to unilaterally terminate the employment of public servants without the need to indicate the grounds for such termination. The Committee recalls that it previously underlined the importance of measures being taken to ensure that use of the compulsory redundancy purchase mechanism did not give rise to acts of anti-union discrimination. The Committee duly notes the Constitutional Court ruling and observes that it indicates that the rules governing redundancy purchase with compensation will remain in force but application of that mechanism must not be compulsory. The Committee observes that PSI-Ecuador considers that the ruling represents an important step forward but does not provide the protection against anti-union discrimination provided by the Convention since, although it removes the word "compulsory" and also the obstacle to returning to work in the public sector for persons who have been dismissed, it leaves victims unprotected, with no consideration of restitution or compensation. PSI-Ecuador also alleges that the Government has so far not complied with the ruling as regards removing the obstacle to returning to work in the public sector. **Recalling that the trade unions previously denounced the use of the compulsory redundancy purchase mechanism to dismiss public servants for their trade union activities, the Committee requests the Government to send its comments in this regard.**

*Articles 4 and 6. Collective bargaining for public sector workers who are not engaged in the administration of the State.* In its previous comments, the Committee observed that the Basic Reform Act and Ministerial Order No. MDT-2018-0010 did not recognize the right to collective bargaining for 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 were annulled by the Constitutional Court (ruling No. 018-18-SIN-CC of 1 August 2018) and that on 4 December 2019 the Ministry of Labour issued Ministerial Order No. 373 in order to apply the Constitutional Court ruling. The Committee asked the Government to ensure the full implementation of the above-mentioned Ministerial Order in the various state institutions and urged the Government to intensify its efforts to reopen an in-depth debate with the trade unions concerned with a view to establishing an adequate collective bargaining mechanism for all categories of employees in the public sector covered by the Convention. The Committee notes the Government's indication that although there are no regulations on collective bargaining mechanisms for public servants, since this right is conferred only on other

categories of workers in the sector, the Government reiterates its undertaking to promote tripartite dialogue in this respect. With regard to the application of Ministerial Order No. 373, the Government indicates that: (i) on 6 February 2020, the Directorate for Legal Advice issued a legal opinion on the applicability of the Order; (ii) on 15 May 2020, the Ministry issued a series of circulars asking public sector entities to provide information on compliance with the Order; (iii) a total of 87 public sector institutions provided documentation and 57 of them changed the employment regime for a total of 346 public servants from the Basic Public Service Act (LOSEP) to the Labour Code; and (iv) the Ministry changed the employment regime for 242 workers. The Committee duly notes the foregoing and also observes that, according to the Government, between 2019 and August 2021, a total of 85 collective agreements were signed in the public sector. The Committee also notes that, according to PSI-Ecuador, the Basic Act on humanitarian support to combat the health crisis resulting from COVID-19 (Humanitarian Support Act), published on 22 June 2020, imposes restrictions on collective bargaining for public sector workers governed by the Labour Code. PSI-Ecuador indicates that various legal actions to declare the Act unconstitutional have been brought in this regard and that the Constitutional Court has not yet handed down any rulings. Moreover, observing that the legislation continues not to recognize the right of collective bargaining for public servants, the Committee is bound to recall once again that, under *Articles 4 and 6* of the Convention, persons who are employed in the public sector but by their functions are not directly engaged in the administration of the State (employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers, transport sector personnel, etc.) are covered by the Convention (see 2012 General Survey, paragraph 172) and should therefore be able to negotiate collectively their conditions of employment, including their wage conditions, since mere consultation of the unions concerned is not sufficient to meet the requirements of the Convention in this respect (see 2012 General Survey, paragraph 219). **The Committee therefore urges the Government to reopen an in-depth debate with the trade union organizations concerned with a view to establishing an adequate collective bargaining mechanism for all categories of public sector employees covered by the Convention. The Committee requests the Government to provide information on the collective agreements signed with public sector workers and also information on the outcome of the legal actions to declare the Humanitarian Support Act unconstitutional.**

The Committee notes with **regret** that it has so far been unable to observe progress with regard to the adoption of measures needed to bring the legislation into line with the Convention. The Committee notes the Government's indication that, because of the upheaval caused by the COVID-19 pandemic, it is currently giving priority to an Opportunities Bill, which incorporates the different views of the stakeholders in the labour and social spheres and through which the Government is endeavouring to stimulate and revitalize the labour market. **While taking due note of these indications, the Committee recalls the fundamental importance of ensuring the full application of the Convention to tackle the consequences of the pandemic and urges the Government to make the necessary efforts to adopt specific measures in relation to the points highlighted in this comment.** In this regard, the Committee notes that the Ministry of Labour, through the Directorate of Labour Organizations, expresses the intention of collaborating on any legislative initiative aimed at improving the exercise of workers' rights. **The Committee hopes that the technical assistance referred to by the Government for strengthening social dialogue is put into practice very soon and that its results enable progress with regard to the matters raised in the present comment. In this regard, the Committee hopes that any legislative reforms undertaken, in consultation with the social partners, will contribute towards ensuring observance of the rights established by the Convention.**

**[The Government is asked to reply in full to the present comments in 2022.]**

## Egypt

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

(ratification: 1954)

The Committee takes note of the observations made by Public Services International (PSI) on behalf of the Center for Trade Union Workers' Services (CTUWS) received on 1 September 2021 and those of the International Trade Union Confederation (ITUC) received on 6 September 2021 on matters concerning the application of the Convention in law and in practice. The ITUC refers in particular to acts of anti-union discrimination and persecution allegedly suffered by representatives of trade unions established in government departments. **While noting the receipt on 24 November 2021 of the Government's comments in Arabic in response to these observations, which it will examine in detail with the Government's next report, the Committee trusts that all measures are being taken to ensure that the persons concerned enjoy the guarantees of the Convention.**

*Articles 1, 2 and 3 of the Convention. Adequate protection against anti-union discrimination and interference.* In its previous comments, the Committee requested the Government to indicate the legislative provisions which ensure full protection in respect of acts of anti-union discrimination and interference and specifically to indicate the sanctions and remedies provided for this purpose.

The Committee takes due note of the Government's indication that the Trade Union Organizations Law No. 213 of 2017 prohibits employers from taking any measure that impedes the exercise of union activity under penalty of a fine of not less than 5,000 Egyptian pounds and not exceeding 10,000 pounds (approximately US\$320 to US\$640). Further measures of protection are afforded through procedural safeguards for dismissal or transfer of trade union officers or candidates. Additional penalties are provided if the employer refrains from implementing a final court judgment. As for the draft Labour Code, the Government indicates that numerous methods and mechanisms afford protection for workers, including conciliation, mediation and arbitration, and further refers to the provisions on the establishment of labour courts.

*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 Committee is however obliged to observe once again that the Trade Union Organizations Law does not establish mechanisms and procedures for the engagement in collective bargaining, while the draft Labour Code has entire chapters devoted to collective bargaining, collective agreements and collective disputes. The Committee also recalls that while Act No. 81 on the civil service and its implementing decree created a Civil Service Council with an advisory role as well as human resources committees in each department: (i) these bodies are mainly composed of representatives of the administration and a trade union representative whose appointment is mainly the responsibility of the Federation of Egyptian Trade Unions; and (ii) the law and its decree make no mention of other forms of representation of public service personnel or of collective bargaining mechanisms open to them.

Moreover, the Committee notes the PSI request that civil workers not be excluded from the Labour Law so that they may be able to engage in collective bargaining as set out therein. **Recalling that Article 4 of the Convention provides that measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreement,**

***the Committee requests the Government, in consultation with the social partners, to take the necessary measures, for example, by revising Act No. 81 or by extending the scope of the Labour Code, to ensure that civil 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. The Committee requests the Government to provide information on the steps taken in this regard.***

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. ***Noting the Government's indication that it will send a copy of the new Labour Code as soon as it is adopted, the Committee trusts that the Code will be adopted in the very near future so as to ensure greater conformity with the Convention and requests the Government to provide information on the progress made in this regard.***

## Equatorial Guinea

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

The Committee notes with ***deep concern*** that the Government's report, due since 2007, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of whatever information is at its disposal. The Committee recalls that it has been raising issues concerning the observance of the Convention in an observation. It has formulated longstanding recommendations to bring the Labour legislation into conformity with the Convention concerning limitations that unduly restrict the right of workers to organize and to formulate their programmes, including the right to establish enterprise trade unions, the right to strike and the determination of essential services, as well as the refusal to recognize in practice a number of workers' organizations by rejecting their registration requests. ***Not having at its disposal any indication of progress on these pending matters, despite the technical assistance that the Office provided to the country on several occasions, the Committee refers to its previous observation adopted in 2020 and urges the Government to provide a full reply thereto.***

***[The Government is asked to reply in full to the present comments in 2022.]***

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

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

***[The Government is asked to reply in full to the present comments in 2022.]***

## Eritrea

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

*Civil liberties.* In its previous comments, the Committee repeatedly requested the Government to provide information on how it ensures the right of trade unions to hold public meetings and demonstrations. The Committee notes that the Government affirms in its report that the right of trade unions to hold public meetings and demonstrations is secured both in law and in practice, however, it once again provides no specific information on any measures taken to ensure protection of this right. **Recalling that the right of trade unions to hold public meetings and demonstrations is an essential aspect of freedom of association, the Committee once again requests the Government to provide specific information regarding how the right is secured both in law and in practice.**

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Compulsory national service.* In its previous comment, the Committee had urged the Government to change its law and practice, to ensure that Eritrean nationals are not denied the right to organize beyond the legally restricted period of military service, during which they would perform work of purely military character.

The Committee recalls that the population has been mobilized since the 1998–2000 border war with Ethiopia. It notes that recent reports of several United Nations human rights bodies and procedures, including the Committee on Elimination of Discrimination against Women (CEDAW/C/ERI/CO/6, paragraph 10), and the Special Rapporteur on the situation of human rights in Eritrea (A/HRC/44/23, paragraph 32), indicate that national service continues to be of an indefinite period.

The Committee notes the Government's indication that conscripts may be called to perform non-military activities only in genuine cases of emergency or force majeure and makes a particular reference to the threat of famine. In this regard, while the Committee takes due note of the serious food security challenges faced by the country, it also recalls that under the Convention, workers in agriculture, natural resource and eco-system management and other development activities aiming at ensuring food security have the right to establish and join organizations of their own choosing. It observes in this respect that in Eritrea, National Service Proclamation 82/1995 allows the assignment to development work of servicemen and women, who, as members of the armed forces, are excluded from all labour rights including the right to freedom of association, both during active national service and reserve military service. The Committee considers that depriving workers of their right to freedom of association through assigning men and women to work in development projects in the framework of compulsory national service, which remains of indefinite duration, is contrary to the obligations of Eritrea under the Convention, as such work – even if aimed to ensure food security – may not be excluded from the Convention's scope of application.

The Committee notes that the Government refers to its policy of self-reliance in protecting people from hunger or force majeure, which would entail that as a developing country, it must be given sufficient time to give effect to the Convention. In this regard, the Committee recalls that ensuring respect for fundamental principles and rights at work, such as the freedom of association rights and guarantees set out in the Convention, results in undeniable benefits to the development of human potential and economic growth in general and therefore contributes to economic recovery, social justice and sustainable peace (see the 2012 General Survey on the fundamental Conventions, paragraph 4).

In view of the above considerations, the Committee once again urges the Government to take all the necessary measures so as 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.

*Civil servants.* Since its initial comments, the Committee has consistently requested and urged the Government to expedite the process of drafting the Civil Service Code to ensure that the right of civil servants to organize is guaranteed, given that these workers are excluded from the scope of the Labour Proclamation. The Committee notes the Government's indication that certain groups such as teachers, medical doctors, nurses, electrical contractors and engineers, composed mostly of civil servants, have established and registered professional associations under articles 404 and 406 of the transitional civil code of Eritrea. The Government also once again indicates that the Civil Servants' Code of Eritrea is still at the final stage of drafting, the same indication it has given for a number of years. The Committee understands that civil law associations do not have the same rights as labour law associations in terms of representation of the occupational interests of their members in relation to the employer and the authorities. They also are not covered by labour law guarantees such as prohibition of anti-union discrimination and non-interference. Finally, the Committee notes that in its report on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Government indicates that demobilized members of national service are gradually integrated into civil service, which implies that the number of civil servants will grow, while these workers will not enjoy the full rights and guarantees set out in the Convention. **Regretting the lack of progress in this respect, the Committee once again urges the Government to take all the necessary measures to ensure without further delay that all civil servants are fully guaranteed their freedom of association rights under the Convention.**

*Domestic workers.* The Committee notes that section 40 of Labour Proclamation provides that the Minister may determine by regulation the provisions of the Proclamation that shall apply to all or to a category of domestic employees and the manner of their application. The Committee considers that this provision casts doubt on the application of all labour law guarantees enshrined in the Proclamation to domestic workers, including the provisions concerning freedom of association. It further notes that the Civil Code published in 2015 contains provisions governing the contract of domestic employment, without however covering freedom of association rights. The Committee recalls that in the framework of its examination of application of Convention No. 98, it has consistently requested the Government to ensure that the rights of domestic workers are explicitly guaranteed. According to the information submitted by the Government, no specific rules other than the civil code provisions govern domestic work. **Therefore, the Committee requests the Government to take any necessary measures, including through the abrogation of section 40 of the Labour Proclamation or the rapid adoption of a regulation, to ensure that domestic workers enjoy all rights under the Convention.**

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

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

*Articles 1, 2 and 4 of the Convention. Legislative issues.* The Committee recalls that since its first examination of application of the Convention in Eritrea, it has consistently requested the Government to amend legislation or adopt additional laws and regulations in order to provide adequate protection against anti-union discrimination and acts of interference, and to recognize and guarantee the rights of domestic workers and civil servants under the Convention.

With regard to *protection against anti-union discrimination and acts of interference*, the Committee notes that the Government reiterates that violations of prohibition of anti-union discrimination and acts of interference are punishable as a petty offence under article 691 of the Transitional Penal Code of Eritrea, which concerns infringement of a provision of a regulation, order or decree lawfully issued by a competent authority. The Government further recognizes that with regard to acts of anti-union discrimination during employment, the Labour Proclamation only provides for reinstatement of trade union leaders in cases of unjustified dismissal. Therefore, the Ministry of Labour and Social Welfare will conduct a tripartite workshop with a view to finalizing the drafting of relevant legal provisions. The

Committee is bound to note that the Government's indications do not contain any novelty concerning the legislative shortcomings of the protection against anti-union discrimination and acts of interference. It notes that article 691 of the Transitional Penal Code contains a general definition of petty offences, and does not particularly concern anti-union discrimination or acts of interference, which do not seem to be qualified as petty offences in any specific legal provision. **Furthermore, in view of the fact that a new Penal Code was adopted and published in 2015, which seems to replace the Transitional Penal Code, the Committee requests the Government to clarify whether the provisions of the previous Transitional Penal Code are still in force in the country.**

With regard to *domestic workers*, the Committee notes that the Government indicates that: (i) since domestic workers are not included in the list of article 3 of Labour Proclamation, which enumerates the groups of workers that fall outside its scope, it is reasonable to construe the text as providing coverage for this group; (ii), under article 40 of the Proclamation, which grants to the Minister the power to determine the provisions of the Proclamation which shall apply to domestic workers, the guarantees enshrined in the Convention can be afforded to domestic workers by directive or regulation; and (iii) the 2015 Civil Code also includes provisions concerning the rights of domestic workers and no domestic workers in Eritrea are prohibited from the rights to organize and collective bargaining. The Committee notes that articles 2274–2278 of the Civil Code concern the contract for domestic employment and the mutual obligations of the parties to it but that these provisions do not contain reference to freedom of association or the right to collective bargaining. Furthermore, while domestic workers are not excluded from the scope of Labour Proclamation under article 3, the Committee understands from the Government's response and the content of article 40 of the Proclamation that the application of all labour law guarantees, including those concerning collective rights, to domestic workers would be entirely dependent on the content of a future ministerial directive. Therefore, the Committee once again notes with **concern** that Eritrean law still does not explicitly provide domestic workers with the rights established in the Convention.

With regard to *public sector*, the Committee notes that the Government indicates that the workers of public sector who are excluded from the scope of Labour Proclamation pursuant to its article 3, have the right to organize and bargain collectively, as in the absence of the Civil Service Code the transitional civil code prevails. The Committee notes nevertheless that in 2015 a new Civil Code was published that replaced the Transitional Civil Code of 1991, and that article 2176 of this Code excludes members of the military, police, and security forces, as well as members of the Eritrean civil services, judges and prosecutors from the scope of the chapter on employment. Article 2182 of the Civil Code, which establishes the right to conclude collective agreements, is in this chapter. The Committee is therefore bound to note that the new Civil Code reproduces the exclusions of article 3 of Labour Proclamation concerning public sector employees. The Committee recalls in this regard that the Convention covers all workers and employers, and their respective organizations, in both the private and the public sectors, regardless of whether the service is essential. The only exceptions authorized concern the armed forces and the police, as well as public servants engaged in the administration of the State. **In view of the above considerations and noting with concern the absence of progress with respect to the various substantive legislative issues raised in its previous comments, the Committee once again urges the Government to take all the necessary measures to enact new legislation or revise the existing legislation in order to: (i) provide adequate protection against anti-union discrimination and acts of interference, and (ii) ensure that domestic workers and civil servants who are not engaged in the administration of the State enjoy the right to organize and collectively bargain. The Committee requests the Government to provide information of the developments in this regard.**

*Articles 4, 5 and 6. Promotion of collective bargaining. Compulsory national service.* The Committee recalls that in its previous comment, it had noted with concern that large numbers of Eritrean nationals were denied the right to collective bargaining for indefinite periods of their active lives while they were performing civilian activities that fell under the scope of the Convention as part of

their obligation of compulsory national service. It had therefore urged the Government to take the necessary measures to ensure that Eritrean nationals are not denied the right to bargain collectively beyond the scope of the exceptions set out in *Articles 5 and 6* of the Convention. The Committee notes the Government's indication that conscripts may be called to perform non-military activities in specific circumstances, namely in genuine cases of emergency or force majeure. It further adds that that it has been taking progressive measures to demobilize and rehabilitate conscripts and is gradually integrating national service members into civil servants. The Committee notes the Government's indications concerning the gradual demobilization of members of national service. Nevertheless, in view of the fact that current legislation does not guarantee the right of civil servants to collective bargaining, the Committee notes that where demobilization leads to integration into civil service, the demobilized will continue to be excluded from the right to collective bargaining. ***The Committee therefore once again emphasizes the importance of rapidly adopting a legal framework that would effectively guarantee the right of civil servants not engaged in the administration of the State to collective bargaining and urges the Government to take the necessary measures. The Committee requests the Government to provide information of the developments in this regard.***

***[The Government is asked to reply in full to the present comments in 2022.]***

## Gabon

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

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

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

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

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

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

## Gambia

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

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, as well as on the basis of the information at its disposal in 2019.

*Trade union rights and civil liberties.* In its previous comments, the Committee had requested the Government to provide comments on the observations of the International Trade Union Confederation received on 1 September 2017, which contained allegations of arbitrary arrests of several leaders of the Gambian National Transport Control Association (GNTCA), the death of Mr Sheriff Diba, one of the arrested leaders, while in detention, and the ban imposed on the activities of the GNTCA. The Committee had regretted that the Government had not provided any concrete information on these grave allegations and their investigation and only indicated that the case involving the leaders of the said Association had been discontinued before the High Court of The Gambia and that the parties had been discharged. The Committee recalled the need to make every effort to investigate the alleged grave violations of trade union rights, with a view to apportioning responsibility and punishing the perpetrators. The Committee takes note of the Government's indication that an investigation into the facts surrounding the death of Mr Sheriff Diba could be conducted by the Truth, Reconciliation and Reparation Commission (TRRC), an independent institution mandated to conduct research and investigations into human rights violations committed between July 1994 and January 2017 by the former regime. The Government further indicates that the GNTCA's matter was discharged by the High Court and that it is the responsibility of the GNTCA to re-engage the Government to review their case for consideration. **The Committee expresses its firm hope that the death of Mr Diba as well as the alleged arbitrary arrests of several leaders of the GNTCA will be duly investigated by the TRRC without delay and requests the Government to provide updated information in this respect. It requests the Government to ensure that the GNTCA is informed about the necessary procedures to obtain a review of its case and also requests that the Government provide a copy of the mentioned High Court order.**

*Article 2 of the Convention. Right of employers and workers to establish and join organizations of their own choosing without previous authorization. Civil servants, prison officers and domestic workers.* In its previous comments, the Committee had noted that the Labour Act of 2007 excludes civil servants, prison officers and domestic workers from its scope (sections 3(2)(a), (c) and (d), respectively). The Committee had also noted the Government's statement that the Labour Act was in the process of being reviewed to allow these categories of workers to enjoy the rights established by the Convention. The Committee takes note of the Government's indication that the review of the Labour Act is still ongoing, and its further indication that separate statutes and regulations cover civil servants and prison officers, and that new regulations could cover domestic workers. **Recalling the need to take all necessary measures to ensure that civil servants, domestic workers and prison officers enjoy the right to establish and join organizations of their own choosing, the Committee requests the Government to provide detailed information on any developments in this respect, including any revisions in the Labour Bill to extend the right to these three groups, and the specific terms of any other laws or regulations that ensure the right is accorded to each of the three groups.**

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

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

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

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

The Committee takes note of the supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government this year, as well as on the basis of the information at its disposal in 2019.

*Scope of the Convention. Civil servants not engaged in the administration of the State, prison officers and domestic workers.* For a number of years, the Committee has been requesting the Government to indicate if the excluded employees under section 3(2) of the Labour Act (prison officers, domestic workers and civil servants not engaged in the administration of the State) were afforded the right to collective bargaining as well as adequate protection against acts of anti-union discrimination and interference. The Committee recalls that the Government had previously indicated that while the excluded employees under section 3(2) of the Labour Act 2007 are not afforded the right to collective bargaining, they are accorded equal rights under the General Order (GO), Public Service Commission Regulations and the Terms and Conditions of Service for Men and Officers in the Military. The Government had also indicated that it aimed to adopt a new Trade Union Bill 2019 in which the exclusion of these categories of workers may be reviewed to take into consideration *Articles 1 and 2* of the Convention. The Committee notes that the Government has not provided information on any developments regarding the adoption of the Trade Union Bill. **Recalling that, according to Articles 5 and 6, only members of the armed forces and the police, as well as public servants engaged in the administration of the State may be excluded from the guarantees set out in the Convention, the Committee requests the Government to provide information regarding the adoption of the Trade Union Bill and firmly expects that the rights afforded by the Convention will be ensured for prison officers, domestic workers and civil servants not engaged in the administration of the State.**

*Article 4. Measures to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or their organizations and workers' organizations.* In its previous comments, the Committee had noted that according to section 130 of the Labour Act, in order to be recognized as a sole bargaining agent, a trade union should represent a certain percentage of employees under a contract of service (30 per cent in the case of a single union and at least 45 per cent if the establishment in question employs at least 100 people; in this case, the bargaining agent could be composed of two or more trade unions). The Committee recalled that if no union in a specific negotiating unit meets the required threshold of representativeness to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. Having noted that section 131 of the Act provides that an employer may, if he or she wishes, organize a secret ballot to establish a sole bargaining agent, the Committee recalled that the determination of the representative status of organizations for the purposes of bargaining should be carried out in accordance with a procedure that offers every guarantee of impartiality, by an independent body that enjoys the confidence of the parties (see the 2012 General Survey on the fundamental Conventions, paragraph 228). On this basis, in its previous comments, the Committee underlined that the organization of a ballot for determining representativeness should be carried out by the authorities or an independent party upon a request presented by a union. The Committee therefore requested the Government to provide information on any developments in bringing the legislation into conformity with the Convention. The Committee takes note of the Government's indication that the review of the Labour Act is still ongoing and that this matter would be put before the stakeholders for consideration to be incorporated in the new Bill. **Welcoming the Government's indication, the Committee requests the Government to provide information on the progress achieved in this respect.**

*Promotion of collective bargaining in practice.* **While taking note of the information provided by the Government on two company-level collective agreements concluded in the private sector in 2014 and 2017, the Committee requests the Government to inform on the measures taken to promote collective bargaining in all sectors covered by the Convention and to provide information on the number of collective agreements concluded and in force in the country, the sectors concerned and the number of workers covered by these agreements.**

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

## Georgia

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

The Committee takes note of the observations of the Georgian Trade Union Confederation (GTUC) received on 20 September 2021 referring to the certain matters addressed by the Committee below and raising other concerns examined under the observation pertaining to the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

*Article 2 of the Convention. Minimum membership requirement.* In its previous comments, the Committee, while welcoming the amendment of section 2(9) of the Law on Trade Unions, which lowered the minimum membership requirement for establishing a trade union from 100 to 50, expressed the hope that the Government would pursue, in consultation with the social partners, efforts to assess the law's impact and would take the necessary measures to amend the law if it was found that the new minimum number required still hindered the establishment of trade unions in small and medium-sized enterprises. The Committee notes with **satisfaction** the Government's indication that section 2(9) of the Law on Trade Unions was amended on 29 September 2020 so as to further lower the minimum membership requirement for establishing a trade union to 25. The Committee notes with **interest** the GTUC indication that trade unions participated in the reform.

*Article 3. Right of workers' organizations to freely organize their activities and formulate their programmes.* The Committee had previously requested the Government to amend section 51(2) of the Labour Code according to which, the right to strike was prohibited in services connected with the safety of human life and health or if the activity "cannot be suspended due to the type of technological process", as well as Order No. 01-43/N of 6 December 2013, which determined the list of services connected with the life, safety and health (pursuant to section 51(2) of the Code) and included services which did not constitute essential services in the strict sense of the term (radio, television, municipal cleaning services, oil and gas extraction, production, oil refining and gas processing). The Committee notes with **satisfaction** that following the 2020 amendment of the Labour Code and adoption, on 7 September 2021, of the Order on Approval of the List of Essential Services, which replaced the Order of 2013, employees working for essential service providers may exercise the right to strike if they ensure that a minimum service is provided to meet the users' basic needs and ensure that the service in question operates safely and without interruption (section 66 of the Labour Code, replacing the regulation of essential services formerly contained in section 51(2)). The Committee notes that services listed in the new Order are either essential services in the strict sense of the term or services of fundamental importance in relation to which a minimum service may be established. The Committee notes that according to the new Order, the organization of the minimum service and related subjects (including the minimum number of workers providing the service) should be negotiated and agreed between the subjects of collective labour dispute and that any disagreement should be settled by the court. The Committee further notes that pursuant to section 66 of the Labour Code, the limits of a minimum service shall be determined by the Minister after consulting social partners and that in determining the limits of a minimum service, the Minister shall only take into account the work processes that are necessary for the protection of the life, personal safety, or health of society-at-large or a certain part of society.

The Committee had also previously requested the Government to review section 50(1) of the Labour Code according to which courts could postpone or suspend a strike for no more than 30 days if there existed a danger to the life or health of people, environmental safety or a third party's property as well as to activities of vital importance, and to indicate any use of this provision as relates to the suspension of a strike due to a danger to third-party property. The Committee notes with **satisfaction** that as a result of the amendments introduced in 2020, the reference to a third party's property has been deleted (section 65 of the Labour Code).

## Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1993)

The Committee takes note of the observations of the Georgian Trade Union Confederation (GTUC) received on 20 September 2021, which refer to the matters raised by the Committee below.

The Committee notes that the Labour Code has been revised in 2020.

*Articles 1 and 3 of the Convention. Adequate protection against acts of anti-union discrimination.* The Committee recalls that in its previous comments it had raised questions regarding the protection against anti-union discrimination at the time of hiring, as well as in cases of non-renewal of employment contracts.

The Committee notes the Government's indication that in 2019, changes were made to the Law on Elimination of All Forms of Discrimination. According to the Government, new provisions, pursuant to which, the principle of equal treatment, which expressly applies to members of trade unions and covers trade union activities, shall apply to labour and pre-contractual relations, were added to the Law; similar provisions were included in the Labour Code. The Government further indicates that through the amendments introduced to the Law on the Public Defender in 2020, the mandate of the Ombudsman in cases of discrimination was extended. The Committee notes the detailed information provided by the Government on the extended mandate of the Public Defender in alleged cases of discrimination, including anti-union discrimination. The Committee welcomes the new legislative amendments. In particular, it notes with **satisfaction** section 7 of the Labour Code as amended, according to which, where a job candidate or employee alleges facts and/or circumstances which give rise to a reasonable belief that an employer has violated the prohibition against discrimination, the burden of proof shall rest with the employer. The Committee also notes with **interest** sections 77 and 78 of the Labour Code, pursuant to which, any violation by an employer of the provisions prohibiting discrimination shall result in either a warning or a fine in a threefold amount provided for the violation of other provisions of the Labour Code; if the same act is committed again within one calendar year, the amount of the fine doubles. The Committee also notes with **interest** that by virtue of sections 5 and 47 of the Labour Code, the prohibition of anti-union discriminations also covers termination of employment due to the expiration of an employment contract. While noting with **interest** that section 48 of the Labour Code imposes an obligation on an employer, upon request by an employee, to substantiate in writing the grounds for terminating employment, the Committee understands that this obligation does not apply to cases of non-renewal of a contract. The Committee takes note of the information provided by the Government on the number of cases of anti-union discrimination examined. **The Committee requests the Government to provide information on the application in practice of the amended legislative provisions, including on the number of complaints of anti-union discrimination at the time of hiring and non-renewal of employment contracts and the fine imposed and their amounts.**

*Article 2. Interference by employers in internal trade union affairs.* In its previous comments, recalling the need for the legislation to make express provision for rapid appeal procedures, coupled with effective and dissuasive sanctions for acts of interference against workers' and employers' organizations, the Committee had requested the Government to indicate the provisions providing for the remedies and/or sanctions for violation of (previous) section 40.3 of the Labour Code and section 5 of the Law on Trade Unions, which prohibited all forms of interference and provided for independence of trade union organizations from employers and their organizations. The Committee had requested the Government to provide any administrative or judicial decision in this respect.

The Committee notes the Government's indication that pursuant to section 26 of the Law on Trade Unions, cases of violation of trade union rights shall be considered by courts and that pursuant to section 27(2) of that Law, trade unions and their associations, as well as trade union members have the right to file claims or complaints with a court in cases of violation of the legislation, or fail to fulfil

obligations set out in collective agreements. In addition, section 166 of the Criminal Code provides for liability for unlawful interference with the establishment of public associations or with their activities committed with violence, threat of violence or the use of official position, and punishes such acts by a fine or corrective labour for a term of up to one year or house arrest for a term of six months to two years, or by imprisonment for a term of up to two years. The Committee also notes the fines provided for in above-mentioned section 77 for the violation of the provisions of the Labour Code, including its new section 54, which prohibits interference in the activities of employers' associations and employees' associations in each other's activities. The Committee notes the Government's indication that during the reporting period, the courts of Georgia did not consider any cases of alleged interference. **The Committee requests the Government to keep providing information in this regard.**

The Committee recalls that it had previously expressed the hope that steps would be taken by the Government to ensure that compliance with the rights enshrined in the Convention was subject to monitoring by the public authorities. The Committee notes with **interest** sections 75 and 76 of the Labour Code as amended, which designate the Labour Inspection Service as the body responsible for State supervision over compliance with the labour legislation.

*Article 4. Promotion of collective bargaining.* The Committee had previously requested the Government to provide information on any progress made towards strengthening the labour administration and institutionalizing social dialogue and in particular on the adoption of the amendment of Decree N301 on Labour Dispute Settlement Procedures, in consultation with the social partners. The Committee notes the information provided by the Government on the number of conciliation procedures during the reporting period and their success rate, as well as on the training of 15 participants on collective bargaining disputes. **In the absence of information regarding the adoption of the amendment of Decree N301, the Committee requests the Government to provide information on the developments in this regard.**

The Committee had also requested the Government to provide information on all progress made in ensuring that the content of section 48(5) of the Labour Code, which provided that at any stage of a dispute, the Minister can terminate conciliatory procedures, promoted the negotiated resolution of collective labour disputes. The Committee notes that section 63(5) of the amended Labour Code is to the same effect. It further notes the Government's explanation that the right of the Minister to terminate the conciliation procedures is a consequence of his or her right to appoint a dispute mediator and to commence conciliatory procedures. The Committee notes that the GTUC raises several concerns regarding the right of the Minister to terminate conciliatory procedures without regard to the opinion of the parties to the dispute. **The Committee requests the Government to take the necessary steps, in consultation with the social partners, to review section 63(5) of the Labour Code so as to ensure that it promotes the negotiated resolution of collective labour disputes. It requests the Government to provide information on all developments in this regard.**

The Committee notes the information provided by the Government on the number of collective agreements in force and workers covered. **It requests the Government to continue providing such information in its reports. The Committee also requests the Government to provide its comments on the alleged by the GTUC violations of collective bargaining rights at a number of enterprises.**

## Germany

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

The Committee notes the observations of the Confederation of German Employers' Associations (BDA) and the German Confederation of Trade Unions (DGB), received on 31 August 2021 and referring to the matters addressed below.

*Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes.* The Committee recalls that it has been requesting for a number of years the adoption of measures to recognize the right of public servants who are not exercising authority in the name of the State to have recourse to strike action. The Committee had previously noted with interest a 2014 ruling handed down by the Federal Administrative Court holding that, given that the constitutional strike ban depends on the status group and is valid for all civil servants (Beamte) irrespective of their duties and responsibilities, there is a collision with the European Convention on Human Rights (ECHR) in the case of civil servants (Beamte) who are not active in genuinely sovereign domains (hoheitliche Befugnisse), for instance teachers in public schools, and this collision should be solved by the federal legislator; and that, in the case of civil servants (Beamte) who exercise sovereign authority, there is no collision with the ECHR and thus no need for action. The Committee also noted that in its 2015 ruling, the Federal Administrative Court confirmed that it is the task of the federal legislator to establish a balance between the incompatible requirements of article 33(5) of the Basic Law and Article 11 of the ECHR and that, as long as this has not been done, the public-law strike prohibition continues to apply and is a disciplinary rule.

In its previous comment, having noted that a complaint had been raised before the Federal Constitutional Court in relation to the 2014 Federal Administrative Court judgment, the Committee requested the Government to provide a copy of the decision of the Federal Constitutional Court, as well as any other pending decision issued by it on the subject. In view of the collision ascertained by the Federal Administrative Court between article 33(5) of the Basic Law and Article 11 of the ECHR and in light of the persisting need highlighted by the Committee for many years to bring the legislation into full conformity with the Convention with regard to the same aspect, the Committee once again requested the Government to: (i) refrain, pending the relevant decision of the Federal Constitutional Court, from imposing disciplinary sanctions against civil servants not exercising authority in the name of the State (such as teachers, postal workers and railway employees) who participate in peaceful strikes; and (ii) to engage in a comprehensive national dialogue with representative organizations in the public service with a view to finding possible ways of aligning the legislation with the Convention.

The Committee notes the Government's indication that in its decision of 12 June 2018 (Case No. 2 BvR 1738/12), the Federal Constitutional Court held, contrary to the 2014 judgment of the Federal Administrative Court, that: (i) for civil servants, irrespective of their duties, the strike ban amounts to an independent traditional principle of the career civil service system (*Berufsbeamtentum*) within the meaning of article 33(5) of the Basic Law, which justifies an overriding of freedom of association; (ii) this is closely linked to the civil service principle of alimentation (*Alimentationsprinzip*), according to which civil servants are paid salary commensurate with the civil service position, and also to the duty of loyalty, the principle of lifetime employment and the principle that the legal relationship under civil service law (including remuneration) must be regulated by the legislature; (iii) there is no need for an express legal provision concerning a strike ban for civil servants; (iv) the strike ban for civil servants in Germany is consistent with the principle of interpreting the Basic Law in a manner compatible with international law, as well as with guarantees of the ECHR, as there is no identifiable conflict between German law and Article 11 of the ECHR; and (v) regardless of the question of whether the strike ban for civil servants actually represents an encroachment on Article 11(1) of the ECHR, it would in any case be justified either under the first or the second sentence of Article 11(2) based on the particularities of the German system of the career civil service. The Committee further observes from the text of the ruling that the Federal Constitutional Court opined that: (i) granting the right to strike, even for certain groups of civil servants only, would trigger a chain reaction with regard to the structuring of the civil service, would fundamentally change the system of German civil service law and would interfere with the core of the structural principles guaranteed under article 33(5) of the Basic Law; (ii) dividing civil servants into groups that have or do not have the right to strike based on their different functions would entail difficulties of distinction that are connected to the concept of public authority and would create a special

category of civil servants with the right to strike or civil servants subject to collective agreements, who would be given the possibility of enforcing demands regarding their working conditions through labour dispute measures where applicable, while keeping their civil servant status – this would raise the question to what extent this category of personnel could still be regarded as having the legal status of civil servants; and (iii) to compensate for the civil servants' lack of possibility to influence their employment conditions by measures of labour dispute, article 33(5) of the Basic Law affords them, among others, the subjective public right to have the constitutionality of their alimentation reviewed in court, which would be almost completely meaningless if civil servants had the right to strike. The Government adds that proceedings against the strike ban for civil servants are currently ongoing before the European Court of Human Rights.

The Committee notes the observations of the BDA in this respect, pointing to the 2018 decision of the Federal Constitutional Court and indicating that although the concept of freedom of association also includes the right to industrial action (strike and lock-out), this Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) do not regulate or expressly provide for a right to strike. According to the BDA, the manner in which industrial action is organized in practice is always regulated in line with the particular Conventions but at the national level. The Committee also notes the observations of the DGB, claiming that there should be no absolute exclusion of civil servants from the right to strike irrespective of their duties and that a strike ban based on status, as established by the Federal Constitutional Court, represents a hindrance to any practical concordance between articles 9(3) and 33 of the Basic Law. The DGB argues that a genuine balancing exercise would mean that the strike ban can only remain in place for those officials who genuinely exercise the sovereignty of the State and that civil servants who do not genuinely exercise the sovereignty of the State must benefit from the right to strike to preserve and promote their employment conditions.

The Committee takes due note of the ruling of the Federal Constitutional Court that for civil servants, irrespective of their duties, the strike ban amounts to an independent traditional principle of the career civil service system within the meaning of section 33(5) of the Basic Law, which justifies an overriding of freedom of association. Moreover, the Committee wishes to make clear that its task is not to judge the validity of the Court decision of 12 June 2018 (Case No. 2 BvR 1738/12), which is based upon issues of German national law and precedents. The Committee's task is to examine the outcome of this decision on the recognition and exercise of the workers' fundamental right to freedom of association. In this regard, the Committee observes with **regret** that the result of the Court's decision is not in keeping with the Convention, inasmuch as it amounts to a general ban on the right to strike of civil servants based on their status, irrespective of their duties and responsibilities, and in particular a ban on the right of civil servants who are not exercising authority in the name of the State (such as teachers, postal workers and railway employees) to have recourse to strike action. ***In view of the above, the Committee encourages the Government to continue engaging in a comprehensive national dialogue with representative organizations in the public service with a view to finding possible ways of aligning the legislation more closely with the Convention. Further noting that proceedings against the strike ban for civil servants are currently ongoing before the European Court of Human Rights, the Committee requests the Government to provide information on the resulting decision and on any impact it may have at the national level.***

The Committee previously noted with interest that, in relation to the 2012 DGB observations denouncing the lack of a general prohibition of the use in non-essential services of temporary workers as strike breakers, national legislation had been amended to ensure that the receiver was no longer allowed to hire agency workers as strike breakers (according to section 11(5) of the Manpower Provision Act, in effect from 1 April 2017, the receiver shall not allow agency workers to work if the business is directly involved in a labour dispute). The Committee notes with **interest** the Government's indication in this respect that: (i) the deployment of agency workers in industries affected by industrial action is only possible if there is an assurance that they will not take over the jobs of those on strike, either directly or

indirectly; (ii) a constitutional complaint against this provision had been brought before the Federal Constitutional Court, claiming that there was a breach of the employer's freedom of association in that its defences (specifically the use of agency workers during industrial action) were being illegitimately constrained, amounting to undue interference in the ability to carry out a profession; and (iii) in its decision of 19 June 2020 (Case No. 1 BvR 842/17), the Federal Constitutional Court found that the regulation concerned was constitutional and the applicant's rights had not been infringed.

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

The Committee notes the observations of the Confederation of German Employers' Associations (BDA) and the German Confederation of Trade Unions (DGB), received on 31 August 2021, which mainly relate to matters examined by the Committee under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

*Articles 4 and 6 of the Convention. Right to collective bargaining with respect to conditions of employment of public servants not engaged in the administration of the State.* The Committee recalls that it has been requesting, for a number of years, the adoption of measures to ensure that public servants who are not engaged in the administration of the State, enjoy the right to collective bargaining. The Committee had previously noted with interest a 2014 ruling handed down by the Federal Administrative Court holding that, while the prohibition of collective bargaining deriving from article 33(5) of the Basic Law is linked to the civil servant status and applies to all civil servants irrespective of their duties, Article 11(2) of the European Convention on Human Rights (ECHR) provides that restrictions to freedom of association could only be justified by the relevant function of the civil servant; and that, in the case of civil servants not exercising sovereign authority of the State, for instance teachers in public schools, there is a collision, which needs to be solved by the federal legislator. According to the Federal Administrative Court, in view of the collision between article 33(5) of the Basic Law and Article 11 of the ECHR, the federal legislator needed to considerably broaden, in public service domains that were not characterized by the exercise of genuinely sovereign authority, the participation rights of trade unions of civil servants towards a negotiation model.

In its previous comment, having noted that a complaint had been raised before the Federal Constitutional Court in relation to the 2014 Federal Administrative Court judgment, the Committee requested the Government to provide a copy of the decision of the Federal Constitutional Court, as well as any other pending decision issued by it on the subject. It also requested the Government once again to engage in a comprehensive national dialogue with representative organizations in the public service with a view to exploring innovative solutions and possible ways in which the current system could be developed so as to effectively recognize the right to collective bargaining of public servants who are not engaged in the administration of the State, including for instance, as indicated by the BDA, by differentiating between areas of genuinely sovereign domains and areas where the unilateral regulatory power of the employer could be restricted to extend the participation of representative organizations in the public service.

The Committee notes the Government's indication that in its decision of 12 June 2018 (Case No. 2 BvR 1738/12) the Federal Constitutional Court held that: (i) the universal freedom of association derived from article 9(3) of the Basic Law does not contain exclusions for specific professions and therefore applies unconditionally not only to public sector workers but also to civil servants; (ii) this does not mean, however, that any restrictions to freedom of association are automatically excluded, as even fundamental rights may be restricted as a result of conflicting third-party rights and other rights with constitutional status; (iii) the traditional principle of the career civil service system guaranteed by article 33(5) of the Basic Law amounts to one such restriction with constitutional status; (iv) the ban on the involvement of civil servants in collective bargaining is closely linked to the duty of loyalty, the principle of lifetime employment and the civil service principle of *Alimentationsprinzip*, which

requires employers to provide civil servants and their families with reasonable lifetime remuneration and a standard of living corresponding to their seniority, the level of responsibility associated with their office and the relevance of the career civil service to the general public, in line with economic and financial growth in general; (v) the entirely objective guarantee of a reasonable standard of living under article 33(5) of the Basic Law establishes an individual right each civil servant holds vis-à-vis the State, equivalent to a fundamental right, to have the constitutionality of their alimentation reviewed in court; and (vi) the ban on civil servants taking part in collective bargaining thus follows from the traditional principle of the career civil service system but the individual right nevertheless enables those affected to uphold their constitutional status (including in court) and to enforce the obligation of the employer to provide reasonable remuneration. The Government adds that proceedings are currently ongoing before the European Court of Human Rights relating to the strike ban for civil servants examined by the Committee under Convention No. 87.

The Committee notes the observations of the DGB in this respect, pointing to the 2018 decision of the Federal Constitutional Court and asserting that the principle of alimentation applicable to the individual civil servant creates a direct right to be paid commensurate with their position and having to enforce this claim in court in case of infringement is not compatible with this principle, especially considering that proceedings before administrative courts are so protracted that it is not reasonable to expect the person affected to take legal action.

The Committee takes due note of the 2018 ruling of the Federal Constitutional Court. The Committee observes that it results in a ban on the involvement of all civil servants in collective bargaining. The Committee **regrets** that public servants not engaged in the administration of the State are thus deprived of the right to bargain collectively granted to them by the Convention. The Committee recalls in this regard that it has been highlighting for many years that, pursuant to *Articles 4 and 6* of the Convention, all public service workers, other than those engaged in the administration of the State, should enjoy collective bargaining rights. It also emphasizes that while the determination of wages is an important element of the scope of collective bargaining, other terms and conditions of work and employment also fall within its scope. ***In view of the above, the Committee encourages the Government to continue engaging in a comprehensive national dialogue with representative organizations in the public service with a view to exploring innovative solutions and possible ways in which the current system could be developed so as to effectively recognize the right to collective bargaining of public servants who are not engaged in the administration of the State, including for instance, as previously indicated by the BDA, by differentiating between areas of genuinely sovereign domains and areas where the unilateral regulatory power of the employer could be restricted to extend the participation of representative organizations in the public service. Further noting that proceedings are currently ongoing before the European Court of Human Rights in relation to the ban on the right to strike of civil servants and observing that it may also have repercussions on the right of civil servants to bargain collectively, the Committee requests the Government to provide information on the resulting decision and on any impact it may have at the national level.***

## Ghana

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

*Articles 2 and 3 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations of their own choosing. Right of workers' organizations to organize their activities in full freedom.* The Committee recalls that, for many years, it has been requesting the Government to take the necessary measures to amend the following provisions of the 2003 Labour Act and its 2007 Regulations:

- section 79(2), which excludes persons performing managerial and decision-making functions from the right to establish and join organizations of their own choosing;
- section 1, which excludes prison staff from the scope of application and therefore from the right to establish and join organizations of their own choosing;
- section 80(1), which provides that two or more workers may establish or join a trade union if they are in the same “undertaking”, defined in section 175 of the same Act as “the business of any employer”;
- section 80(2), which provides that employers must employ not less than 15 workers to establish or join an employers’ organization;
- section 81, which does not explicitly authorize trade unions to form or join confederations;
- sections 154–160, which do not set any time limit with regard to mediation;
- section 160(2), under which collective disputes are referred to compulsory arbitration if they are not resolved within seven days; and
- section 20 of the 2007 Regulations which sets out too broad a list of essential services.

The Committee notes that the Government indicates in its report that the social partners have started to review the labour legislation and are submitting their contributions to the text that will subsequently become law. ***The Committee expects that the Government, in consultation with the social partners, will soon complete the review of the labour legislation and ensure that it is brought into full conformity with the Convention, in light of the comments that the Committee has been making for many years. The Committee requests the Government to provide information on any progress and a copy of the legal texts adopted. The Committee reminds the Government that it may request technical assistance from the Office.***

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

*Articles 1 and 3 of the Convention. Adequate protection against anti-union discrimination.* In its previous observation, the Committee requested the Government to provide detailed information on the nature and outcome of the inquiries carried out into a series of allegations of anti-union discrimination made by the International Trade Union Confederation (ITUC) in 2009 and 2011. The Committee notes that the Government indicates that after an investigation, the allegations were considered to be unfounded. It briefly indicates that the investigation showed that an employer refused to allow its workers to unionise, which created a misunderstanding between the workers and the employer. However, the situation was settled amicably and the workers have been unionised ever since. The Government added that there have been no discrimination problems in the country. The Committee takes due note of the information provided by the Government concerning one specific case of alleged anti-union discrimination. ***Highlighting that the absence of anti-union discrimination complaints may be due to reasons other than an absence of anti-union discrimination acts and recalling the allegations raised by the ITUC concerned a series of different instances, the Committee requests the Government to take the necessary measures to ensure that, on the one hand, the competent authorities take fully into account in their control and prevention activities the issue of anti-union discrimination, and that on the other hand, the workers in the country are fully informed of their rights regarding this issue. The Committee requests the Government to provide information on measures taken in this regard, as well as any statistics concerning the anti-union discrimination acts reported to the authorities and the decisions taken in this respect.***

*Article 4. Collective bargaining certification.* In its previous comments, the Committee requested the Government to indicate the procedure to be followed in the event that no consensus is reached by all the stakeholders concerning the mode of verification and venue of elections for the determination of the most representative union. The Committee notes that the Government indicates that if consensus

is not reached, the National Labour Commission (NLC) decides on the matter. While noting that section 10(3) of the Labour Regulations, 2007 does not provide the procedure to be followed by the NLC, the Committee recalls that the criteria to be applied to determine the representative status of organizations for the purpose of bargaining must be objective, pre-established and precise so as to avoid any opportunity for partiality or abuse (see the 2012 General Survey on the fundamental Conventions, paragraph 228). ***The Committee therefore requests the Government, after consulting the representative organizations of workers and employers, to take the necessary legislative or regulatory initiatives so as to ensure that the procedure concerning the mode of verification and venue of elections for the determination of the most representative union fully complies with the Convention. The Committee requests the Government to provide information in this respect.***

*Article 5. Prison staff.* In its previous comments, the Committee requested the Government to take the necessary measures to ensure that prison staff enjoyed the right to organize and bargain collectively whether through an amendment to the Labour Act or other legislative means. The Committee takes due note of the Government's indication that it is examining the revision of the Labour Act in tripartite consultations. The Committee hopes that the Government and the social partners will reach an agreement to amend the legislation along the lines that the Committee has been suggesting for years. ***The Committee requests the Government to provide any information on the results of the consultative process in the near future. The Committee reminds the Government that it may avail itself of the technical assistance from the Office.***

*Collective bargaining in practice.* The Committee 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.

## Greece

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

The Committee takes note of the detailed observations provided by the Hellenic Federation of Enterprises and Industries (SEV) and by the Greek General Confederation of Labour (GSEE), in communications received respectively on 31 August 2021. ***The Committee requests the Government to reply in detail to both these communications.***

The Committee also takes note of the joint observations of the SEV and the International Organisation of Employers (IOE) received in 2019 and 2020, as well as of the GSEE observations received in 2019. The Committee notes the Government's comments thereon.

*Article 4 of the Convention. Promotion of collective bargaining.* The Committee recalls that its previous comment followed up on the 2018 conclusions of the Conference Committee on the Application of Standards (the Conference Committee) concerning the compulsory arbitration system. The Committee notes the detailed information provided by the Government concerning the adoption of Act No. 4635/2019, which replaces the previous article concerning arbitration with article 57 permitting recourse to unilateral arbitration as a last resort and a subsidiary means of resolving collective labour disputes only in the following cases: (1) if the collective dispute concerns public interest or public utility enterprises the operation of which is vital for meeting the basic needs of society as a whole; and (2) if the collective dispute concerns collective bargaining between the parties which has definitively failed, the resolution which shall be imposed by reasons of general social or public interest related to the Greek economy. The Committee further notes that the definitive failure of collective bargaining is deemed to exist where the regulatory validity of any existing collective agreement has expired, any other means of conciliation and trade union action have been exhausted and the party seeking unilateral arbitration has participated in the mediation procedure and accepted the mediation

proposal, and where the application for arbitration contains a full reasoning for the existence of conditions justifying the request. The Government reiterates the country's longstanding respect and commitment to its international obligations and notes that it has benefited from the technical assistance of the ILO which further covered individual and collective labour dispute settlement systems.

The Committee further notes that the SEV acknowledges that this change in the application of the Convention was intended to align the current legal framework concerning compulsory arbitration with the decisions of the ILO.

However, according to the SEV, the recent law does not abolish compulsory arbitration, but only restricts its use by laying down procedural requirements. While the law refers to compulsory arbitration "as a last resort and a subsidiary means of dispute resolution", the SEV asserts that this remains to be proved in application. The SEV adds that these changes do not restrict the scope for compulsory arbitration to enterprises "whose operation is vital to serve the basic needs of the community" but covers a wider range of sectors and extends it to a broader set of companies in the private sector. Additionally, the SEV alleges that while the new terms of the law add to previous conditions and obligations of "full and substantiated reasoning" the need for the arbitrator to take into account in particular the economic and financial aspects, the development of competitiveness and the financial situation of the weaker productive enterprises, to which the collective difference relates, the progress in reducing the competitiveness gap and the reduction in unit labour costs, these obligations have not been complied with by the arbitrators in recent years. The SEV considers that it is crucial that the applicable law is strictly observed and suggests that technical assistance and training under the auspices of the ILO may help in that regard. The SEV reiterates its position that the continuous application of unilateral recourse to compulsory arbitration highly undermines collective labour relations, distorts free collective bargaining and impedes the efficient function of the labour market. SEV has long advocated for free collective bargaining, which should be a tool for securing a growth outlook on new production and competitiveness bases. The existing system has highlighted its shortcomings and in its view has contributed decisively to the economic and social crisis. The SEV proposes the creation of an independent collective body, solely supervised and managed by the social partners. In its view, dispute resolution body must be separated from the supervision of the State and the Ministry of Labour. The social partners have kept the social dialogue active despite all the difficulties. As collective dispute resolution mechanisms are an extension of collective bargaining, it is important, in the context of enhancing social dialogue, to remain independent, impartial and objective, with administration and management that will contribute to the proper functioning of the labour market and avoid distortions and mistakes of the past.

The Committee notes the Government's reply that it has fought to strike a balance between longstanding requests of social partners and its international obligations in line with the Committee's previous observations. The Committee recalls once again that compulsory arbitration is only acceptable in certain specific circumstances, namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis (see 2012 General Survey on the fundamental Conventions, paragraph 247). The Committee takes due note of the further steps taken to restrict the use of compulsory arbitration in Act No. 4635/2019 and of the continuing concerns of the SEV both as to the insufficiency of these steps and their inadequate practical application. ***In particular, the Committee observes that the proposal from the SEV for an arbitration system to be managed solely by the social partners highlights its concern that such a system can only be effective if it is independent and impartial and perceived to be so by both parties. The Committee considers that it is essential that all members of bodies entrusted with mediation and arbitration functions should not only be strictly impartial, but if the confidence of both***

**sides on which the successful outcome of compulsory arbitration depends is to be gained and maintained, they should also appear to be impartial both to the employers and workers concerned. The Committee therefore invites the Government to continue to engage with the social partners, and to consider all possible options to bring this mechanism into full compliance with the obligation to promote free and voluntary collective bargaining. The Committee requests the Government to provide detailed information on the steps taken in this regard and reminds it that it may avail itself of ILO technical assistance.**

*Extension of collective agreements.* The Committee notes that section 56 of Act No. 4635/2019 sets out the requirements for an application for extension of a collective agreement to include the applications emanating from a party bound to the agreement and documentation regarding the effect of the extension on competitiveness and employment. In making its decision, the Supreme Labour Council must deliver a reasoned opinion taking these elements into account and may exempt enterprises facing serious financial problems or in a process of restructuring.

The Committee further notes the SEV's observations that the revival of the ministerial right to extend the coverage of sectoral agreements during the period 2018–21 has given rise to a number of violations in practice, including: a violation of the existing legal framework concerning the procedure followed by the Government in order to check and certify the actual coverage of the employees concerned by a collective labour agreement and, therefore, its sufficient representativeness for extension; a lack of sufficient transparency on the representativeness check; in most cases none of the employers' associations concerned submitted a request for extension; none of the employers concerned, to whom the agreement was applicable, were given the opportunity to submit their observations; and only recently have the signatories been asked to consult about the extension and provide their views about the possible extension of the collective agreement. The SEV asserts that this new approach should be established and become a standard practice. Lastly, the SEV considers that new legal provision of section 56 of Act No. 4635/2019 backtracks from the previous ministerial circular, that had been based on a mutual agreement of the national social partners with the Ministry of Labour, which restricted the extension to sectoral collective agreements and excluded arbitral awards and redefines the terms and conditions for the extension of collective agreements.

The Committee recalls Paragraph 5(2) of the Collective Agreements Recommendation, 1951 (No. 91), which provides that: national laws or regulations may make the extension of a collective agreement subject to the following, among other, conditions: (a) that the collective agreement already covers a number of the employers and workers concerned which is, in the opinion of the competent authority, sufficiently representative; (b) that, as a general rule, the request for extension of the agreement shall be made by one or more organizations of workers or employers who are parties to the agreement; and (c) that, prior to the extension of the agreement, the employers and workers to whom the agreement would be made applicable by its extension should be given an opportunity to submit their observations. **The Committee requests the Government to reply to the detailed allegations made by the SEV in respect of the procedure established by Act No. 4635/2019 and its practical application.**

*Conflict of collective agreements.* The Committee notes the additional information provided by the Government in relation to section 55 of Act No. 4635/2019 concerning the concurrence of collective agreements which provides that enterprise-level collective agreements shall prevail over sectoral agreements exceptionally in the case of enterprises facing serious financial problems or in the process of restructuring. **The Committee requests the Government to provide information on the manner in which this provision is applied in practice, along with any opinions issued by the Supreme Labour Council in this regard and any statistics as to its use. The Committee further requests the Government to reply to the GSEE allegations that Act No. 4808/2021 sets out a new restriction of the right to free collective bargaining and the conclusion of collective agreements by introducing new criteria of representativeness, competence, existence, legal nature or status of workers' and employers' organizations, and the prohibition of the exercise of collective rights until the issuance of a final court**

### **ruling and the abolition of the determination of pay terms and conditions by the National General Collective Agreement.**

*Enterprise-level collective agreements and associations of persons.* The Committee recalls its previous comments concerning Act No. 4024/2011 which provided that, where there is no trade union in the company, an association of persons is competent to conclude a company-level collective agreement and its request to the Government to indicate the steps taken to promote collective bargaining with trade unions at all levels. The Committee notes the statistical information provided by the Government which, it states, demonstrates a downward trend in the collective labour agreements concluded with associations of persons (from 137 in 2018 to 25 in 2020 and 20 in the first half of 2021) and an increasing number of agreements with enterprise-level unions (165 concluded in 2018, 134 in 2020 and 74 in the first half of 2021). The Committee observes however that the GSEE continues to raise concerns of the ongoing endorsement of associations of persons and their competence to exercise fundamental collective rights. **While appreciating the statistical information provided, the Committee is bound once again to recall the importance of promoting collective bargaining with workers' organizations, and requests the Government once again to indicate the steps taken to promote collective bargaining with trade unions at all levels, including by considering, in consultation with the social partners, the possibility of trade union sections being formed in small enterprises.**

*Digital platform workers.* While duly noting the GSEE's concern that the legislation tends towards a presumption of non-dependent employment relationship for digital platform workers, the Committee notes with **interest** that, as regards freedom of association, the law provides trade union rights also for those with independent contractor status, including the right to organize, bargain collectively and strike. **The Committee requests the Government to provide information on the application in practice of the collective rights granted to digital platform workers.**

*Articles 1 and 3. Adequate protection against anti-union dismissal.* The Committee notes the statistical information provided by the Government, in reply to its previous request, indicating that there was a total of 187 complaints of anti-union discrimination submitted to the Regional Directorates of the Labour Inspectorate for the period 1 January 2018 to 31 May 2021, 76 of which concerned complaints of impediment to trade union activity and 111 concerned protection of trade unionists (for example, cases of trade unionist dismissal). Sixty-five complaints have been resolved following recommendations from the labour inspectors, criminal complaints were drawn up in 32 cases and no solution was reached for 76 cases which have been referred to the civil courts. The Government adds that ten fines were imposed totalling €66,300. **The Committee notes the comments of the GSEE that there has been a diminishing level of protection for trade union members and officers, and requests the Government to reply to these allegations and continue to provide information and statistics relating to complaints of anti-union discrimination and any remedial action taken.**

## **Grenada**

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1994)**

*Article 2 of the Convention. Minimum membership requirements for employers' and workers' organizations.* In its previous comments, the Committee had requested the Government to take measures to reduce the number of members (ten) required for the registration of an employers' organization (sections 5(2) and 9(1)(e) of the Labour Relations Act of 1999). The Committee had recalled that the minimum requirement of ten employers to form an employers' organization was excessive and capable of hindering the creation of employers' organizations, particularly given the country's relatively small size. The Committee had noted the Government's indication that the Labour Relations Act was in the process of being revised, including with respect to a reduction of the employer organizations' membership requirement from ten to three. The Committee notes the Government's indication that the

Labour Relations Act is still before the Labour Advisory Board for finalization. As to workers organizations, the Committee had noted the Government's indication that the minimum membership requirement for the registration of a trade union was of seven members, but observed that sections 5(1) and 9(1)(e) of the Labour Relations Act provide for a minimum membership of 25 members for the registration of a trade union. The Committee had requested the Government to indicate whether these provisions had been amended, and noted the Government's reply that the two provisions were being reviewed. The Committee notes the Government's indication that the matter will be discussed in the ongoing consultations on the Labour Relations Act, which is currently under review by the Labour Advisory Board.

Recalling the importance of ensuring that the minimum membership number for employers' and workers' organizations be fixed in a reasonable manner so that the establishment of organizations is not hindered, and that the Government has been referring to related revisions of the Labour Relations Act in its reports dating back to 2015, the Committee urges the Government to provide information as to the result of the legislative revision process in this respect.

*Prison officers.* The Committee had noted in its previous comments the Government's indication that prison officers were prevented from joining organizations of their own choosing. The Committee had recalled that, in accordance with *Article 2* of the Convention, the right to establish and join occupational organizations should be guaranteed for all public servants and officials, and that, under *Article 9(1)* of the Convention, the only authorized exceptions from the scope of application of the Convention are members of the police and the armed forces. The Committee notes the Government's indication that an organization represents the prison officers and negotiates on their behalf. ***The Committee requests the Government to provide detailed information in this regard, including the applicable legal provisions guaranteeing that prison officers benefit from the rights and guarantees set out in the Convention and the results of any negotiations by the identified organization on behalf of prison officers.***

The Committee trusts that the revision of the Labour Relations Act will soon be completed and will take fully into account the above-mentioned considerations to ensure conformity with the Convention. ***It requests the Government to provide a copy of the revised Act once adopted.***

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)

The Committee notes the observations of the International Trade Union Confederation (ITUC) and the joint observations of the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala, both received on 1 September 2021, relating to matters examined in the present comment. The Committee also notes the Government's replies to these observations. The Committee further notes the Government's comments on the matters raised in 2020 by the national trade union federations on the impact of the COVID-19 pandemic on the application of the Convention.

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

The Committee recalls that: (i) on the basis of the Governing Body's decision adopted in November 2018 (Decision GB.334/INS/9) to close the procedure of the complaint made under article 26 of the ILO Constitution alleging the violation of the Convention by the State of Guatemala, the Governing Body

requested the Office to draw up a technical cooperation programme to promote progress in the application of the Road Map adopted in 2013 within the framework of the follow-up to the complaint; and (ii) at its 340th Session (October–November 2020), the Government Body welcomed the adoption of the technical cooperation programme, “Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards” and requested the Office to report annually on its implementation at its October–November sessions for the duration of the three-year programme (Decision GB.340/INS/10).

The Committee notes the discussions at the 343rd Session of the Governing Body (October–November 2021) on the implementation of the technical cooperation programme and the decision of the Governing Body to note the information provided by the Office on this subject (Decision GB.343/INS/7)

*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. The Committee also notes that the Committee on Freedom of Association examined at its session in October 2021 Case No. 2609, which brings together denunciations of acts of anti-union violence, including a very high number of murders of members of the trade union movement between 2004 and 2021 (see 396th Report, October 2021, Case No. 2609, paragraphs 307–348).

The Committee notes the information provided by the Government on the situation with regard to the investigations and prosecutions relating to the murders of 96 members of the trade union movement and its indications that: (i) 28 verdicts have so far been handed down, including 22 convictions (in relation to 19 murders, with three cases giving rise to two convictions each), five charges have been set aside and one security and remedial measure has been adopted; (ii) seven arrest warrants are still pending; (iii) three cases are at the stage of public hearings and trials; (iv) the criminal prosecutions lapsed in six cases in which the accused died; and (v) the other cases are still at the investigation stage. The Committee also notes the Government’s indication that progress was reported in 2020 in 13 cases that are under investigation. The Committee also notes the information provided by the Government on the security measures taken for members of the trade union movement who are at risk, in the context of which: (i) 55 risk analyses were carried out for members of the trade union movement during the course of 2020, with one personal security measure being provided and 47 perimeter security measures; and (ii) between 1 June and 31 August 2021, 19 risk analyses were carried out for members of the trade union movement, with 15 perimeter security measures being adopted.

The Committee also notes that the Government refers to its replies provided in the context of Case No. 2609. The Committee takes due note in this regard of the detailed information provided by the Government on the active role played by the National Tripartite Committee on Labour Relations and Freedom of Association (hereinafter the National Tripartite Committee) and its Subcommittee on the Implementation of the Road Map in monitoring the response of the criminal justice system to acts of anti-union violence. The Committee takes special note in this respect of the high-level meetings held by the National Tripartite Committee with the Office of the Public Prosecutor and the plenary of the Supreme Court, and that the Subcommittee on the Implementation of the Road Map specifically requested the competent authorities to ensure: (i) the exhaustive investigation of all cases of murders of members of the trade union movement, with emphasis on a series of 36 cases of special relevance; (ii) the reactivation of the Technical Trade Union Forum in the Office of the Public Prosecutor and the Standing Technical Trade Union Forum for Comprehensive Protection in the Ministry of the Interior; (iii) the facilitation by the judicial authorities of current prosecutions for murders of members of the trade union movement; (iv) the assignment of a criminal analysis unit to the Special Prosecutor’s Unit for Crimes against Trade Unionists; and (v) the strengthening of collaboration between the Office of the

Public Prosecutor and the Ministry of the Interior in cases of requests for protection measures by members of the trade union movement.

The Committee takes due note of this information. It also observes that, despite the difficulties caused by the COVID-19 pandemic, two new convictions were handed down in 2021 in relation to murders of members of the trade union movement. At the same time, the Committee notes with **deep concern**: (i) the Government's indications that the Office of the Public Prosecutor recorded six new cases of murders of members of the trade union movement in 2020; and (ii) the observations of the national trade union confederations and the ITUC denouncing the murder on 7 May 2021 of Ms Cinthia del Carmen Pineda Estrada, a trade union leader of the Education Workers' Union of Guatemala (STEG), as well as other serious acts of anti-union violence committed in 2020 and 2021. While noting the Government's replies in relation to the investigations carried out into these crimes, the Committee once again recalls that trade union rights can only be exercised in a climate free from violence, intimidation and threats of any kind against trade unionists and that it is for governments to ensure that this principle is respected.

In light of the above, while taking due note of the action that the Government is continuing to take, the results reported and the difficulties involved in shedding light on the oldest murder cases, the Committee once again expresses **deep concern** at the allegations of further murders and other acts of anti-union violence committed in 2021 and the persistence of a high level of impunity, as there have still been no convictions for the great majority of the numerous recorded murders of members of the trade union movement. **Emphasizing the importance of the initiatives called for by the Subcommittee on the Implementation of the Road Map, the Committee once again urges the Government to continue to take and intensify as a matter of urgency all the necessary measures to: (i) investigate all acts of violence against trade union leaders and members with a view to determining responsibilities and punishing the perpetrators and instigators of these acts, taking the trade union activities of the victims fully into account in the investigations; and (ii) provide prompt and effective protection for all trade union leaders and members who are at risk in order to prevent any further acts of anti-union violence. With reference to the specific action required in this regard, the Committee refers to the recommendations made by the Committee on Freedom of Association in Case No. 2609.**

### Legislative issues

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

- amend section 215(c) of the Labour Code, which requires a membership of "50 per cent plus one" of the workers in the sector to establish a sectoral trade union;
- amend sections 220 and 223 of the Labour Code, which establish the requirement to be of Guatemalan origin and to work in the relevant enterprise or economic activity to be eligible for election as a trade union leader;
- amend section 241 of the Labour Code, under the terms of which strikes have to be called by a majority of the workers and not by a majority of those casting votes;
- amend section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996, which provides for the possibility of imposing compulsory arbitration in non-essential services and establishes other obstacles to the right to strike;
- amend sections 390(2) and 430 of the Penal Code and Decree No. 71-86, which establish labour, civil and criminal penalties in the event of a strike by public officials or workers in certain enterprises; and
- ensure that the various categories of public sector workers (hired under item 029 and other items of the budget) enjoy the guarantees afforded by the Convention.

The Committee also recalls that in its comments in 2018, 2019 and 2020 it noted that: (i) the tripartite agreement concluded in February 2018 on the amendments sought in four of the six points indicated above (relating to the requirements to be elected as a trade union leader, compulsory arbitration in non-essential services, penalties applicable in the event of a strike, and the application of the guarantees of the Convention to various categories of public sector workers); (ii) the submission on 7 March 2019 of this tripartite agreement to the Labour Commission of the Congress of the Republic so that the examination of Bill No. 5199 could be set aside, as it did not have the support of the social partners, and instead a legislative reform could be adopted based on tripartite agreement; and (iii) the tripartite agreement concluded in August 2018 on the principles that should guide reforms on two of the other points in the above list relating, on the one hand, to the requirements for the establishment and operation of sectoral unions and, on the other, the conditions for strike ballots.

The Committee notes that in its latest report the Government confines itself to: (i) indicating that the legislative amendments requested by the Committee form part of the work plan of the National Tripartite Committee and its legislative subcommittee; (ii) recalling once again that Bill No. 5199, designed to respond to the Committee's observations, had been submitted to the Congress of the Republic on 27 October 2016, but that the social partners called for it to be set aside and the discussion was to continue with a view to reaching consensus on the reforms to be adopted; (iii) indicating that, at the meeting on 22 April 2021 of the National Tripartite Committee, the Government submitted a draft legislative initiative based on the tripartite agreements on the four points referred to above covered by a full tripartite agreement, which had been submitted to the Congress of the Republic on 7 March 2018, with a full discussion on the reasoning given for the draft legislative initiative.

While noting the information provided by the Government, the Committee observes with **deep concern** the lack of specific progress in bringing the legislation into conformity with the Convention, despite the repeated requests by the various ILO supervisory bodies and the Governing Body and the serious impact of the legislative provisions concerned on the effective exercise of freedom of association. In this regard, the Committee recalls that in its previous comments it noted with concern the indications by the trade union organizations that the combination of: (i) the fact that it is impossible to create sectoral unions as a result of the requirements of section 215(c); and (ii) that it is impossible in small enterprises, which account for almost all companies in Guatemala, to assemble the 20 workers required by section 216 of the Labour Code for the establishment of a union, mean that the great majority of workers in the country do not have access to the right to join unions. While emphasizing the importance of reforms of labour legislation being the subject of consultation with the social partners and, in so far as possible, giving rise to tripartite consensus, the Committee emphasizes that, in the last resort, it is the responsibility of the Government to take the necessary decisions to ensure compliance with the international commitments assumed by the State through the ratification of international labour Conventions. **The Committee therefore urges the Government to take the necessary measures without delay to bring the national legislation into conformity with the Convention. The Committee hopes to receive specific information in the near future on the tangible progress achieved in this regard.**

### Application of the Convention in practice

*Registration of trade unions.* In its previous comments, the Committee once again invited the Government and the trade unions to take major steps forward in their dialogue on facilitating the process of trade union registration. The Committee notes the Government's indication that it is strengthening the public register of trade unions of the General Directorate of Labour through the development of an information technology tool that will facilitate the processes. The Committee also notes from document GB.343/INS/7, submitted to the Governing Body at its session in October–November 2021, that: (i) the Office is providing assistance for the project for the strengthening of the public register of trade unions; (ii) according to the information provided by the Government, of the

52 applications for registration received in 2020 by the Ministry of Labour and Social Welfare, 28 resulted in registrations, 16 were rejected and eight are still being processed; and (iii) of the 39 applications received in 2021 between 1 January and 16 September, 12 resulted in registrations, nine were rejected and 18 are still being processed. **Noting from the information provided by the Government that more than one third of the applications for registration of trade unions reviewed in the past two years have been rejected and a significant number of applications are still being processed several months after their submission, the Committee once again encourages the Government, with the technical assistance of the Office and in dialogue with the national representative organizations, to make progress in facilitating the process of trade union registration.**

*Awareness-raising campaign on freedom of association and collective bargaining.* The Committee recalls that this campaign is one of the commitments made by the Government through the Road Map adopted in 2013. In its previous comments, the Committee urged the Government, with the support of the social partners and the technical cooperation programme prepared by the Office, to take all the necessary measures to ensure that the awareness-raising campaign is given real visibility in the national mass media. The Committee notes the Government's indication that it is awaiting the approval of the Multiannual Operations Programme of the European Union programme on support for decent employment in Guatemala, which includes specific action to address the subjects of freedom of association and collective bargaining within the framework of the corresponding ILO Conventions. While noting that the action taken in response to the emergencies resulting from the COVID-19 pandemic may have made it difficult to take action in this regard, the Committee **regrets** the lack of specific initiatives for the dissemination of the awareness-raising campaign. **The Committee therefore once again urges the Government to take measures for the effective dissemination of the awareness-raising campaign on freedom of association and collective bargaining in the national mass media.**

Regretting, despite the existence of the National Tripartite Committee and the technical assistance provided by the Office, the absence of specific progress over the past three years, the Committee urges the Government to take all the necessary measures to resolve, in the near future, the serious violations of the Convention that have been noted for many years.

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021, referring to issues examined by the Committee in the present comment. The Committee also notes the joint observations of the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala, received on 31 August 2021, containing numerous allegations of anti-union discrimination and obstruction to collective bargaining, in both the private and public sector. **While noting the Government's replies to these observations, the Committee requests it to provide specific follow-up to each of the cases highlighted by the trade union organizations with a view to ensuring the application of the guarantees established by the Convention.**

The Committee also notes the Government's comments on the issues raised in 2020 by the national trade union organizations concerning the impact of the COVID-19 pandemic on the application of the Convention.

In its previous comments, the Committee noted the closure by the Governing Body of the complaint made in 2012 under article 26 of the ILO Constitution, concerning non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee recalls that in the follow-up to the above-mentioned complaint and in the road map adopted by the Government in 2013 in the context of the complaint, several issues had been raised with regard to the implementation of Convention No. 98. The Committee noted that during the 340th Session of the

Governing Council (October–November 2020), the Governing Body had welcomed the 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” and had requested the Office to present an annual report on the implementation of the project at its October–November meetings, during the three-year project duration (decision GB/340/INS/10). The Committee notes the discussions held at the 343rd Session of the Governing Council (October–November 2021) regarding the implementation of the above-mentioned project and the decision of the Governing Body to take note of the information provided by the Office in this respect (decision GB.343/INS/7).

*Article 1 of the Convention. Protection against anti-union discrimination. Activities of the General Labour Inspectorate.* In the context of the implementation of Legislative Decree No. 7/2017, which had restored the power of the General Labour Inspectorate to impose penalties, and after underlining the vital importance of labour inspection in achieving adequate protection against acts of anti-union discrimination, especially in a context of numerous complaints on this matter, the Committee, in its previous comment, noted: (i) the first figures provided by the General Labour Inspectorate concerning anti-union acts and their treatment; and (ii) the forthcoming adoption of the Ministerial Agreement that will render operational the General Labour Inspectorate Tripartite Advisory Council, which is the appropriate forum for the labour inspection services and the social partners to exchange views on improving the implementation of Decree No. 7/2017. The Committee notes that, in its latest report, the Government: (i) provides information, within the framework of the Single Protocol on Procedures of the General Labour Inspectorate, on the existence and application of the special investigation procedure on freedom of association and collective bargaining, the content of which was revised in 2017; (ii) indicates that, according to the Statistics Bureau, the General Labour Inspectorate received, between 2017 and 17 May 2021, 352 complaints relating to the exercise of freedom of association and the right to collective bargaining; (iii) reports that, with the support of the ILO through the project, “Supporting respect for workers’ labour conditions in the agricultural export sector in Guatemala”, the General Labour Inspectorate is revising its electronic case system; and (iv) between 1 January 2020 and May 2021, the General Labour Inspectorate organized 34 dialogue forums, aimed at settling collective disputes with results achieved in four cases to date. While noting the information provided by the Government, the Committee notes that it has not received information on the inspection activities and decisions taken by the General Labour Inspectorate in relation to the complaints of anti-union acts registered, or on initiatives, including through the functioning of the General Labour Inspectorate’s Tripartite Advisory Council, aimed at strengthening the effectiveness of the Inspectorate with regard to protection against anti-union discrimination. **The Committee therefore once again requests the Government to strengthen the measures taken to ensure that violations of trade union and collective bargaining rights are dealt with by the General Labour Inspectorate as a matter of priority, and that, with the above-mentioned support of the Office, an effective information system is set up shortly to follow up on inspection activities in this area. The Committee trusts that the Government will provide full information in this respect, including the statistics requested in its previous comments.**

*Effective judicial proceedings.* For many years, the Committee has expressed concern, along with the Committee on Freedom of Association, at the many complaints alleging the persistent slowness of judicial procedures in relation to anti-union discrimination and the high level of non-compliance with reinstatement orders. The Committee notes that the Government refers firstly to general initiatives aimed at expediting all judicial procedures relating to labour, which include: (i) the transformation of the labour and social security courts into jurisdictional bodies with several magistrates; (ii) the restructuring of the units that make up the Auxiliary Services Centre of the Labour Law Administration; (iii) implementation of digitalized measures and tools at various stages of proceedings; and (iv) the continuation of the examination by the Congress of the Republic of the Code of Labour Procedure developed by the Supreme Court of Justice. The Committee notes the information provided by the

Government on the status of the proceedings of the 7,113 legal actions for reinstatement filed between 1 January 2020 and 9 April 2021 (6,980 pertaining to State employees, 133 pertaining to individual workers), which resulted in: (i) 131 withdrawals and dismissals; and (ii) 2,165 final decisions of reinstatement, of which 197 were implemented and 1,795 were subject to appeal. The Committee further notes the Government's indication that the Attorney-General's Office, Ministry of Labour and Social Welfare (MTPS), Office of the Auditor-General, Public Prosecutor's Office, National Civil Service Office and the judiciary participated in working groups to identify mechanisms to improve implementation of reinstatement processes proposed by public sector workers. In light of the above, the Committee notes that: (i) the general statistics provided by the Government on the judicial treatment of reinstatement applications continue to indicate a significant backlog of cases pending before the courts and the persistence of a high number of reinstatement orders handed down by the courts that have not been complied with; and (ii) national and international trade union organizations continue to denounce, in the private and public sectors, numerous cases of anti-union discrimination and non-compliance with reinstatement orders. **Regretting yet again the absence of specific information, the Committee urges once again the Government to take, as a matter of priority, actions to provide an effective judicial response to the cases of anti-union discrimination. In this regard, the Committee urges once again the Government to: (i) take measures as soon as possible, in coordination with all the competent authorities, to overcome the obstacles to effective compliance with the reinstatement orders handed down by the courts; and (ii) take the necessary steps to ensure that, in consultation with the social partners, new procedural rules are adopted so that all cases of anti-union discrimination are examined by the courts in summary proceedings and the respective court rulings are implemented rapidly. Noting that the draft Code of Labour Procedure is still being examined by the Congress of the Republic, the Committee recalls that the content of this text may benefit from the technical assistance of the Office. The Committee requests the Government to provide information on any progress in this respect.**

*Article 4. Promotion of collective bargaining.* In its previous comments, the Committee noted with growing concern that the already extremely low number of collective agreements agreed and approved in the country continues to decline. In light of this situation, the Committee requested the Government to make use, with the support of the technical cooperation programme developed by the Office, of the National Tripartite Committee on Labour Relations and Freedom of Association (hereinafter the National Tripartite Committee) to examine with the social partners the obstacles, both legislative and practical, to the effective promotion of collective bargaining so that it is able to take measures to promote collective bargaining at all levels. In this regard, the Committee expressed the firm hope that the agreement of August 2018 concerning the principles on which the reform of the labour legislation should be based will soon be reflected in the adoption of legislation in the very near future.

The Committee notes the Government's information that: (i) the legislative reforms requested by the Committee concerning freedom of association and collective bargaining are part of the work plan of the National Tripartite Committee and its Labour Policy and Legislation Subcommittee, and have resulted in meetings of the National Tripartite Committee with the Subcommittee; (ii) the support of the Office has been requested for a workshop on collective bargaining that will be held by the end of the year; and (iii) with the support of the Office, a campaign on decent work for the agricultural sector is being developed, which includes the themes of freedom of association and collective bargaining. The Committee further notes that, according to data provided by the Government in the information attached to document GB/343/INS/7 submitted to the Governing Body at its October–November 2021 session, 12 collective labour agreements were signed and approved during 2020 and 11 agreements between 1 January and 13 September 2021.

The Committee **regrets** to note that the number of signed collective agreements remains very low and that no progress has been made to overcome the legislative and practical obstacles to the effective

realization of the right to collective bargaining in the country. **While referring to its comments concerning the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Rural Workers' Organisations Convention, 1975 (No. 141) on the need for the Government to effect the legislative reforms that have been requested for many years to bring the legislation into conformity with the ratified Conventions concerning freedom of association and collective bargaining, the Committee once again urges the Government to take tangible measures to effectively promote collective bargaining at all levels. Recalling that the Government has the technical assistance of the Office, the Committee hopes to receive information on progress made in this respect.**

*Articles 4 and 6. Promotion of collective bargaining in the public sector.* In its previous comment, the Committee requested the Government to facilitate the process of the approval of collective agreements in the public sector. In light of allegations that the Public Prosecutor's Office was legally challenging the benefits granted through a series of collective agreements, the Committee also requested the Government to take all possible steps to promote the negotiated, consensual settlement of any disputes that arise regarding the supposedly excessive nature of certain clauses in collective agreements in the public sector. In its previous comments, the Committee also encouraged the Government's efforts to ensure that collective bargaining in the public sector takes place in a clear and balanced regulatory framework.

The Committee notes the Government's indication that the subjects referred to above have been submitted to the Labour Policy and Legislation Subcommittee of the National Tripartite Committee and that they are part of its work plan. The Committee also notes the indications of the Public Prosecutor's Office, that it takes due account of the fundamental right to collective bargaining while ensuring, through prior monitoring of the content of collective agreements in the public sector, respect for the rule of law. While taking due note of this information, the Committee notes that: (i) it does not have updated information on the various decisions to approve public sector collective agreements and their time lines; (ii) as noted in Case No. 3179 examined by the Committee on Freedom of Association (393rd Report of the Committee, March 2021), legal challenges on the validity of certain clauses of the collective agreement of the health sector are ongoing; (iii) the trade union organizations continue to question the grounds for not approving certain collective agreements, decisions which, according to the Government, are due to the need to remove certain unlawful clauses from the agreements in question; and (iv) no new information has been received from the Government to strengthen the regulatory framework of public sector collective bargaining. **In light of the above, the Committee requests the Government to provide information on: (i) the time lines for approving public sector collective agreements and the grounds for the decisions not to approve certain agreements; and (ii) the development of cases in which the validity of certain clauses of public sector collective agreements has been legally challenged. The Committee also reminds the Government that it may avail itself of the technical assistance of the Office to strengthen the regulatory framework of public sector collective bargaining.**

*Application of the Convention in practice. Maquila sector.* In its previous comments, having noted with concern that the unionization rate in the sector was below 1 per cent and that the approval of only one collective agreement covering a *maquila* (export processing) enterprise was known in recent years, the Committee requested the Government to take specific initiatives to promote collective bargaining in the *maquila* sector. The Committee notes the Government's indication that: (i) from 1 January 2020 to 17 May 2021, the MTPS recorded three applications for registration of trade unions of the *maquila* sector, two of which resulted in comments ("previos") of the labour administration and one, received on 6 May, which was waiting to be examined; (ii) a collective agreement of an enterprise in the *maquila* sector was approved in 2020; (iii) the MTPS regularly conducts training on labour rights, including collective rights, particularly aimed at women *maquila* workers; and (iv) the Maquila Coordination Committee, which brings together institutions and organizations that develop actions for women workers in the clothing and textile industry, has been strengthened. While noting this information, the

Committee **regrets** to note that collective rights are still barely exercised in the *maquila* sector and that there is an absence of initiatives effectively focused on promoting them. **The Committee therefore urges the Government to take specific initiatives to promote freedom of association and collective bargaining in the maquila sector and requests it to provide information in this respect.**

*Application of the Convention in municipal authorities.* In its previous comments, in view of the large number of allegations of violations of the Convention in various municipalities in the country, the Committee expressed its concern at the information that both labour inspections and court decisions are often insufficient to resolve situations involving violations of the Convention, especially in relation to cases of anti-union dismissals of municipal workers. The Committee notes that: (i) the General Labour Inspectorate participated in dialogue forums following the dismissal of municipal union workers; and (ii) the National Association of Municipalities of the Republic of Guatemala affirms its support of fundamental labour rights but states that it must obtain the consensus of the country's 340 municipalities in order to be able to participate in dialogue forums. The Committee also **regrets** to note that the 2021 observations of the national trade union organizations once again denounce many cases of violation of the Convention involving the leaders and members of municipal workers' trade unions. **The Committee therefore once again urges the Government to take all necessary measures, including the adoption of legislation if necessary, to ensure the application of the Convention in the municipalities. The Committee requests the Government to keep it informed of any progress achieved in this respect.**

*Tripartite dispute settlement in relation to freedom of association and collective bargaining.* In its previous comment, the Committee emphasized the important role that the Subcommittee on Mediation and Dispute Settlement of the National Tripartite Committee can play in a context of numerous allegations of anti-union discrimination and noted that the technical cooperation programme developed by the Office provides for its strengthening. The Committee notes from document GB/343/INS/7 that: (i) in 2020, members of the Subcommittee on Mediation and Dispute Settlement participated, with the support of the Office, in a distance training course of the International Training Centre of the ILO on conciliation and mediation of labour disputes, as well as an international event on social dialogue in 2021; (ii) in 2020, the Subcommittee held six ordinary sessions at which two requests for the examination of cases were received and declared admissible; (iii) from 1 January to 16 September 2021, the Subcommittee held one ordinary session at which one request for the examination of a case was received but it has not yet been declared admissible; and (iv) in the period under review, no mediation or dispute settlement meetings were held. While it considers that the restrictions as a result of the COVID-19 pandemic may have had an impact on the activities of the Subcommittee, the Committee **regrets** to note the lack of meetings held by the Subcommittee on Mediation and Dispute Settlement to settle certain disputes. **The Committee expresses the firm hope that the Government will be able to provide information in the near future on the tangible contribution of this Subcommittee to the resolution of collective conflicts and the strengthening of social dialogue in the country.**

Regretting that, despite the existence of the National Tripartite Committee and the technical assistance provided by the Office, no tangible progress has been made in the last three years, the Committee recalls that it falls to the Government to take decisions necessary for the fulfilment of the State's international commitments made through the ratification of international labour Conventions. The Committee therefore urges the Government to take the necessary measures to remedy as soon as possible the serious violations of the Convention that the Committee has been noting for many years.

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

### **Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1989)**

*Article 3 of the Convention. Right of all rural workers to establish organizations of their own choosing without previous authorization.* In its previous comment, the Committee requested the Government to provide statistics on the number of rural workers' unions and associations existing in the country, and

the number of their members. The Committee notes with **concern** the Government's indication that: (i) of the 725 organizations of rural workers registered by the Ministry of Labour and Social Welfare, nine have legal personalities that are currently valid, while the legal personalities of the other 716 have lapsed; and (ii) only 0.79 per cent of the rural economically active population belongs to any type of union (the Committee observes that it is not specified whether this percentage of unionized rural workers refers specifically to the members of unions with a currently valid legal personality, or whether it also includes workers who are members of organizations for which the legal personality has lapsed).

The Committee emphasizes that compliance with *Article 3* of the Convention presupposes in the first place the elimination of legislative obstacles that may impede the freedom of rural workers to establish trade unions. The Committee recalls in this regard the comments that it has been making for many years in the context of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), concerning the need to amend section 215(c) of the Labour Code, which requires a membership of "50 per cent plus one" of the workers in a sector to establish a sectoral trade union. The Committee also recalls in this context that it noted with concern the indications by the trade union confederations that the combination of: (i) the fact that it is impossible to create sectoral unions as a result of the requirements of section 215(c); and (ii) that it is impossible in small enterprises, which account for almost all companies in Guatemala, to assemble the 20 workers required by section 216 of the Labour Code for the establishment of a union, which means that the great majority of workers in the country do not have access to the right to union membership. The Committee notes in this regard that the rural sector is generally characterized by a high incidence of small enterprises, which makes it particularly important to remove legislative obstacles to the possibility of establishing sectoral unions in agriculture. ***Recalling that Paragraph 8 of the Rural Workers' Organisations Recommendation, 1975 (No. 149), specifically emphasizes that the relevant laws and regulations should be fully adapted to the special needs of rural areas in relation to requirements regarding minimum membership for the establishment of organizations, the Committee urges the Government to take the necessary measures in the near future to amend the requirements relating to the establishment of sectoral unions set out in section 215(c) of the Labour Code in accordance with the Conventions ratified by Guatemala, and to facilitate and extend the possibilities for the establishment of unions that cover workers in several enterprises in the rural sector. The Committee hopes to be able to note tangible progress in this regard in the near future and requests the Government to provide the corresponding information.***

In response to serious allegations of anti-union practices in the agricultural sector, the Committee also previously requested the Government to provide information on the action taken by the labour inspectorate to ensure that rural workers are freely able to exercise their right to organize. The Committee notes the Government's indications in this regard that: (i) as rural workers enjoy the same trade union rights as other workers, the General Labour Inspectorate (IGT) applies the same general measures in the rural sector, and particularly the special procedure for investigations into freedom of association and collective bargaining and the procedure relating to cases of social dialogue in labour matters; (ii) similarly, it is the responsibility of the General Labour Inspectorate, in both the rural and other sectors, to ensure the employment security of the trade union leaders appointed by the members of their organizations; (iii) on this basis, the General Labour Inspectorate systematically includes freedom of association and collective bargaining in its inspection plans for agricultural enterprises and plantations; (iv) between 2016 and 21 May 2021, the General Labour Inspectorate received 246 complaints from trade unions in the rural sector; and (v) during the same period, the General Labour Inspectorate assisted 11 dialogue forums in the rural sector (ten forums in the same enterprise and one forum for several enterprises in the same area) and registered the establishment of 83 ad hoc workers' committees in rural enterprises (temporary committees composed of a maximum of three workers governed by section 374 of the Labour Code, through which workers and employers can resolve differences).

The Committee also notes the Government's indication that the inspection of working conditions in the rural sector gives rise to specific challenges and difficulties, including the seasonality of work and contracts, linguistic barriers with indigenous workers, difficulties of access to certain enterprises or plantations in remote locations and/or guarded by security personnel and the weak trade union organization in the sector. The Committee notes in this regard that, among the good inspection practices emphasized by the Government, it is envisaged that inspectors will coordinate inspections with any unions or ad hoc committees that may exist, based on a prior risk assessment with a view to avoiding any reprisals against workers' representatives. Lastly, the Committee notes that the action of the General Labour Inspectorate in the rural sector is currently supported by the Office through the implementation of the cooperation project on "Supporting respect for the working conditions of workers in the agro-export sector in Guatemala".

The Committee takes due note of this information and observes that it shows that the General Labour Inspectorate has clearly identified the substantial difficulties relating to the protection of the exercise of trade union rights in the rural sector. ***In light of the above, the Committee requests the Government to provide further information on the specific action and interventions of the General Labour Inspectorate in relation to freedom of association in the rural sector (with an indication in particular of the number of complaints lodged concerning the exercise of trade union rights and the related decisions, as well as the number of trade union leaders registered so that they benefit from employment security). Recalling that Guatemala has also ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Plantations Convention, 1958 (No. 110), the Committee also requests the Government to proceed with an assessment of the measures and tools to reinforce the effectiveness of action by the General Labour Inspectorate and other relevant public authorities to prevent and resolve situations of anti-union discrimination in the rural sector. The Committee emphasizes the importance of this assessment involving substantive dialogue with the organizations of workers and employers concerned, and reminds the Government that it may avail itself of ILO technical assistance, particularly through the projects "Supporting respect for the working conditions of workers in the agro-export sector in Guatemala" and "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 requests the Government to provide information on the progress made in this regard.***

*Articles 4 to 6. Promotion of organizations of rural workers and their role in economic and social development.* Recalling that the Convention also provides that the State shall further the development of organizations of rural workers and promote their participation through their organizations in economic and social development, the Committee previously requested the Government to provide information on: (i) the measures taken to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers and their participation in the economic and social development process of the country; and (ii) the number of collective agreements in force in the rural sector and the number of workers covered. The Committee notes that the Government: (i) indicates that it is developing with the Office a campaign on decent work in the agricultural sector, which includes the subject of freedom of association; the campaign will be disseminated in various national languages, through social networks, broadcasts and information posters during the course of 2021; (ii) provides data on the action to promote economic activity in the rural sector undertaken by the Deputy Minister for the Development of Micro-, Small and Medium-sized Enterprises of the Ministry of the Economy and by the Ministry of Agriculture; and (iii) indicates that the Ministry of Labour does not have information on which collective agreements in force in the country cover workers in the rural sector.

The Committee notes the lack of information on the collective agreements in force in the rural sector, as collective bargaining is a fundamental means of action for associations of rural workers. The

Committee also notes that the initiatives relating to the rural sector referred to by the Government consist essentially of capacity-building, but that information has not been provided on the social dialogue mechanisms through which associations of rural workers can participate in decision-making processes that affect them. ***In light of the above, the Committee requests the Government to: (i) reinforce information activities on and the promotion of freedom of association and collective bargaining through initiatives targeting the rural sector; (ii) compile the information available on the collective agreements in force that cover rural workers; and (iii) promote dialogue with the associations of rural workers, including those of self-employed workers and small producers, in mechanisms for the adoption of public decisions that affect them. Lastly, the Committee requests the Government to supplement the information provided on associations in the rural sector by providing further details on associations of self-employed workers and small producers, including information on solidarist associations (the number of associations and members, type of activities undertaken).***

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

## Guinea

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2017, and of the National Employers' Council of Guinea, transmitted with the Government's report, which cover matters examined by the Committee.

***Article 3 of the Convention. Right of organizations to organize their activities and to formulate their programmes.*** In its previous comments, the Committee requested the Government to provide information on the determination of minimum services in the context of collective disputes through the framework for concerted social dialogue, and particularly to indicate the minimum services determined in the transport and communications services, where difficulties had previously been reported. The Committee notes with ***interest*** the Government's indication that, following the development of the National Social Dialogue Charter, Decree No. 256 of 23 August 2016 establishing a National Social Dialogue Council was adopted. The Committee notes that, in accordance with section 4 of the Decree, the Council is responsible for ensuring permanent dialogue between the State and all the social partners, and that section 5(2) provides that the Council shall be consulted on major disputes. The Committee further notes that section 7 of the Decree provides for the tripartite composition of the Council and the appointment of its members. The Government adds that it will take every measure for its effective implementation, including the appointment of its members. The Committee notes the indication by the National Employers' Council of Guinea, suggesting that the Council could also address, in addition to the transport and telecommunications sectors, services such as banking and insurance, health, education and microfinance. ***The Committee requests the Government to provide information on the work of the National Employers' Council of Guinea in resolving disagreements concerning the determination of minimum wages. The Committee once again requests the Government to indicate the minimum services determined in the transport and communications services, where difficulties had previously been reported, including by the ITUC in its observations referred to above.***

The Committee recalls that in its previous comment it noted that, under the terms of section 431(5) of the Labour Code, employees are entitled to cease working completely, on condition that indispensable security measures and a minimum service are ensured. In this regard, the Committee previously requested the Government to take the necessary measures to amend section 431(5) of the Labour Code in order to limit the possibility to establish a minimum service to 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 (that is, 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; or (iii) in public services of fundamental importance (see the 2012 General Survey on the fundamental Conventions, paragraph 136). The Committee also noted

that, under the terms of sections 433(1) and 434(4) of the Labour Code, read in conjunction, recourse to arbitration may be compulsory in a dispute of such a nature as to compromise the normal functioning of the national economy. In this regard, the Committee recalled that compulsory recourse to arbitration to bring an end to a collective labour dispute or a strike is only acceptable in cases where strikes may be subject to restrictions, or even prohibited, namely: (i) in the case of disputes concerning public servants exercising authority in the name of the State; (ii) in disputes in essential services in the strict sense of the term; or (iii) in situations of acute national or local crisis, but only for a limited period of time and to the extent necessary to meet the requirements of the situation (see General Survey op. cit., paragraph 153). The Committee also noted the possibility envisaged in section 434(4) of the Labour Code to make executory an arbitration award despite the expressed opposition of one of the parties within the time limits set out in the law, which amounts to empowering the public authorities to bring an end to a strike, instead of the highest judicial authorities. The Committee therefore requested the Government to take the necessary measures to amend section 434(4) of the Labour Code as indicated above. The Committee notes the Government's indication that it has established a commission to review the Labour Code, with a view to its revision, and that sections 431(5) and 434(4) will be analysed and discussed by this commission. ***The Committee welcomes the establishment of the commission to review the Labour Code and hopes that sections 431(5) and 434(4) of the Labour Code will be amended in the near future. The Committee requests the Government to report any progress achieved in this regard.***

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

## Guinea-Bissau

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

The Committee notes the Government's indication that the new Labour Code was adopted by the National Assembly in July 2021 and is awaiting promulgation by the President of the Republic. Once promulgated, the Labour Code will repeal the General Labour Act No. 2/86.

*Scope of the Convention. Categories of workers.* For several years now, the Committee has been asking the Government to communicate information on the status of the draft legislation regarding the guarantee of the rights protected by the Convention to agricultural and dockworkers. The Committee noted the Government's indication that these matters were adequately addressed in the new Labour Code under approval. The Committee notes the Government's indication that agricultural and dockworkers are covered by the new Labour Code, However, it observes, according to section 21 of the new legislation, that the following are subject to a special regime, without prejudice to the application of the general provisions of the Code which are not incompatible with the special regimes: employment contracts issued for (a) domestic work; (b) group employment; (c) apprenticeship or training; (d) work on board commercial and fishing vessels; (e) work on board aircraft; (f) dock work; (g) rural work; and (h) work performed by foreigners. In this regard, the Committee observes that the general provisions of the Labour Code in respect of freedom of association and collective bargaining (sections 395, 396 and 397) cover only the right to establish trade union organizations, their autonomy and independence, and the prohibition of anti-union discrimination. ***Emphasizing all workers, with the sole exception of members of the armed forces and the police, as well as public servants engaged in the administration of the State must have access to all the rights guaranteed by the Convention and, in particular, the right to collective bargaining, the Committee requests the Government to indicate in what manner the special regimes for the different categories of workers mentioned above regulate their collective rights.***

*Articles 4 and 6. Collective bargaining rights of public servants not engaged in the administration of the State.* In its previous comments, the Committee also requested the Government to provide information on measures taken to adopt special legislation which, under section 2(2) of Act No. 08/91 on freedom of association, was to regulate the right to collective bargaining of public servants who are

not engaged in the administration of the State. The Committee notes the Government's indication that the public servants who do not exercise functions directly connected to the administration of the State are also protected by the provisions of the new Labour Code. The Committee observes, in the regard, that while section 2 of the Labour Code indicates the provisions of the Code applicable to the legal relationship in public employment, without prejudice to the provisions of the special legislation, the right to collective bargaining is not included in these provisions. ***In the absence of other information brought to its attention, the Committee requests the Government to specify the provisions or mechanisms whereby the different categories of public servants not engaged in the administration of the State may negotiate their working conditions and terms of employment and to provide information on the different agreements signed with the public employees' and servants' organizations.***

*Article 4. Promotion of collective bargaining. Procedures for extending collective agreements.* The Committee observes that section 503 of the new Labour Code provides that the member of the Government responsible for the area of work may, by means of regulations, determine the entire or partial extension of collective labour agreements to employers of the same sector of activity and to workers of the same or a similar occupation. ***Recalling that the request to extend a collective agreement must, as a general rule, be made by one or more employers and workers organizations which are party to the collective agreement, the Committee requests the Government to take the necessary measures to modify the legislation to ensure that the extension of collective agreements are subject to tripartite consultations (even where they provide, as is the case in section 504 of the Labour Code, that the parties affected by the application of an extended collective agreement may submit an objection to the draft extension regulation).***

*Promotion of collective bargaining in practice.* In its previous comments, the Committee requested the Government to provide information on the number of new collective agreements signed and on the number of workers covered by them. The Committee notes the Government's indication that, to date, it does not have this information at its disposal, but that it will provide it as soon as it is available. ***Emphasizing the importance of having available statistical data in order to be able to evaluate more accurately the need to promote collective bargaining, the Committee hopes that the Government will soon be in a position to indicate the number of collective agreements concluded, the sectors covered and the number of workers concerned.***

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

## Guyana

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

In its previous observations, the Committee referred to the recognition of only those unions claiming 40 per cent support of the workers, as set out in the Trade Union Recognition Act, and requested the Government to indicate any measure envisaged to ensure that, when no trade union reaches the 40 per cent threshold, bargaining rights can be granted to all unions in the bargaining unit, at least on behalf of their own members. The Committee takes note of the Government's indication that the Trade Union Recognition Act stipulates that 40 per cent or more of the members of a bargaining unit must belong to a union to be recognized as the union for that entire bargaining unit, meaning that when a bargaining unit is contested by unions, the union with the highest number of votes will be certified and recognized as the union for that entire bargaining unit. While taking due note of the information provided by the Government, the Committee emphasizes that the representativeness requirements set by legislation to be designated as a bargaining agent may bear a substantial influence on the number of collective agreements concluded and that such requirements should be designed in a manner that effectively promotes the development of free and voluntary collective bargaining. ***Noting that the Trade Union Recognition Act does not contain provisions regulating cases in which no union***

**reaches the threshold of 40 per cent support of workers to be recognized as a bargaining agent, the Committee requests once again the Government to take the necessary measures, in consultation with the most representative social partners, to ensure that the threshold established by legislation to become a bargaining agent effectively guarantees the promotion of collective bargaining within the meaning of the Convention, taking into consideration that, when the threshold is not reached, the existing unions should be given the possibility, jointly or separately, to bargain collectively, at least on behalf of their own members. The Committee reminds the Government that it may avail itself of the technical assistance of the Office.**

*Collective bargaining in practice.* The Committee takes note of the Government's indication that there are 18 unions currently participating in the collective bargaining agreements in the sectors of agriculture, banking, food manufacturing, insurance, retail, gasoline, government services, transportation and mining, and that since 2020, 15 collective bargaining agreements have been concluded, 8 signed in 2020 and 7 in 2021, and all are in force. **Noting that the Government does not provide information on the number of workers covered by the collective agreements, the Committee requests it to provide information in this regard, and to continue to provide statistical information on the number of collective agreements concluded and in force in the country, indicating the sectors concerned.**

## Haiti

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

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

**[The Government is asked to reply in full to the present comments in 2022.]**

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

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 Government is asked to reply in full to the present comments in 2022.]***

## Honduras

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

The Committee takes note of the observations of the Honduran National Business Council (COHEP), received on 31 August 2021, and of the Government's reply. It also takes note of the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021, relating to matters examined in the present observation.

#### Trade union rights and civil liberties

The Committee recalls that: (i) the Committee on the Application of Standards examined the application of the Convention in 2018 and 2019 and noted with serious concern the allegations of anti-union violence, in particular physical aggression and murders, as well as the absence of convictions against the perpetrators of the offences, which created a situation of impunity that heightened the climate of violence and insecurity; (ii) in May 2019, a direct contacts mission took place and a tripartite agreement was signed which, inter alia, provided for the creation of a national committee to combat anti-union violence; and (iii) in September 2019, the Office carried out a technical assistance mission to support the implementation of the agreement and on 18 September 2019 the Committee on Anti-Union Violence was established.

In its previous comment, having expressed its deep concern at the low number of trade unionists who have benefited from protection measures in comparison with the very high number of acts of anti-union violence, the ineffectiveness of such protection measures, the persistence of acts of anti-union violence and the lack of progress in their investigation, the Committee once again urged the Government and all the competent authorities to: (i) comply fully with all elements in the tripartite agreement concerning action against anti-union violence; (ii) ensure the active involvement of all the relevant authorities in the Committee on Anti-Union Violence, especially the Ministry of Human Rights, the Office of the Public Prosecutor and the judiciary; (iii) institutionalize and make effective the participation of the representative trade unions in the National Council for the Protection of Human Rights Defenders; (iv) draw up a special investigation protocol to enable the 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; (v) ensure that the criminal courts give priority treatment to cases of anti-union violence; and (vi) ensure adequate and prompt protection for all at-risk members of the trade union movement.

The Committee notes the information provided by the Government in respect of progress in investigations and prosecutions relating to specific cases of murders of members of the trade union movement. The Committee observes that: (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). The

Government also points to 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 notes 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 emphasizes that justice delayed is justice denied.

Furthermore, the Committee notes the Government's reiteration that the investigations and legal proceedings relating to the other cases of alleged anti-union violence have been completed and that it therefore provided no new information in this respect.

The Committee notes that, according to the ITUC, impunity continues to prevail since the Government has not been able to provide prompt and adequate protection to trade unionists who received death threats, nor were proper investigations carried out to find and prosecute the perpetrators of anti-union crimes. The Committee notes with **deep concern** the ITUC report of the murder of Oscar Obdulio Turcios Fúnes, an activist member of the Workers' Union of the National Autonomous University of Honduras (SITRAUNAH), who died on 13 July 2020 after demanding payment of delayed salaries and overtime.

The Committee also notes the concern expressed by the COHEP in respect of the scant impact of the Committee on Anti-Union Violence and the lack of proactivity on the part of the State authorities in this regard. The COHEP indicates that the Committee on Anti-Union Violence has held only four meetings: one in 2019, two in 2020 and one in 2021, and that, although some agreed points were achieved (such as the exchange of information on protection measures taken in respect of members of the trade union movement who are at risk, and proposals on how to improve the mechanism), the Committee's rules of procedure and the road map remained to be approved. The COHEP condemns the acts of violence against members of the trade union movement and indicates that it has not received an update on the criminal investigations and proceedings.

The Committee notes the Government's indication that, while it is aware of the commitment made with the Committee on Anti-Union Violence and is confident that it will deliver meaningful results in the near future, the COVID-19 pandemic has delayed activities. It also indicates that on 13 July 2021, a meeting was held to reinvigorate the Committee on Anti-Union Violence, for which purpose a road map was presented in respect of which it was agreed that the worker and employer sectors would make comments and suggestions. The Government also indicates that a meeting was held on 3 August 2021 in order to present an annual report on documented cases of anti-union violence and that at that meeting, it was decided, inter alia, to request technical assistance from the ILO in order to present the experience of Guatemala with regard to anti-union violence. While taking due note of the Government's indication that the pandemic has delayed the activities of the Committee on Anti-Union Violence, the Committee **regrets** that, three years since its establishment, the Committee on Anti-Union Violence has been unable to make progress towards practical solutions to the serious violations of the Convention which have been observed for many years. The Committee recalls that on various occasions it has underscored the urgent need for the various State institutions to provide the coordinated and priority response required by the situation of anti-union violence prevailing in the country. The Committee emphasizes the essential role that the Committee on Anti-Union Violence can and must play in order to carry out specific tripartite activities relating to anti-union violence and impunity. The Committee considers that the fact that the Committee on Anti-Union Violence is composed of representatives of the Secretariat-General for Government Coordination, the Ministry of Labour and Social Security, the Ministry for Human Rights and social partners represented on the Economic and Social Council (CES) and that actors in the judicial system are invited to participate should allow the Committee on Anti-Union Violence to foster the necessary synergies among the various institutions and facilitate dialogue with representatives of trade union organizations at risk. **The Committee takes due note of the Government's indication of its intention to request technical assistance and hopes that this will be provided as soon as possible.**

Furthermore, the Committee **regrets** that no information has been received 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, according to the COHEP, on 20 May 2021 the Sectoral Committee for the Handling of Disputes referred to the ILO (MEPCOIT) convened a session to discuss and adopt the work plan and boost the protection mechanism for trade union members and leaders whose physical integrity and life are threatened.

***Expressing 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 urges the Government and all the competent authorities to: (i) take specific and rapid measures, including budgetary measures, to comply fully with all elements in the tripartite agreement concerning action against anti-union violence, giving the Committee on Anti-Union Violence 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 also requests 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 Fúnes.***

### 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); and
- 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 comments, the Committee observed that the establishment of tripartite social dialogue on the reform of the labour legislation, as envisaged in the tripartite agreement of May 2019,

would call for a special effort in terms of building trust between the parties, and noted with regret the absence of tangible progress in this respect. Aware of the obstacles that the COVID-19 pandemic might have raised, the Committee 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 have been requested for many years.

The Committee notes the Government's indication that: (i) on 4 February 2020, the Ministry of Labour and Social Security sent a note to the President of the MEPCOIT requesting that the discussions relating to the reform of the Labour Code be resumed as soon as possible; (ii) the coordinator of the MEPCOIT replied on 25 February 2020, stating that a meeting would be convened for that purpose in the coming days; and (iii) although the state of emergency made it impossible to continue with the activities, the Government was mindful of the commitments made and would be taking up the pending issues as soon as possible.

The Committee also notes the observations of the social partners concerning the labour legislation revision process. The Committee observes the insistence of the ITUC on the need for the Government to take immediate steps to amend the provisions of the Labour Code to bring them into line with the Convention. The COHEP, for its part, recalls that the position of the employer sector has already been expressed repeatedly and indicates that on 20 May 2021, the MEPCOIT held a session to discuss and adopt the work plan and, inter alia, to discuss the harmonization of the Labour Code with the Convention. The Committee also notes from the report of the COHEP that on 24 June 2021 the private sector assumed the presidency of the CES for a term of one year, and welcomes its commitment to creating the necessary spaces for dialogue to reach agreements that reflect the Committee's recommendations.

***The Committee regrets that there has been no progress in the tripartite discussion process envisaged in the agreement of 2019. The Committee reiterates that, while it is aware of the obstacles that the COVID-19 pandemic may have created in this regard, the Committee firmly hopes that the Government will move forward as rapidly as possible with the tripartite discussions, with the technical support of the Office, and report progress in the preparation of the reforms that have been requested for many years. The Committee encourages the development of agreements in the framework of the CES that reflect the recommendations of the Committee. The Committee requests the Government to provide information in this respect.***

*New Penal Code.* The Committee recalls that on 25 June 2020, a new Penal Code entered into force and that, in view of the broad scope of certain offences, it requested the Government, in consultation with the most representative organizations of employers and workers, to assess the impact of the provisions of the Penal Code on the free exercise of trade union activities. The Committee notes that the Government attached a copy of a note sent by the Secretary of State for Labour and Social Security to workers' federations and the COHEP on 4 May 2021 in order for them to designate a representative to take part in the assessment of the provisions of the Penal Code. It also takes note of the COHEP's indication that it received the aforementioned note and that on 14 May 2021, it indicated that it would send a letter to the employer organizations in order to ascertain positions in this regard and thus consolidate the position of the private sector. For its part, the ITUC emphasizes that the provisions of the new Penal Code considerably limit the right to peaceful assembly and criminalize protests and public assemblies with penalties of up to 30 years' imprisonment. ***The Committee welcomes the fact that the Government has initiated the consultation process on the impact of the provisions of the Penal Code on the free exercise of trade union activities and hopes that these consultations will take place as soon as possible. It requests the Government to provide information in this regard.***

*Application of the Convention in practice.* In its previous comment, the Committee expressed the hope that once the obstacles created by the COVID-19 pandemic were overcome, the MEPCOIT would

shortly start its industrial relations dispute settlement activities so that it could examine alleged violations of freedom of association in practice, including allegations relating to the agro-export and education sectors. The Committee takes note that, although the health emergency did not allow the MEPCOIT to meet its commitments, it would be resuming them at the earliest opportunity. The Committee further notes that, according to the COHEP, on 20 May 2021 the MEPCOIT held a session to discuss and approve its work plan, and for its reactivation and strengthening of its technical and political powers to intervene in the settlement of disputes. **While it is aware of the obstacles that the COVID-19 pandemic may have created in relation to the operation of the MEPCOIT, the Committee emphasizes the essential role that the MEPCOIT can and must play in the resolution of industrial disputes and firmly hopes that it will resume its activities at the earliest possible opportunity. The Committee requests the Government to provide information in this respect.**

**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 recalls that the technical assistance of the Office is at its disposal and expresses the firm hope that the Government will provide information in its next report on any progress made with regard to the issues raised.**

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

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2018, and the Government's reply in this respect. It also notes the observations of the Honduran National Business Council (COHEP) and of the ITUC, received on 31 August and 1 September 2021, respectively, on issues being examined by the Committee in this observation. **The Committee requests the Government to provide its reply in this respect.**

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comment, the Committee noted with interest the amount of the fines prescribed for anti-union acts in the Labour Inspection Act of 2017 and requested the Government to provide information on their application and impact. The Committee notes the Government's indication that: (i) since the entry into force of the Act, businesses have taken greater care not to commit violations of this type; (ii) the Act has made it possible to provide effective protection against anti-union discrimination since it provides for the immediate reinstatement of members of executive committees who have been dismissed; and (iii) the increase in fines has contributed to a decrease in this type of violation. The Committee notes that, as the COHEP indicates, in addition to the provisions of the Labour Inspection Act, section 295 of Legislative Decree No. 130-2017 published in the Official Gazette of 10 May 2019, containing the new Penal Code, establishes discrimination in employment as an offence punishable by penalties of from one to two years' imprisonment and a daily fine of from 100 to 200 days (each day having a value of not less than 20 lempiras (the equivalent of US\$0.83) and not more than 5,000 lempiras (the equivalent of US\$209)). The Committee notes with **interest** that this provision explicitly refers to discrimination in employment, public or private, against any person for being a workers' legal or trade union representative. The Committee observes, however, that according to the Government, in 2019 and 2020, 222 complaints concerning anti-union acts were filed and are still being processed and that the ITUC also reports anti-union dismissals. **The Committee expresses the hope that the implementation of the Labour Inspection Act combined with the Penal Code will ensure more effective protection against acts of anti-union discrimination and prevent their recurrence. It requests the Government to provide detailed information on the outcomes of the aforementioned complaints and invites it to compile data on the average duration of legal proceedings (including appeals procedures) relating to discrimination on the grounds of trade union activities.**

In its previous comment, the Committee requested the Government to provide information on the application of Ministerial Agreement No. STSS-196-2015 which protects workers wishing to form

trade unions and to examine, with the social partners, the possibility of incorporating the content thereof in the Labour Code. In this respect, the Government indicates that upon receipt of a request for registration of a collective agreement, the General Labour Directorate (DGT) is immediately informed so that it can verify that the right of workers to form a trade union is not being curtailed. It also indicates that on 27 January 2021, it sent a note to the President of the Sectoral Committee for the Handling of Disputes referred to the ILO (MEPCOIT) of the Economic and Social Council (CES) to assess with the social partners the possibility of incorporating the content of the Agreement in the Labour Code. The Committee notes the COHEP's indication that it agrees with the proposal to incorporate the content of the agreement in the Labour Code through the CES and its further indication that this matter could be included in the discussion on the reform of the Labour Code, taking into consideration that protection for workers wishing to form a trade union should also be offered to those who decide not to join one. The Committee notes that, as indicated in the observation on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), although the health emergency did not allow the MEPCOIT to meet its commitments, it would be resuming them at the earliest opportunity. **The Committee encourages the Government and the social partners to consider this matter in the context of the reform of the Labour Code and hopes that MEPCOIT resumes its activities as soon as possible. The Committee requests the Government to provide information in this respect.**

*Article 2. Adequate protection against acts of interference.* The Committee has been asking the Government, after consultation with the social partners and in the context of the process of reforming the Labour Code, to take the necessary measures to incorporate in the legislation explicit provisions that ensure effective protection against acts of interference by the employer, in accordance with *Article 2* of the Convention. The Committee notes the Government's indication that, when carrying out an inspection, the DGT can identify whether there is any type of interference by the employer and that, if such is the case, corrective measures are applied through the labour inspectors. While it notes the Government's indications, the Committee recalls that in order to ensure that effect is given to *Article 2* of the Convention in practice, the legislation must make express provision for sufficiently dissuasive remedies and sanctions against acts of interference by employers against workers and their organizations, including against measures that are intended to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means with the objective of placing such organizations under the control of employers or employers' organizations. **The Committee therefore once again requests the Government to take due note of this matter in the process of reforming the Labour Code, and to provide information on the progress achieved in this respect.**

*Articles 4 and 6. Promotion of collective bargaining. Right of collective bargaining of public servants not engaged in the administration of the State.* In its previous comment, the Committee, having taken note of the Government's indication that various decentralized and centralized institutions were permitted to submit claims and engage in collective bargaining, requested the Government to specify the texts that recognized the right of workers to collective bargaining in these institutions, and how they were related to sections 534 and 536 of the Labour Code, which provide that unions of public employees may not submit lists of claims or conclude collective agreements. The Committee notes the Government's indication that the Constitution of the Republic embraces the principles and practices of international law and establishes equal rights, including the right to collective bargaining. With regard to sections 534 and 536 of the Labour Code, the Government indicates that while it is true that there are limitations on collective bargaining in the public sector, trade unions can submit "respectful statements" containing requests and allowing negotiations aimed at improving administrative organization or working methods. It indicates that there are "respectful statements" in four public institutions. The Committee further notes that the COHEP forwarded information provided by the DGT indicating that in the public sector, 34 collective agreements, two collective accords, nine special accords, 26 memorandums of understanding and four "respectful statements" are in place. The Committee also

notes that the Committee on Freedom of Association (CFA) examined allegations of failure by a public institution to comply with a collective agreement and requested the Government to promote dialogue between the parties so that the collective agreement is fully implemented (see 386th Report, June 2018, Case No. 3268). The Committee observes that while it appears from the foregoing information that collective bargaining is in practice possible in certain public institutions, the fact remains that sections 534 and 536 of the Labour Code do not allow unions of public employees to submit lists of claims or conclude collective agreements. The Committee further recalls that a system in which public employees may only submit to the authorities “respectful statements”, a mechanism that does not allow for real negotiations to take place with regard to conditions of employment, is not in accordance with the Convention. It further recalls that although *Article 6* of the Convention excludes public servants engaged in the administration of the State (such as public servants in ministries and other comparable government bodies and their auxiliaries) from its scope of application, other categories of public servants and public employees (for example, employees of public enterprises, municipal services and decentralized entities, public sector teachers and transport sector personnel) should enjoy the guarantees provided for by the Convention and, therefore, be able to undertake collective bargaining with respect to their terms and conditions of employment, in particular their pay. ***The Committee therefore once again requests the Government to take the necessary measures to amend sections 534 and 536 of the Labour Code so that the right to collective bargaining of public servants not engaged in the administration of the State is duly recognized in national law. It encourages the Government to address this issue in the context of the process of reforming the Labour Code and requests it to provide information in this respect.***

*Article 4. Collective bargaining on trade union leave.* The Committee notes that, in the context of the aforementioned Case No. 3268, the CFA observed that according to section 95(5) of the Labour Code, the employer is not obliged to grant more than two days of paid trade union leave in each calendar month, and in no case more than 15 days in the same year. The CFA referred this legislative aspect of the case to the Committee. In the same way as the CFA, the Committee recalls that the payment of wages to full-time union officials should be up to the parties to determine, and the Government should authorize negotiation on the issue of whether trade union activity by full-time union officials should be treated as unpaid leave. ***The Committee requests the Government, in consultation with the representative workers’ and employers’ organizations and in the context of the Labour Code reform process, to take the necessary steps to review the legislation so that restrictions on the possibility of collective bargaining on remuneration for trade union leave be removed.***

*Application of the Convention in practice. Export processing zones.* The Committee notes the information provided by the Government in relation to ten inspections carried out in export processing zones following complaints of violations of trade union rights. It notes that half of the complaints were shelved because no evidence of violations of trade union freedom was found, four were referred for resolution and notification and in one case a fine was imposed. ***The Committee requests the Government to continue to provide full information in this respect, including the number of collective agreements concluded in export processing zones and the number of workers covered by them.***

*Collective bargaining in practice.* The Committee notes the information provided by the Government and by the COHEP on a number of collective agreements concluded and in force in the country, indicating the sectors concerned and the number of workers covered. ***The Committee encourages the Government to continue to provide detailed information in this respect and once again requests the Government to report on the measures taken, in accordance with Article 4 of the Convention, to promote collective bargaining. On the other hand, recalling that a direct contacts mission which took place in Honduras in 2019 at the request of the Conference Committee on the Application of Standards in relation to Convention No. 87 received numerous allegations of violations of freedom of association in practice from trade union federations, especially in the agri-export and***

**education sectors, the Committee requests the Government to provide information on collective bargaining in those sectors.**

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

## Hungary

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

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

The Committee notes the observations received on 1 September 2017 from the International Trade Union Confederation (ITUC), which are reflected in the present observation. It also notes the observations of the workers' group of the National ILO Council at its meeting of 11 September 2017, included in the Government's report, which relate to issues under examination by the Committee and contain allegations that Act XLII of 2015 resulted in trade unions formerly established in the area of civilian national security not being able to operate properly. **The Committee requests the Government to provide its comments in this respect.**

*Freedom of expression.* In its previous comments, the Committee had noted with concern that sections 8 and 9 of the 2012 Labour Code prohibit workers from engaging in any conduct, including the exercise of their right to express an opinion – whether during or outside working time – that may jeopardize the employer's reputation or legitimate economic and organizational interests, and explicitly provide for the possibility to restrict workers' personal rights in this regard. The Committee had requested the Government to provide detailed information on the results of the "For Employment" project, under which an assessment of the impact of the Labour Code on employers and workers had been undertaken, as well as on the outcome of the consultations on the modification of the Labour Code within the framework of the Permanent Consultation Forum of the Market Sector and the Government (VKF). The Committee had expressed the hope that the review of the Labour Code would fully take into account its comments with respect to the need to take any necessary measures to ensure respect for freedom of expression. The Committee notes that the Government confines itself to indicating that the negotiations in question have not been closed yet. The Committee **regrets** that no information has been provided by the Government on the outcome of the "For Employment" project (completed in August 2015) or on the consultations undertaken since 2015 within the framework of the VKF with a view to elaborating consensus-based proposals for the review of the Labour Code. **The Committee highlights once again the need to take all necessary, including legislative, measures to guarantee that sections 8 and 9 of the Labour Code do not impede the freedom of expression of workers and the exercise of the mandate of trade unions and their leaders to defend the occupational interests of their members, and expects that its comments will be fully taken into account in the framework of the ongoing review of the Labour Code. It requests the Government to provide information on any progress achieved in this respect.**

*Article 2 of the Convention. Registration of trade unions.* In its previous comments, the Committee had noted the allegation of the workers' group of the National ILO Council that numerous rules in the new Civil Code concerning the establishment of trade unions (for example, on trade union headquarters and the verification of its legal usage) obstructed their registration in practice. The Committee had requested the Government to: (i) assess without delay, in consultation with the social partners, the need to simplify the registration requirements, including those relating to union headquarters, as well as the ensuing obligation to bring the trade union by-laws into line with the Civil Code on or before 15 March 2016; and (ii) take the necessary steps to effectively address the difficulties signalled with respect to registration in practice, so as not to hinder the right of workers to establish organizations of their own choosing. The Committee had also requested the Government to provide information on the number of registered organizations and the number of organizations denied or delayed registration (including the grounds for refusal or modification) during the reporting period.

The Committee notes the Government's indication that Act CLXXIX of 2016 on the amendment and acceleration of proceedings regarding the registration of civil society organizations and companies, which entered into force on 1 January 2017, amended the 2011 Association Act, the 2013 Civil Code and the 2011 Civil Organization Registration Act. The legislative amendments were adopted to: (i) simplify the contents of association statutes; (ii) rationalize the court registration and change registration procedures of civil society organizations (court examination limited to compliance with essential legal requirements on number of founders, representative bodies, operation, mandatory content of statutes, legal association objectives, etc.; notices to supply missing information no longer issued on account of minor errors); and (iii) accelerate the registration by courts of civil society organizations (termination of the public prosecutor's power to control the legality of civil society organizations; maximum time limit for registration). The Committee notes, however, that the ITUC reiterates that trade union registration regulated by the Civil Organization Registration Act is still being subjected to very strict requirements and numerous rules that operate in practice as a means to obstruct the registration of new trade unions, including the stringent requirements on trade union headquarters (unions need to prove that they have the right to use the property), and alleges that in many cases judges refused to register a union because of minor flaws in the application form and forced unions to include the enterprise name in their official names. The Committee further notes that the workers' group of the National ILO Council states that, when the new Civil Code entered into force, all trade unions had to modify their statutes to be consistent with the law and at the same time report the changes to the courts, and reiterates that these regulations pose a serious administrative burden on trade unions.

The Committee observes the persisting divergence between the statements of the Government and the workers' organizations. The Committee requests the Government to provide its comments on the observations of the ITUC and the workers' group of the National ILO Council concerning in particular the stringent requirements in relation to union headquarters, the alleged refusal of registration due to minor flaws, the alleged imposition of including the company name in the official name of associations, and the alleged difficulties created or encountered by trade unions because of the obligation to bring their by-laws into line with the Civil Code. The Committee recalls that, although the formalities of registration allow for official recognition of workers' or employers' organizations, these formalities should not become an obstacle to the exercise of legitimate trade union activities nor allow for undue discretionary power to deny or delay the establishment of such organizations. Accordingly, the Committee requests the Government to: (i) engage without delay in consultations with the most representative employers' and workers' organizations to assess the need to further simplify the registration requirements, including those relating to union headquarters; and (ii) take the necessary measures to effectively address the alleged obstacles to registration in practice, so as not to impede the right of workers to establish organizations of their own choosing. In the absence of the solicited information, the Committee also requests the Government once again to provide information on the number of registered organizations and the number of organizations denied or delayed registration (including the grounds for refusal or modification) during the reporting period.

*Article 3. Right of workers' organizations to organize their administration.* The Committee notes that the ITUC alleges that trade union activity is severely restricted by the power of national prosecutors to control trade union activities, for instance by reviewing general and ad hoc decisions of unions, conducting inspections directly or through other state bodies, and enjoying free and unlimited access to trade union offices; and further alleges that, in the exercise of these broad capacities, prosecutors questioned several times the lawfulness of trade union operations, requested numerous documents (registration forms, membership records with original membership application forms, minutes of meetings, resolutions, etc.) and, if not satisfied with the unions' financial reporting, ordered additional reports, thereby overstepping the powers provided by the law. The Committee notes the Government's indication that, while public prosecutors no longer have the right to control the legality of the establishment of the civil society organizations, they retain the power to control the legality of their operation. The Committee generally recalls that acts as described by the ITUC would be incompatible with the right of workers' organizations to organize their administration enshrined in *Article 3* of the Convention. **The Committee requests the Government to provide its comments with respect to the specific ITUC allegations above.**

*Right of workers' organizations to organize their activities.* The Committee had previously noted that: (i) the Strike Act, as amended, states that the degree and condition of the minimum level of service may be established by law, and that, in the absence of such regulation, they shall be agreed upon by the parties during the pre-strike negotiations or, failing such agreement, they shall be determined by final decision of

the court; and (ii) excessive minimum levels of service are fixed for passenger transportation public services by Act XLI of 2012 (Passenger Transport Services Act), both at the local and suburban levels (66 per cent) and at national and regional levels (50 per cent); as well as with regard to postal services by Act CLIX of 2012 (Postal Services Act), for the collection and delivery of official documents and other mail. The Committee trusted, in view of the consultations undertaken on the modification of the Strike Act, that due account would be taken of its comments during the legislative review.

The Committee notes that the Government refers again to the relevant provisions of the Strike Act (section 4(2) and (3)) and to the Passenger Transport Services Act and Postal Services Act. In the Government's view, by regulating the extent of sufficient services in respect of two basic services that substantially affect the public and thus creating a pre-clarified situation, the legislature promoted legal certainty in the context of the exercise of the right to strike. The level of sufficient services was determined seeking to resolve the potential tension between the exercisability of the right to strike and the fulfilment of the State's responsibilities to satisfy public needs. The Government further indicates that negotiations on the amendment of the Strike Act took place in the framework of the VKF throughout 2015 and 2016, in the course of which the trade unions considered that the extent of sufficient services in the passenger transport sector was excessive. The employees' and employers' sides managed to agree on a few aspects of the amendment of the Strike Act, but failed to reach an agreement regarding, inter alia, which institution should be authorized to determine the extent of sufficient services in the absence of a legal provision or agreement. Stressing the importance of a compromise of the social partners on the amendment proposals of the Strike Act, the Government adds that, since the trade unions had announced proposals at the end of 2016 but had not submitted them during the first half of the year, no further discussions have taken place in 2017. The Committee further notes that the workers' group of the National ILO Council reiterates that the strike legislation contains an obligation to provide sufficient service during strike action which in some sectors virtually precludes the exercise of the right to strike (for example by requiring 66 per cent of the service to be provided during the strike and ensuring the feasibility of this rate through extremely complicated rules).

The Committee recalls that, since the establishment of a minimum service restricts one of the essential means of pressure available to workers to defend their economic and social interests, workers' organizations should be able, if they so wish, to participate in establishing the minimum service, together with employers and public authorities; and emphasizes the importance of adopting explicit legislative provisions on the participation of the organizations concerned in the definition of minimum services. Moreover, any disagreement on such services should be resolved by a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service, and empowered to issue enforceable decisions. The Committee further recalls that the minimum service 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 that, in the past, it has considered that a requirement of 50 per cent of the volume of transportation may considerably restrict the right of transport workers to take industrial action. ***The Committee therefore once again highlights the need to amend the relevant laws (including the Strike Act, the Passenger Transport Services Act and the Postal Services Act) in order to ensure that the workers' organizations concerned may participate in the definition of a minimum service and that, where no agreement is possible, the matter is referred to a joint or independent body. The Committee expects that the consultations on the modification of the Strike Act undertaken within the framework of the VKF will continue. It requests the Government to provide up-to-date information on the status or results of the negotiations with particular regard to the manner of determining minimum services and the levels imposed in the postal and passenger transport sectors, and expects that the Committee's comments will be duly taken into consideration during the legislative review.***

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

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

The Committee notes the observations of the Forum for the Co-operation of Trade Unions and its affiliate, the Public Collection and Public Culture Worker's Union, received on 3 May 2021, alleging that

a legislative process concerning the status of cultural workers would not take into consideration the provisions of the Convention. **The Committee requests the Government to provide its comments in this regard.**

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

The Committee notes the observations received on 1 September 2015 and 1 September 2017 from the International Trade Union Confederation (ITUC), alleging acts of anti-union dismissals, union busting and intimidation in several enterprises, and criticizing in particular the excessive limitation of the scope of collective bargaining and the employers' power to unilaterally modify the scope and content of collective agreements. The Committee also notes the observations of the workers' group of the National ILO Council at its meeting of 11 September 2017, included in the Government's report, which denounce that: (i) the law does not allow trade unions with less than 10 per cent representation among the workers to negotiate collective agreements, not even with respect to their own members; (ii) the law restricts the 'coalition' freedoms of trade unions for entitlement to collective bargaining so that they cannot seek to collectively attain the 10 per cent threshold; and (iii) in those cases where no trade union represents the required percentage, the workers' council is entitled to enter into a collective bargaining agreement (except on wage issues). **The Committee requests the Government to provide its comments with respect to the observations of the ITUC and the workers' group of the National ILO Council, including to clarify whether the representativity threshold applies to collective agreements at both enterprise and industry levels.**

The Committee further notes several judgments of the Supreme Court of Hungary (Curia) supplied by the Government, which have a bearing on the Convention, in particular on the promotion of collective bargaining.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* The Committee previously noted the Government's indications that: (i) section 82 of the Labour Code provides compensation not exceeding the worker's 12-month absence pay in case of unlawful dismissal of trade union officials or members; (ii) reinstatement is granted in case of dismissals violating the principle of equal treatment (section 83(1)(a)) or dismissals violating the requirement for prior consent of the union's higher body before the termination of a union official (section 83(1)(c)); and (iii) while the Labour Code does not contain penalties for acts of anti-union discrimination against union officials and affiliates, the Equal Treatment Authority (ETA) may, in such cases, levy fines. The Committee notes with **interest** the Government's indication that Bill No. T/17998 on the amendment of legislation related to the entry into force of the Act on the General Administrative Order, which will also bring about the harmonization of the Labour Code and relevant ILO Conventions, contains inter alia a provision amending the definition of worker representatives (section 294(1)(e) of the Labour Code), the purpose of which is to ensure that, in the event of unlawful termination of a worker representative, the possibility of requesting reinstatement into the original job will also be awarded to union officers, not only to elected representatives as is currently the case under section 83(1)(d). **The Committee expects that the Government will take the necessary steps to ensure that union officials, union members and elected representatives enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities, and requests the Government to provide information on developments in relation to the adoption of new legislative provisions in this regard. In the absence of the information solicited from the Government with respect to the working of the ETA, the Committee requests the Government once again: (i) to indicate whether, given that section 16(1)(a) of the Equal Treatment Act stipulates that the ETA may order the elimination of the situation constituting a violation of law, the ETA may order on that basis reinstatement in case of anti-union dismissals of trade union officials and members; (ii) to provide information as to whether the ETA may order compensation on the basis of section 82 of the Labour Code; and (iii) to provide information on the average duration of the proceedings before the ETA related to anti-union discrimination (including of any subsequent appeal procedures before the courts), as well as on the average duration of purely judicial proceedings.**

*Article 2. Adequate protection against acts of interference.* In its previous comments, the Committee, while noting the Government's indication that the Constitution and the current national legislation were sufficient to prevent acts of interference, had requested the Government to take steps to adopt specific legislative provisions prohibiting acts of interference. Noting that the Government provides no information in this respect, the Committee recalls that it considers that the provisions of the Labour Code and the Equal

Treatment Act do not specifically cover acts of interference designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to place workers' organizations under the control of employers or employers' organizations through financial or other means. **The Committee requests the Government once again to take all necessary measures to adopt specific legislative provisions prohibiting such acts of interference on the part of the employer and making express provision for rapid appeal procedures, coupled with effective and sufficiently dissuasive sanctions.**

*Article 4. Collective bargaining in practice.* **The Committee requests the Government to provide information on the number of collective agreements signed, the sectors concerned and the share of the workforce covered by collective agreements.**

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

## Iraq

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

The Committee notes the observations of the General Federation of Iraqi Trade Unions (GFITU), received on 28 August 2019 and 20 October 2020, as well as the joint observations of the GFITU, the Conference of Iraq Federations and Workers Unions (CIFWU), the Federation of Independent Trade and Professional Unions in Iraq (FITPUI), the Federation of Workers' Councils and Unions in Iraq (FWCUI), the General Federation of Trade Unions and Employees of Iraq (GFTUEI), the General Federation of Trade Unions of the Republic of Iraq (GFTURI), the General Federation of Workers Unions in Iraq (GFWUI), the Iraqi Federation of Oil Unions (IFOU), and the Union of Technical Engineering Professionals (UTEP), received on 17 September 2020. The Committee further notes the Government's reply to these observations. The above observations, the content of which concerns mainly the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), are thus treated under Convention No. 87.

*Trade union monopoly.* The Committee previously recalled the need to remove any obstacles to trade union pluralism and noted with interest the Government's indication that Government Decision No. 8750 of 2005 had been repealed. It requested the Government to take the necessary measures to repeal the Trade Union Organization Act No. 52 of 1987. The Committee is examining the information provided in this respect under its comments concerning Convention No. 87.

*Scope of the Convention.* The Committee previously requested the Government to ensure that the rights in the Convention were applicable to all public servants not engaged in the administration of the State. It notes that section 3 of the Labour Code stipulates that its provisions do not apply to "public officials appointed in accordance with the Civil Service Law or a special legal text" and "members of the armed forces, the police and the internal security forces". The Committee recalls that the Convention covers all workers and employers, and their respective organizations, in both the private and the public sectors, regardless of whether the service is essential, and that the only exceptions authorized concern the armed forces and the police, as well as public servants engaged in the administration of the State. It further recalls that a distinction must therefore be drawn between, on the one hand, public servants who by their functions are directly employed in the administration of the State (for example, in some countries, civil servants in government ministries and other comparable bodies, and ancillary staff), who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the Government, by public enterprises or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention. This second category of public employees includes, for instance, employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers, as well as air transport personnel, whether or not they are considered in national law as belonging to the category of public servants (see 2012 General Survey on the fundamental

Conventions, paragraphs 168 and 172). **The Committee requests the Government to indicate in what manner it ensures that effect is given to the Convention with respect to public officials not engaged in the administration of the State who are excluded from the application of the Labour Code.**

*Article 1 of the Convention. Protection against acts of anti-union discrimination. Sufficiently dissuasive sanctions.* The Committee notes that section 11(2) of the Labour Code stipulates that whoever violates the sections relating to discrimination shall be punished by imprisonment for a period not exceeding six months and a fine not exceeding one million dinars (approximately US\$685) or by any of the two sanctions. While taking due note of the above, the Committee considers that the amount of the fine referred to above may not be adequate to deter and prevent the repetition of acts of anti-union discrimination, in particular in large enterprises. **The Committee therefore requests the Government to take the necessary measures to ensure that the sanctions actually imposed in cases of anti-union discrimination are sufficiently dissuasive. In this regard, the Committee requests the Government to provide information on the sanctions imposed in practice.**

*Anti-union dismissal.* The Committee notes that section 145 of the Labour Code provides that when the penalty of dismissal has been imposed on a worker, such decision may be challenged within 30 days before the Labour Court. It notes, however, that the Labour Code does not specify which sanctions are applicable in the event of anti-union dismissal. The Committee recalls in this respect that the reinstatement of a worker dismissed by reason of trade union membership or legitimate trade union activities with retroactive compensation constitutes, in the absence of preventive measures, the most effective remedy for acts of anti-union discrimination. It further recalls that the compensation envisaged for anti-union dismissal should be higher than that prescribed for other kinds of dismissal, with a view to the effective dissuasion of this type of dismissal, and that it should be adapted in accordance with the size of the enterprises concerned (see 2012 General Survey, paragraphs 182 and 185). **Highlighting the importance that anti-union dismissals give rise to sufficiently dissuasive sanctions, the Committee requests the Government to specify which remedies may be imposed by the Labour Court in such cases, indicating in particular whether the Court is empowered to reinstate the dismissed workers in their positions.**

*Rapid appeal procedures.* The Committee notes that sections 1(26) and 8 of the Labour Code provide protection against anti-union discrimination and that, according to section 11(1) of the Labour Code, workers may resort to the Labour Court to file a complaint when exposed to any form of discrimination in employment and occupation. The Committee recalls that the existence of legal provisions prohibiting acts of anti-union discrimination is not enough if they are not accompanied by effective and rapid procedures to ensure their application in practice (see 2012 General Survey, paragraph 190). **The Committee requests the Government to provide information regarding the length of the procedure to treat complaints against acts of anti-union discrimination and its application in practice.**

*Article 2. Protection against acts of interference.* The Committee notes that the Labour Code does not contain any provisions which explicitly prohibit acts of interference. The Committee recalls that under the terms of *Article 2* of the Convention, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. 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 or employers' organizations (see 2012 General Survey, paragraph 194). **The Committee requests the Government to indicate whether other laws or regulations explicitly prohibit acts of interference and provide for rapid procedures and sufficiently decisive sanctions against such acts.**

*Article 4. 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 force in the country, as well as the sectors concerned and the number of workers covered by these agreements.***

## Italy

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1958)

The Committee notes with **interest** that the Government informs that the Constitutional Court's ruling no. 120 of 2018 took a historic stance on the subject of professional associations "of a trade union nature" for military personnel. With this judgment, the Constitutional Court declared as partially unconstitutional section 1475 of Legislative Decree No. 66/2010 – which provided that "Military personnel may not form professional associations of a trade union nature or join other trade union associations" – and ruled that military personnel may set up professional associations of a trade union nature under the conditions and within the limits laid down by law, without prejudice to the prohibition on joining other trade union associations.

## Jamaica

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

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. Right of workers to establish and join organizations.* The Committee had previously requested the Government to take the necessary measures to amend section 6(4) of the Trade Union Act (TUA) in order to ensure that penalties were not imposed on workers for their membership and participation in activities of an unregistered trade union. The Committee notes the Government's indication in its report that this issue is being examined and will be discussed with the social partners at the Labour Advisory Council. **The Committee expresses the firm hope that the law will be amended in the near future and requests the Government to inform of the developments in this regard.**

*Article 3. Interference in the financial administration of a trade union.* The Committee had previously requested the Government to take the necessary measures to restrict the Registrar's discretionary rights to carry out inspections and request information with regard to trade union finances at any time as provided in section 16(2) of the TUA. **Noting with regret that the Government has not provided any information in this regard, the Committee reiterates its previous request. It expects that the Government's next report will contain information on the measures taken to amend section 16(2) of the TUA so as to ensure that the control exercised by the public authorities over trade union finances does not exceed the obligation to submit periodic reports.**

The Committee 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: 1962)

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

In its previous comment, the Committee had noted the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015, which denounced fixed and unreasonable procedural

requirements for, and limitations on, collective bargaining. **The Committee once again requests the Government to provide its comments in this respect.**

*Article 4 of the Convention. Promotion of collective bargaining. Recognition of organizations for the purposes of collective bargaining.* For many years, the Committee has requested the Government to amend section 5(5) of the Labour Relations and Industrial Disputes Act (LRIDA) of 1975 and section 3(1)(d) of its regulation with a view to bringing them in line with its commitment, pursuant to *Article 4* of the Convention, to promote collective bargaining. The Committee recalls that the legislation allows for the recognition of a trade union as having bargaining rights only when a 50 per cent majority of the workers or a particular category of workers agree for it to have bargaining rights in relation to them. In the event of any doubt or dispute with regard to the representativeness of a union, the regulations allow the Minister to cause a ballot to be taken only if he is satisfied that the applicant union has a membership of not less than 40 per cent of the workers in relation to whom the request has been made. Once this requirement is fulfilled and the ballot taken, the result must show that 50 per cent of the workers eligible to vote have indicated that they wish a particular trade union to have bargaining rights in relation to them. The Committee further notes the ITUC's observation that pursuant to section 5(6) of LRIDA, trade unions may only claim joint bargaining rights if each trade union receives at least 30 per cent of the votes. As noted in its previous comments, the Committee observes that: (i) the legislation fails to provide for the recognition of collective bargaining rights when no union reaches the required thresholds; and (ii) the requirement of 40 per cent membership for the union applying for a ballot restricts considerably the possibility to challenge the continued representativeness of a previously recognized bargaining agent. While noting the Government's indication in its report that these issues are being examined and will be discussed with the Social Partners at the Labour Advisory Council, the Committee recalls that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. In this regard, the Committee considers that if no union in a specific negotiating unit meets the required threshold of representativeness to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. Furthermore, as the levels of representativeness change with time, any organization which in a previous ballot failed to secure a sufficiently large number of votes should have the right to request a new election after a stipulated period. In the same vein, any new organization other than the one previously certified should have the right to demand a new ballot after a reasonable period has elapsed. **Regretting the lack of progress, the Committee urges the Government to take the necessary measures in the very near future to amend its legislation in order to: (i) ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions are given the possibility to negotiate, jointly or separately, at least on behalf of their own members; (ii) recognize the right of any organization which in a previous ballot failed to secure a sufficiently large number of votes to request a new election after a stipulated period; and (iii) recognize the right of any new organization other than the previously certified organization to demand a new ballot after a reasonable period has elapsed. The Committee requests the Government to keep it informed of the developments in this regard and invites it, if it so wishes, to avail itself of the technical assistance of the Office.**

Promotion of collective bargaining in practice. **The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.**

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

## Japan

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

The Committee notes the following observations concerning matters addressed in this comment, as well as the Government's replies to them: the observations of the Japanese Trade Union Confederation (JTUC-RENGO), transmitted with the Government's report; of the National Confederation

of Trade Unions (ZENROREN), received on 31 August 2021; and of the Rentai Union Suginami, the Rentai Workers' Union, Itabashi-ku Section, the Apaken Kobe (Casual/Temporary/Part-time Non-regular Workers' Union) and the Union Rakuda (Kyoto Municipality Related Workers' Independent Union), received on 1 September 2021. The Committee further notes the observations from Education International (EI), received on 9 September 2021, and the reply of the Government thereto.

*Article 2 of the Convention. Right to organize of firefighting personnel.* The Committee recalls its long-standing comments concerning the need to recognize the right to organize for firefighting personnel. For the past years, the Government had been referring to the operation of the Fire Defence Personnel Committee (FDPC) system, which was presented as an alternative. The role of the FDPC was to examine proposals on working conditions by the personnel and to submit its conclusions to the chief of the fire department. The Government further indicated that surveys, directed to fire defence headquarters, were regularly conducted to gather information on the deliberations and results of the FDPC. The Government also mentioned a specific survey, conducted in January 2018, aiming at assessing the operation of the FDPC system and eventually seeking improvement. The results of the survey were discussed in the Fire and Disaster Management Agency. While the outcome of this survey was that the FDPC system is operated properly, the workers' representatives in the Fire and Disaster Management Agency called for improvement in the operation of the FDPC, including procedural transparency, and a more conducive environment for personnel to provide their opinions to the FDPC. In its previous report, the Government indicated that a new implementation policy of the FDPC, developed with the social partners, came into force in April 2019. In this regard, the Committee notes the observations from ZENROREN that the Japan Federation of Prefectural and Municipal Workers' Union (JICHIREN), joined by the Firefighters' Network (FFN), had requested the Ministry for Internal Affairs and Communications and the Fire and Disaster Management Agency to come up with concrete measures to ensure that firefighters' opinions regarding working conditions and workplace safety are heard in the operation of the FDPC. JICHIREN and FFN conducted a survey among firefighters in June 2021; the result indicated that the FDPC system is still considered to give discretionary power to the head of the fire department. ZENROREN regretted that, despite such result, the Government's response was merely to indicate that the FDPC system runs appropriately.

Furthermore, the Government indicates in its latest report that, since January 2019, the Ministry of Internal Affairs and Communications held six consultations with the workers' representatives where it discussed the Government's opinion that fire defence personnel are considered as police in relation to the implementation of the Convention. In the Government's view, the four consultations held in April, July and December 2019 enabled a substantive exchange on its opinion and on the Firefighting Staff Committee system. The fifth and sixth consultations, held in August 2020 and January 2021 respectively, enabled discussion of the situation of modern fire administration and the issue of harassment. The Government indicates that the employees voiced their appreciation for the regularity of the consultations and were willing to continue to hold regular consultations. The Committee notes, on the other hand, that JTUC-RENGO deplors the Government's continued failure to respond to the Committee's longstanding recommendation to grant the right to organise to firefighting personnel. JTUC-RENGO states that the establishment of reporting systems and consulting services brought up by the Fire and Disaster Management Agency 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 the personnel.

The Committee wishes to recall its prior emphasis 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 the divergent views on the meaningfulness of the consultations held since January 2019, and understands that no progress was made towards bringing positions closer together on the right to organise of firefighting personnel. ***The Committee is bound to express again its firm expectation that continuing consultations will contribute to further progress towards ensuring the right of firefighting***

**personnel to form and join an organization of their own choosing to defend their occupational interests. The Committee requests the Government to provide detailed information on any developments in this regard.**

*Article 2. Right to organize of prison staff.* The Committee recalls its long-standing comments concerning the need to recognize the right to organize of prison staff. The Committee notes that the Government reiterates its position that prison officers are included in the police, 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 also reiterates its view that, in cases where any emergency occurs in a penal institution, it is required to promptly and properly bring the situation under control, by force if necessary; thus granting the right to organize to the personnel of penal institutions could pose a problem for the appropriate performance of their duties and the proper maintenance of discipline and order. The Government recalls that it 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 2019 and 2021, with the participation of 228 general staff members (from 77 penal institutions) in 2019, and 233 general staff members (from 78 penal institutions) in 2021. The participants exchanged opinions on improving the work environment, on the nature of staff recreation as a way to contribute to a more open workplace and on the promotion of a better work-life balance for staff.

On the other hand, the Committee notes the observations from JTUC-RENGO regretting that the Government did not follow up on the Committee's previous comments to consider the different categories of prison officers in determining, in consultation with the social partners, whether they are part of the police. JTUC-RENGO is of the view that: (i) the different measures described by the Government to provide opportunities to the personnel of penal institutions to express their opinions on their working conditions are irrelevant to union rights, including the right to organize. They merely constitute an exchange of views with individual employees and cannot be considered as negotiation; (ii) these measures described by the Government serve as substitutes for a meaningful discussion on granting the right to organize to the personnel of penal institutions; and (iii) it is unlikely the Government can report any concrete example of measures taken that have improved the work environment based on the exchange of opinions described above.

The Committee considers it useful to recall that, in previous reports, the Government referred to the following distinction among staff in penal institutions: (i) prison officers with a duty of total operations in penal institutions, including conducting security services with the use of physical force, who are allowed to use small arms and light weapons; (ii) penal institution staff other than prison officers who are engaged directly in the management of penal institutions or the treatment of inmates; and (iii) penal institution staff designated, by virtue of the Code of Criminal Procedure, to carry out duties of judicial police officials with regard to crimes which occur in penal institutions and who have the authority to arrest, search and seize. The Committee observes in this regard that the Government has not engaged, despite reiterated calls from this Committee and the Conference Committee, in any consultation with the social partners to consider the different categories of prison officers. Furthermore, the Committee wishes to recall that, in its view, the Government initiatives to give opportunities to the personnel of penal institutions to provide their opinions on various aspects, including on their working conditions, remain distinct from the recognition of the right to organize under *Article 2* of the Convention. **The Committee is bound to urge once again the Government to take, in consultation with the social partners and other concerned stakeholders, the necessary measures to ensure that prison officers, other than those with the specific duties of the judicial police, may form and join an organization of their own choosing to defend their occupational interests, and to provide detailed information on the steps taken in this regard.**

*Article 3. 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 by the Government on its overall approach, which remains to continue to hear opinions from employee organizations. The Committee further notes the information on the reduction of the number of national public service employees, as a result of the creation of Incorporated Administrative Agencies and the privatization of public departments or divisions. According to the Government, the number of employees in Governmental Administrative Agencies has diminished from 807,000 in March 2003 to 302,000 in March 2021. The Government thus considers that presently the restrictions on the basic labour rights for national public service employees, whose number is decreasing, is considerably limited.

The Committee recalls that the Government has been referring over the years to the procedures of the National Personnel Authority (NPA) as a compensatory guarantee for public service employees whose basic labour rights are restricted. Previously, the Committee had noted the persistent divergent views on the adequate nature of the NPA as a compensatory measure, and had requested the Government to consider, in consultation with the social partners, the most appropriate mechanism that would ensure impartial and speedy conciliation and arbitration. In its report, the Government indicates that the NPA held 185 official meetings with employees' organizations in 2020, making recommendations enabling working conditions of public service employees to be brought in line with the general conditions of society. The Government invokes the example of the use of the NPA recommendation system for revision of the remuneration of public service employees, implemented since 1960. Thus, the Government restates that these compensatory measures maintain appropriately the working conditions of public service employees.

The Committee notes, on the other hand, the observations from the JTUC-RENGO regretting that the Government's position on the autonomous labour-employer relations system has not evolved and the Government's failure to take action as requested by the ILO supervisory bodies. JTUC-RENGO, recalling the obligation of the Government under Section 12 of the Basic Act on the National Civil Service Reform (2008), regrets that the Government gives the same response it has been repeating for many years, that "there are wide-ranging issues regarding autonomous labour-employer relations systems, so while exchanging views with employees organizations, it is necessary to continue to consider this carefully". Furthermore, JTUC-RENGO reiterates that the NPA recommendations are left to political decision, making it obvious that such mechanism is defective as a compensatory measure. JTUC-RENGO denounces the statement from the Government that the privatization of national administrative agencies had left fewer public service employees without their basic labour rights as an attempt to seek acceptance of these restrictions. The Committee notes that JTUC-RENGO deplores the evident lack of intention on the part of the Government to reconsider the legal system with regard to the basic labour rights of public service employees, and once again requests that the ILO supervisory bodies call into question the Government's attitude and investigate these matters.

***The Committee, noting that the report fails to provide any additional information on the matter, is therefore bound to urge once again that the Government indicate tangible measures taken or envisaged to ensure that public service employees, who are not exercising authority in the name of the State, enjoy fully their basic labour rights, in particular the right to industrial action. In view of persistent divergent views, 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. It requests the Government to provide information on steps taken in this regard. It also***

**requests the Government to continue providing information on the functioning of the NPA recommendation system.**

*Local public service employees.* The Committee had previously noted the observations of Rentai Union Suginami, Rentai Workers' Union, Union rakuda and Apaken Kobe referring to the adverse impact of the entry into force of the revised Local Public Service Act in April 2020 on their right to organize, and stating that: (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 the latest observations provided by these trade unions, as well as by JTUC-RENGO and ZENROREN, deploring that the situation described remains unaddressed. Additionally, these observations allege that the increase in consultation on harassment at the workplace and non-renewal of employment, is part of a new framework making it difficult for non-regular employees to join municipal unions, which in turn makes it more urgent to ensure basic labour rights to local public service employees.

The Committee notes the Government's statement that the legal amendments ensure proper appointment of special service personnel and temporary appointment employees, and that the change of basic labour rights conditions is a direct consequence. The Government asserts that, based on the examination of the autonomous labour-employer relations system of national public service employees, it will carry out careful examination of measures for local public service employees, listening to opinions from related organizations. The Committee recalls its view that the legal amendments that entered into force in April 2020 for local public service employees have the effect of broadening the category of public sector workers whose rights under the Convention are not fully ensured. **The Committee therefore urges the Government to expedite its consideration of the autonomous labour-employer relations system so as to ensure that municipal unions are not deprived of their long-held trade union rights through the introduction of these amendments. It requests the Government to provide detailed information on the measures taken or envisaged in this regard.**

*Articles 2 and 3. Consultations on a time-bound action plan of measures for the autonomous labour-employer relations system.* In its previous comments, the Committee noted the Government's statement that it was examining carefully how to respond to the conclusions and recommendations formulated by the Committee on the Application of Standards of the International Labour Conference (Conference Committee) in 2018 and the various concerns regarding measures for the autonomous labour-employer relations system, while continuing to hear opinions from the social partners. The Committee observes with **regret** that no tangible progress seems to have been made in this respect. In its report, the Government merely indicates that it exchanged opinions with JTUC-RENGO and will provide information on initiatives taken in this regard in good faith. The Committee notes, on the other hand, that JTUC-RENGO denies such exchange of opinions took place and deplores that, despite the time that elapsed 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 step towards its materialization. The Committee also notes ZENROREN's view that, based on how consultations were held with its affiliated organizations on the pending matters, it is clear that the Government has no willingness to draw up the action plan requested by the ILO supervisory bodies. **Recalling the Conference Committee conclusions, including as to the lack of meaningful progress in taking necessary measures regarding the autonomous labour-employer relations system, the Committee once again strongly encourages the Government to take meaningful**

***steps to elaborate, in consultation with the social partners concerned, a time-bound plan of action to implement the recommendations made above and to report on any progress made in this respect.***

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

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1953)**

The Committee notes the following observations concerning matters addressed in this comment, as well as the Government's replies to these: the observations of the Japanese Trade Union Confederation (JTUC-RENGO), transmitted with the Government's report; the observations of the National Confederation of Trade Unions (ZENROREN), received on 31 August 2021; and the observations of the Rentai Union Suginami, the Rentai Workers' Union, Itabashi-ku Section, the Apaken Kobe (Casual/Temporary/Part-time Non-regular Workers' Union) and the Union Rakuda (Kyoto Municipality Related Workers' Independent Union), received on 1 September 2021. The Committee further notes the observations from Education International (EI), received on 9 September 2021, and the reply of the Government to those.

*Articles 4 and 6 of the Convention. Collective bargaining rights of public service employees not engaged in the administration of the State.* The Committee recalls that for many years its comments relate to the need to ensure the promotion of collective bargaining for public employees who are not engaged in the administration of the State. In its previous comments, the Committee requested the Government to provide information on the steps taken to engage in consultation with the social partners, as required by the Civil Service Reform Law, so as to ensure collective bargaining rights for public service employees not engaged in the administration of the State. The Committee notes the Government's indication once again that basic labour rights of public service employees are, to some degree, restricted, due to the distinctive status and the public nature of the functions. It recalls that public service employees benefit from the National Personnel Authority (NPA) recommendation system. It further asserts that exchanges are held annually, at various levels, with employees' organizations on various topics, including the measures for the autonomous labour-employer relations system. Observing that there are still various concerns and opinions concerning these measures, in addition to the changing environment in labour relations, the Government intends to continue to consult with the trade unions on these issues. The Committee notes, on the other hand, the observations of the JTUC-RENGO's, ZENROREN, Rentai Union Suginami, Rentai Workers' Union, Itabashi-ku Section, Apaken Kobe (Casual/Temporary/Part-time Non-regular Workers' Union) and the Union Rakuda (Kyoto Municipality Related Workers' Independent Union) deploring, in their respective communications, that the Government has failed to initiate any meaningful consultation on the autonomous labour-employer relations system despite their demands during the past years and alleging that this illustrates the lack of intention on the part of the Government to reconsider the legal system with regard to the basic labour rights of public service employees.

Furthermore, the Committee notes that the Government reiterates that the NPA remains fully functional as a compensatory measure for the restrictions on basic labour rights of public service employees. The Government reports that the NPA held 208 meetings in 2019 and 185 meetings in 2020 to hear opinions and requests from trade unions. Additionally, the bills on remuneration and other working conditions of public employees prepared by the Government for the deliberation in the Diet are drafted according to the NPA recommendation system. In its view, these compensatory measures maintain appropriately the working conditions of national public service employees. The Committee notes, on the other hand, the opinion of the JTUC-RENGO that recommendations of the NPA are subordinated to the political decision of the Government. In the case of the recommendation on remuneration, the Committee notes that the JTUC-RENGO regretted that the wage revision processes had been conducted in a unilateral way by the Government, illustrating the fact that the NPA recommendation system is defective as a compensatory measure. The Committee recalls that, under

Articles 4 and 6 of the Convention, civil servants not engaged in the administration of the State must be able to collectively negotiate their working and employment conditions, and that mere consultation mechanisms are not sufficient in this respect. **The Committee, noting that the report fails to provide any additional information on the matter, firmly expects that the Government will make every effort to expedite its consultation with the social partners concerned and that it will adopt measures for the establishment of the autonomous labour–employer relations system that will ensure, in the near future, collective bargaining rights for all public servants not engaged in the administration of the State. In the meantime, the Committee requests the Government to continue to provide information on the functioning of the NPA recommendation system as a compensatory measure to the denial of collective bargaining rights to public service employees.**

*Collective bargaining rights of national forestry project staff.* The Committee, recalling that national forestry project staff are not among the category of workers that may be excluded from the scope of the Convention, previously requested the Government to indicate the steps taken to ensure that this category of workers is afforded the full guarantees of the Convention, including the right to bargain collectively. The Committee notes the Government's indication that it conducts an annual exchange of opinions with employee organizations regarding working conditions in the national forestry business. Those that the Government considers may be adopted are promptly implemented, such as the reappointment to Government posts for retired staff. The Committee notes the observations of the JTUC–RENGO recalling that the reappointment system is implemented by virtue of pre-existing laws, hence it was not established through labour–employer discussions within the national forestry project and that, as a consequence, the recognition of the right to collective bargaining of national forestry project staff remains unaddressed. **The Committee, noting that the report fails to provide any meaningful information on the matter, reiterates its firm hope that the Government will provide in its next report information on tangible consultations held and the measures taken to ensure that national forestry project staff is afforded the full guarantees of the Convention, including the right to bargain collectively.**

*Full guarantee of the Convention for local public service employees.* The Committee notes the observations of Rentai Union Sugunami, Rentai Workers' Union, Union Rakuda and Apaken Kobe referring to the adverse impact of the entry into force of the revised Local Public Service Act in April 2020 on their right to organize, and stating that: (i) the new system, which aimed at limiting the use of part-time staff on permanent duties, has the effect of increasing the number of workers stripped of their basic labour rights; and (ii) the new conditional yearly employment system in place has created job anxiety and weakens union action. Additionally, the trade unions allege that this new employment system increases risks of anti-union harassment at the workplace, including threats of non-renewal of employment, which makes it more urgent to ensure basic labour rights to local public service employees. The Committee notes the Government's reply that the change in the conditions relating to basic labour rights for some of these employees is a direct consequence of the legal amendments ensuring proper appointment of special service personnel and temporary appointment employees. The Government asserts that, based on the examination of the autonomous labour–employer relations system pertaining to national public service employees, it will carry out a careful examination of measures for the local public service employees, taking account of opinions from related organizations. The Committee recalls that the Convention covers all workers and employers, and their respective organizations, in both the private and public sectors, regardless of whether the service is essential. The only exceptions authorized concern the armed forces and the police, as well as public servants engaged in the administration of the State. It also recalls that the rights and safeguards set out in the Convention apply to all workers irrespective of the type of employment contract, regardless of whether or not their employment relationship is based on a written contract, or on a contract for an indefinite term (see 2021 General Survey on the fundamental Conventions, paragraph 168). The Committee observes that the legal amendments that entered into force in April 2020 for local public service employees have the effect

of broadening the category of public sector workers whose rights under the Convention are not fully ensured. ***The Committee therefore urges the Government to expedite its consideration of the autonomous labour-employer relations system so as to guarantee that the rights under the Convention cover local public service employees without distinction and that the right to collective bargaining of municipal unions is not impaired through the introduction of these amendments. It requests the Government to provide detailed information on the measures taken or envisaged in this regard.***

## Jordan

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2021 concerning matters examined in its previous comments and the continuing anti-union measures against the Jordanian Teachers Association (JTA). The Committee recalls that the ITUC provided observations in this regard in 2020. The Committee also notes the Government's response.

The Committee notes that the ITUC reports the following anti-union measures against the JTA: (i) the arrest and detention of JTA members (July–August 2020); (ii) the filing of criminal charges against the organization and its president (July 2020); (iii) the closure by the Government of the JTA offices for two years (July 2020), which effectively deprives teachers and education personnel of any representation; (iv) the prohibition by the authorities of the press from covering JTA press conferences (October 2020); (v) the issuance by the Amman court of first instance of a decision authorizing the dissolution of the JTA executive board and imposing one-year prison sentences on the 13 board members for various offences (December 2020); the union leaders were released on bail and the JTA appealed the decision; and (vi) the arrest by security services of 230 teachers who were peacefully demonstrating during the meeting between the JTA deputy director and members of the Parliamentary Education Commission (January 2021).

The Committee notes that, according to the Government, the JTA is a trade union established under the Jordanian Teachers' Union Act No. 14 of 2011, which deviates from the definition of trade unions contained in section 2 of the Labour Code, and is not therefore subject to the provisions on the functioning of trade unions established in section 98 of the Labour Code. The Government therefore considers that the JTA is not covered by the scope of application of the Convention. The Government further indicates that the suspension of the JTA's activities and the closure of its offices follow a court decision regarding violations of Act No. 11 of 1993 on economic offences. It adds that an interim committee to manage the union's administrative and financial affairs during the suspension of its executive board was established to safeguard teachers' rights, pending a final court decision. The Committee recalls that the rights conferred by the Convention on teaching staff, in particular the right to collective bargaining, require the existence of independent trade union organizations which can freely carry out their activities in defence of the interests of their members without interference by the public authorities. ***The Committee urges the Government to take the necessary measures without delay to guarantee the right to organize and to bargain collectively in the education sector and to ensure full respect of the independence of workers' organizations in the sector. The Committee, trusting that the above principles will be fully taken into account by the competent courts, requests the Government to provide information on the outcome of the current court proceedings involving the JTA and on any collective agreement or accord in the education sector, including with the JTA.***

The Committee also recalls that it previously noted the observations of the Jordanian Federation of Independent Trade Unions (JFITU), received in August 2017, which referred to general legislative

matters and specific cases of anti-union harassment and interference. The Committee notes the information provided by the Government in response to the observations of the ITUC and JFITU.

The Committee also notes that the Committee on Freedom of Association referred to the Committee the follow-up of certain legislative amendments which it recommended the Government to make in Case No. 3337 (see Report No. 393, March 2021, paragraph 571), and which are discussed below.

*Articles 1 to 6 of the Convention. Scope of application of the Convention. Foreign workers.* In its previous comments, the Committee noted the observations of the JFITU, which were also largely echoed by the ITUC, that although the law was amended in 2010 to allow foreign workers to join unions, it does not permit them to establish unions or to hold union office; and that, in sectors where migrants form the majority of the workforce, the establishment of trade unions and the exercise of the right to collective bargaining is extremely unlikely. The Committee previously asked the Government to indicate how, in practice, foreign workers can enjoy the protection of the Convention, including the right to engage in collective bargaining through organizations of their own choosing. The Committee notes the Government's indication that: (i) foreign workers have the right to join trade unions and enjoy the benefits of collective labour agreements; (ii) while foreign workers cannot establish or lead their own trade unions, there are no obstacles to their participation in collective bargaining; (iii) the internal regulations of the employers' organization and the General Federation of Jordanian Trade Unions (GFJTU) may regulate voting matters in executive boards, membership requirements and procedures, the requirements to be met by candidates for election to their executive bodies and election procedure; (iv) one of the country's largest unions with a large proportion of foreign workers is the General Union of Textile Workers, which has concluded a sectoral collective agreement for the benefit of 75,000 workers; and (v) the General Trade Union of Workers in Public Services and Liberal Professions has concluded collective agreements in the catering and hotel sectors benefiting 104,000 workers, many of them foreign. While noting this information, the Committee observes that the legal incapacity of foreign workers to establish or hold office in trade unions may constitute an obstacle to the autonomous exercise of the rights recognized by the Convention, in particular the right to collective bargaining. ***The Committee therefore requests the Government to take the necessary measures, including legislative measures, to facilitate the full exercise by foreign workers of the rights recognized by the Convention. It requests the Government to provide information on any progress in this regard. The Committee also requests the Government to continue providing information on the trade unions representing foreign workers and the collective agreements applicable to them.***

*Domestic and agricultural workers.* In its previous observation, the Committee noted with regret that, despite the removal of the explicit exclusion of domestic and agricultural workers from the coverage of the Labour Code, the law and regulations still do not clearly guarantee these workers the rights set out in the Convention, (as section 3(b) of the Labour Code provides that the rules governing the employment conditions of these workers shall be determined by a regulation to be adopted at a later stage) and that this situation is likely to reinforce existing obstacles to the exercise of the right to organize and bargain collectively of foreign workers in those sectors. The Committee notes the Government's indication that: (i) the law establishes a special legal regime for domestic workers who can join the General Trade Union of Workers in Public Services and Liberal Professions and benefit from the collective agreements concluded in their sector; and (ii) with regard to agricultural workers, work is under way to prepare specific regulations which should enable them to establish or join a representative trade union. ***Recalling that all workers other than members of the armed forces and the police and public servants engaged in the administration of the State are covered by the provisions of the Convention, the Committee trusts that the Government will adopt without delay the specific regulations for agricultural workers so that they can benefit from the right to organize and bargain collectively set out in the Convention and requests the Government to provide a copy of these regulations. The Committee also requests the Government to provide a copy of the text regulating the***

**rights of domestic workers to which it refers, indicating whether it applies to domestic workers as well as to cooks, gardeners and other similar categories of workers. Lastly, the Committee requests the Government to specify how, under the applicable regulations, the various categories of workers referred to above effectively exercise the rights enshrined in the Convention, by providing, for each category, information on the number of collective agreements concluded and the number of workers covered.**

*Workers aged between 16 and 18 years.* In its previous comments, the Committee requested the Government to amend section 98(f) of the Labour Code to lift the prohibition on minors from joining trade unions, even though they have access to employment from the age of 16, so that they can benefit from the rights set out in the Convention. The Committee notes that in its reply the Government merely reiterates that the legal age for admission to employment is 18 years of age and that minors between 16 and 18 years of age work under special conditions determined by law. However, it specifies that these workers enjoy the same benefits as other workers under collective agreements. **The Committee urges the Government to take the necessary measures to amend section 98(f) so as to ensure that minors who have reached the legal age for admission to employment, whether as workers or trainees, are fully protected in the exercise of their rights under the Convention. The Committee requests the Government to provide information on the measures taken or envisaged in this respect.**

*Workers not included in the 17 sectors recognized by the Government.* In its previous comments, the Committee noted the indication that, pursuant to an Order of the Ministry of Labour of 1999, the number of occupations and industries in which workers have the right to establish trade unions is set at 17. In this regard, the Committee noted the ITUC and JFITU's observations indicating that workers who are not in the government-designated sectors are not able to engage in collective bargaining through organizations of their own choosing. The Committee notes the list provided by the Government of the 17 sectors in which it recognizes the right of workers to organize for the purposes of collective bargaining. The Committee also notes the Government's indication that section 98 of the Labour Code has been amended to remove the responsibility for classifying occupations and industries from the Tripartite Labour Committee and assign it to the Minister of Labour, thereby allowing greater flexibility in the reclassification of occupations and industries, and paving the way for the creation of new trade unions. While the Government provides overall figures for the 56 collective agreements concluded in 2019, covering 281,526 workers, the Committee notes that the Government does not specify the occupations included in each of the 17 sectors, the relevant legislation, regulations, or statistical information on the number of workers in each of these sectors, as requested in its previous observation. In view of the above, the Committee is once again bound to express its **concern** that the current system has the effect of removing entire categories of workers from the rights guaranteed by the Convention. The Committee recalls that the scope of application of the Convention covers all workers and employers, and their respective organizations, in both the private and the public sectors, irrespective of whether or not they are essential services. The only exceptions authorized concern the armed forces and the police, as well as public servants engaged in the administration of the State (see 2012 General Survey on the fundamental Conventions, paragraph 168.). **The Committee therefore urges the Government to take all the necessary measures to ensure that no category or group of workers, with the exception of the armed forces, the police and public servants engaged in the administration of the State, can be excluded from the scope of application of the Convention for the exercise of their right to organize and bargain collectively. The Committee also requests the Government to provide information on the Ministry of Labour's decisions concerning the reclassification of occupations and industries within the meaning of the requirements of the Convention as recalled above. In the meantime, the Committee again requests the Government to provide statistics showing the number of workers in each of the recognized sectors and the total number of workers in the country.**

*Article 2. Adequate protection against acts of interference.* In its previous comments, the Committee requested the Government to amend the legislation with a view to strengthening the

penalties in cases of interference, as it considered that the fines provided for in section 139 of the Labour Code could not have a sufficiently dissuasive effect. The Committee also noted the ITUC and JFITU's allegations that the Government subsidized the remuneration of GFJTU personnel and some of its activities, and that it continued to influence their policies and activities, as well as those of their affiliates. The Committee notes the Government's response that it refrains from any trade union interference and that the financial resources of the GFJTU and its affiliates come from membership fees, as well as subsidies and donations made in accordance with certified financial rules. With regard to penalties for interference by employers, the Government indicates that it submitted a draft amendment to the Labour Code in 2020, including an amendment to section 139 to increase the penalty from 500 to 1,000 Jordanian dinars (US\$1,410). The draft amendment is now reportedly before the House of Representatives. **Noting the draft provision to strengthen the penalties for interference indicated by the Government, the Committee requests the Government to provide information on any progress in the adoption of the legislative amendment and on the penalties for interference by employers provided for in the Labour Code as amended.**

*Articles 4 and 6. Right to collective bargaining. Trade union monopoly.* In its previous comments, the Committee noted the observations of the JFITU, which were largely echoed by the ITUC, that it was impossible to establish more than one union in the government-designated sectors and that the unions in question were required to be affiliated to the single officially recognized federation, the GFJTU, and the limitation of one union per sector serves to prevent independent unions from organizing workers in the recognized sectors and representing their interests in collective bargaining. The Committee also noted that section 98(d)(1) of the Labour Code effectively gives the Tripartite Labour Committee (defined in section 43 of the Labour Code) the authority to determine groups of occupations in which only one general trade union may be established, which appears to authorize the establishment of a de facto trade union monopoly at the sectoral level. In its response, the Government indicates that section 98 of the Labour Code has been amended to remove the responsibility for classifying occupations and industries from the Tripartite Labour Committee and assign it to the Minister of Labour, with the intention of providing greater flexibility for the reclassification of occupations and industries. The Committee firmly recalls its view that the imposition of a trade union monopoly is incompatible with the principle of free and voluntary negotiation established in *Article 4* of the Convention. **Consequently, and noting in this respect the specific recommendations made by the Committee on Freedom of Association (Case No. 3337, 393rd Report, March 2021, paragraph 559), the Committee urges the Government to take the necessary measures to ensure that more than one trade union can be established in a sector and to permit the effective exercise of the free and voluntary negotiation required by the Convention, and to provide information on any progress in this respect.**

*Collective bargaining in the public sector.* In its previous comments, the Committee requested the Government to provide information on the right to collective bargaining in the public sector, including the relevant constitutional amendments and the draft law on trade unions for public sector employees, and expressed the firm hope that the national legislation would recognize explicitly the right to collective bargaining of workers in the public sector who are not engaged in the administration of the State. The Committee notes the Government's indication that the Public Service Regulations (No. 9 of 2020) have taken into account in a number of provisions the participation and representation of professional unions in the composition and functions of the Public Service Council (section 6 of the Regulations), as well as the composition of the committees established for the purpose of amending the Public Service Regulations. This regulatory amendment is reportedly intended to ensure their effective participation in the adoption of public policies, plans and programmes for human resources management in the public sector, and in the development of public service legislation and any subsequent amendments. The Government also indicates that the Civil Service Diwan is in regular contact with the professional unions in order to inform them of and involve them in changes to the public service legislation. Finally, the Government indicates that it will establish ministerial committees

to examine the professional unions' demands and proposals. ***Taking due note of the information provided by the Government and recalling that public servants who are not engaged in the administration of the State must be able to collectively bargain their working and employment conditions beyond mere consultation mechanisms, the Committee trusts that the various measures described will contribute positively to the adoption of legislation or regulations explicitly recognizing the right to collective bargaining in the public sector, and that the Government will soon indicate tangible progress in this regard.***

***[The Government is asked to reply in full to the present comments in 2022.]***

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

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. Facilities for workers' representatives.* In its previous comments, the Committee had noted that the only facility granted by law to workers' representatives was paid leave of 14 days to attend courses and requested the Government to take the necessary steps to ensure that trade union representatives are granted facilities enabling them to carry out their trade union duties rapidly and efficiently. The Committee recalls that the Workers' Representatives Recommendation, 1971 (No. 143), lists examples of such facilities: time off from work to attend trade union meetings, congresses, etc.; access to all workplaces in the undertaking, where necessary; access to the management of the undertaking, as may be necessary; distribution to workers of publications and other written documents of the union; access to such material facilities and information as may be necessary to carry out their duties, etc.

The Committee welcomes the Government's indication that section 107 of the Interim Labour Code of 2010 provides that the Tripartite Committee for Labour Affairs will set down the necessary conditions to enable trade union representatives to carry out their duties. ***The Committee requests the Government to provide detailed information on the content and outcome of the tripartite consultations held by the Tripartite Committee for Labour Affairs on all matters related to the necessary steps to ensure that trade union representatives are granted facilities enabling them to carry out their trade union duties rapidly and efficiently.***

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

## **Kazakhstan**

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 and 28 September 2021, referring to the issues raised by the Committee below.

#### **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) in June 2021 concerning the application of the Convention. The Committee observes that the Conference Committee welcomed that further steps towards implementing the 2018 road map were made, in particular amendments to the law. However, it regretted that not all previous recommendations have been fully addressed so far. In this regard, the Conference Committee took note of the continuing restrictions in practice on the right of workers to form organizations of their own choosing, in particular the unduly difficult re-registration and deregistration processes, which undermine the exercise of freedom of association. The Conference Committee also noted with concern the numerous allegations of violations of the basic civil liberties of trade unionists, including violence, intimidation and harassment. The Committee notes that the

Conference Committee requested the Government to: (i) bring all national legislation into line with the Convention to guarantee full enjoyment of freedom of association to workers' and employers' organizations; (ii) ensure that the allegations of violence against trade union members are completely investigated, notably in the case of Mr Senyavsky; (iii) stop judicial harassment practices of trade union leaders and members conducting lawful trade union activities and drop all unjustified charges, including the ban for trade unionists to hold any position in a public or non-governmental organization; (iv) continue to review developments in the cases of Mr Baltabay and Ms Kharkova; (v) resolve the registration of the Congress of Free Trade Unions (KSPRK) and the Industrial Union of Employees of the Fuel and Energy Sector so as to allow them to enjoy the full autonomy and independence of a free and independent workers' organization, to fulfil their mandate and to represent their constituents without further delay; (vi) review with the social partners the law and practice concerning the registration of trade unions with a view to overcoming existing obstacles; (vii) refrain from showing favouritism towards any given trade union and put an immediate stop to the interference in the establishment and functioning of trade union organizations; (viii) remove any existing obstacles in law and in practice to the operation of free and independent employers' organizations in the country, in particular repeal of provisions in the Law on the National Chamber of Entrepreneurs (NCE) on accreditation of employers' organizations with the NCE; (ix) ensure that workers' and employers' organizations are not prevented from receiving financial or other assistance by international workers' and employers' organizations; and (x) fully implement the previous recommendations of the Committee and the 2018 road map. The Committee also notes that the Conference Committee requested the Government to accept a direct contacts mission of the International Labour Office before the next session of the International Labour Conference with full access to the organizations and individuals mentioned in the observations of the Committee of Experts.

The Committee recalls that in their previous observations, the ITUC and the Federation of Trade Unions of Kazakhstan (FPRK) denounced the sentencing of a trade union leader Mr Baltabay to seven years of imprisonment in July 2019 for the alleged misappropriation of approximately US\$28,000 of union dues. Mr Baltabay was released in August 2019 after being pardoned by the President and given a fine of US\$4,000 in exchange for his remaining prison sentence. Mr Baltabay insisted on his innocence, refused to pay the fine or recognize the presidential pardon, and argued in court that criminal charges of large-scale misappropriation of funds levied against him were politically motivated and unfounded. The Committee further recalls that on 16 October 2019, Mr Baltabay was given a new prison sentence of five months and eight days of imprisonment for union-related activities and for not paying the fine. While Mr Baltabay was released from jail on 20 March 2020, the Committee notes that according to the ITUC, he is still banned from any public activity, including trade union activities, for seven years, as per the previous sentence.

The Committee notes from the ITUC observations, that Ms Larisa Kharkova, the Chairperson of the now liquidated Confederation of Independent Trade Unions of Kazakhstan (KNPRK), who was sentenced to four years of restriction on her freedom of movement and a five-year ban on holding any position in a public or non-governmental organization, continues to serve her sentence.

The Committee notes that the Government does not dispute the facts as outlined by the ITUC, but indicates that judicial decisions in the cases of Ms Kharkova and Mr Baltabay were made in respect of ordinary crimes, namely the "misappropriation and embezzlement of entrusted property" and the "abuse of office", and were not related to their participation in legal trade union activities. The Government indicates that the period of restricted freedom imposed on Ms Kharkova expires on 9 November 2021.

The Committee takes due note of the information provided and refers to the conclusions and recommendations of the Committee on Freedom of Association (CFA) which continues to examine cases of Mr Baltabay and Ms Kharkova in the framework of Case No. 3283 (see 392nd Report, October 2020).

***It requests the Government to indicate whether Ms Kharkova and Mr Baltabay are still prevented from holding a trade union office.***

The Committee recalls that it had previously noted with deep concern the ITUC allegation of assault and injuries suffered by Mr Dmitry Senyavsky, the Chairperson of a trade union of workers of the fuel and energy complex in the Karaganda region, and urged the Government to investigate the matter without delay and to bring the perpetrators to justice. The Committee had noted the information provided by the Government confirming the assault by unknown persons on 10 November 2018. According to a forensic medical report, Mr Senyavsky suffered mild damages to his health. The Committee recalls the Government's indication that while pretrial investigations were opened under section 293(2)(1) of the Criminal Code (disorderly conduct), they were later suspended pursuant to section 45(7)(1) of the Criminal Procedure Code (failure to identify the person who committed a crime) until new circumstances (evidence) would come to light.

The Committee notes the ITUC indication that no progress has been made in investigating the attack. The ITUC points out that absence of effective investigations and judgements against guilty parties reinforce the climate of insecurity for victims and impunity for perpetrators, which are extremely damaging to the exercise of freedom of association rights in Kazakhstan. The Committee notes the Government's indication that the work to solve this case continues. ***The Committee requests the Government to provide detailed information on all developments in this respect.***

*Article 2 of the Convention. Right to establish organizations without previous authorization.* The Committee recalls that following the entry into force of the Law on Trade Unions in 2014, all existent unions had to be re-registered. It recalls in this respect that the KNPRK affiliates were denied registration/re-registration, which ultimately led to the KNPRK's liquidation. The Committee further recalls the ITUC allegation of denials to register organizations, which previously formed the KNPRK, as well as the refusal to register the KSPRK (the name under which the successor of the KNPRK had last tried to re-register) and the Industrial Trade Union of Employees of the Fuel and Energy Sector. In its previous observation, the Committee had noted the Government's explanation that in the event that the registering authority (Ministry of Justice) identifies shortcomings, it issues a reasoned refusal. The Government further indicated that the KSPRK had received a reasoned refusal and that the Ministry of Labour and Social Protection of the Population (MLSP) had held a series of meetings with the representatives of the Congress regarding the refusal to register it. The Government had pointed out that if the trade union in question rectified the indicated shortcomings, the Ministry of Justice stood ready to re-examine the application for registration. However, according to the Government, the applicant had not yet addressed the relevant registering authority. Having duly noted the information provided by the Government, the Committee requested the Government to continue to provide information on the status of registration of the KSPRK and the Industrial Union of Employees of the Fuel and Energy Sector.

The Committee notes the ITUC indication that the KSPRK remains unregistered and that the Industrial Union of Employees in the Fuel and Energy Sector is undergoing a process of dissolution following a court decision dated 5 February 2021 to suspend its activities. The Committee further notes that the Government reiterates the information previously provided regarding the refusal to register the KSPRK and its predecessor and that the irregularities pointed out by the registering authority have not been addressed and no reapplication for registration has been submitted. The Government further indicates that by its decision of 6 May 2021, the civil and administrative appellate court decided not to change the verdict of the Shymkent special inter-district economic court of 5 February 2021 that the activities of the Industrial Union of Employees in the Fuel and Energy Sector should be suspended for six months. In order to resume its activities, the sectoral trade union was required, within six months of the court's February 2021 decision coming into effect, to resolve the irregularities regarding the numerical strength of its affiliates (subdivisions, member organizations) in territory covering more than half of the country's regions. As of August 2021, the union had not applied for registration of its affiliates.

The Government also indicates that on 13 August 2021 Mr Kuspan Koshygulov was appointed chairperson of the Union.

The Committee notes the Government's indication that there are currently three national trade union associations, 54 sectoral, 34 territorial and 365 local trade unions, which bring together around 3 million workers, or half of all the country's employees. Since the adoption of changes to the legislation in May 2020, one sectoral trade union (the "Byrlyk" union of workers in construction, housing and utilities, and transport, registered on 22 July 2021) and 37 local unions have been formed. The Government further indicates that a permanent working group exists to review areas of concern involving the registration of trade unions. Its members include representatives of the MLSPP, the Ministry of Justice and three national trade union associations (the FPRK, the Kazakhstan Labour Confederation and the "Amanat" Trade Union). While noting that new trade unions have been established and registered since the amendment of the legislation in 2020, the Committee observes that its longstanding concern regarding the registration of the KSPRK and the Industrial Union of Employees of the Fuel and Energy Sector is yet to be resolved. **The Committee requests the Government to take the necessary steps for the resolution of the issue of registration of the KSPRK and the Industrial Union of Employees of the Fuel and Energy Sector so as to allow them to enjoy the full autonomy and independence of a free and independent workers' organization, to fulfil their mandate and to represent their constituents without further delay. The Committee further requests the Government to continue engaging with the social partners to review the difficulties identified by trade unions seeking registration with a view to finding appropriate measures, including legislative, to fully give effect to Article 2 of the Convention and to ensure the right of workers to establish organizations without previous authorization. It requests the Government to provide information on all progress made in this respect.**

With reference to the conclusions of the Conference Committee, the Committee encourages the Government to continue reviewing the application of the Law on the National Chamber of Entrepreneurs (NCE) in practice with the social partners to ensure that its provisions on accreditation of employers' organizations with the NCE do not hinder the right of employers' organizations to organise their administration and activities and to formulate their programmes.

*Article 3. Right of organizations to organize their activities and to formulate their programmes.* The Committee recalls that it had previously requested the Government to amend section 402 of the Criminal Code (2016), according to which an incitement to continue a strike declared illegal by the court was punishable by arrest for the duration of up to 50 days and in certain cases (substantial damage to rights and interest of citizens, mass riots, etc.) up to two years of imprisonment.

The Committee notes the Government's indication that on 9 June 2021, the President of the Republic signed a decree on further human rights measures to be taken in Kazakhstan following which, the Government approved a plan of urgent human rights-related measures, including in respect of the right to freedom of association. The Government points out, in particular, that with a view to implementing the ILO recommendations, the intention under the Plan is to work towards further changes to national legislation, including with a view to further reviewing section 402 of the Criminal Code. **The Committee requests the Government to provide information on all steps taken thus far, and planned for the future, to review section 402 of the Criminal Code so as to ensure that simply calling for a strike action, even one declared illegal by the courts, does not result in detention or imprisonment.**

*Article 5. Right of organizations to receive financial assistance from international organizations of workers and employers.* The Committee had previously noted the Government's reference to its Ordinance No. 177 of 9 April 2018 "On the adoption of a list of international and state organizations, foreign and Kazakhstani non-governmental organizations and funds which can provide grants", which determined 98 international organizations allowed to provide grants to physical and legal persons in

Kazakhstan. In this connection, the Committee welcomed the Government's indication that the MLSPP was ready to examine the possibility of including in that list the ITUC and the International Organisation of Employers if a request to that effect is made. The Committee notes that the Government reiterates its previous statement and indicates that any such request should outline the reasons and specific objectives and state the areas in respect of which the grants are provided. **The Committee trusts that the list contained in the Ordinance will be amended, if need be upon the Government's initiative, to include international workers' and employers' organizations and requests the Government to provide information on the measures taken to that end.**

**The Committee trusts that a direct contacts mission of the International Labour Office requested by the Conference Committee will take place as soon as the situation so permits.**

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

*Scope of the Convention.* The Committee had previously requested the Government to provide clarification on the trade union rights and rights to collective bargaining of prison staff and firefighters who have no military or police rank and to inform about any collective agreement covering them. The Committee takes due note of the Government's indication that all civilian staff engaged in the above-mentioned services enjoy the rights set out in the Convention.

*Article 2 of the Convention. Adequate protection against acts of interference.* In its previous direct request, the Committee had requested the Government to provide information on the application in practice of sections 145 and 154 of the Criminal Code (2014), pursuant to which cases of interference in the functioning of social organizations and/or trade unions are punishable by a fine or imprisonment. **In the absence of the Government's reply, the Committee once again requests the Government to provide information on the application of the above-mentioned legislative provisions in practice.**

*Article 4. Right to collective bargaining.* In its previous comments, the Committee had recalled that, under the terms of the Convention, the right of collective bargaining lies with workers' organizations of whatever level, and with employers and their organizations. The Committee had therefore requested the Government to clarify whether under the model of collective bargaining provided for by the Labour Code other representatives can bargain collectively alongside an existing trade union. The Committee notes that sections 1(44) and 20(1) of the Labour Code were amended in 2020 to provide that workers are represented by trade unions or, in absence thereof, by other elected representatives. The Committee further notes that according to paragraph 3 of section 20(1) of the Labour Code, however, should workers' membership in trade unions constitute less than half of an organization's staff, the workers' interests can be represented by trade unions and by elected representatives. The Committee notes that pursuant to section 20 of the Labour Code, as amended, if a trade union exists at the organization/enterprise, no collective bargaining can take place without the participation of that union. According to the Government, the amendments have made it possible to maintain a balance between the interests of workers who are union members and those who have not joined a union, and to take into account the opinions of the entire workforce without infringing the rights of union members. While taking due note of the amendments, the Committee recalls that in the collective bargaining process the position of a representative union, even if it does not represent 50 per cent of the workforce, should not be undermined by elected representatives. **The Committee therefore requests the Government to further amend section 20 of the Labour Code in consultation with the social partners in order to bring it into conformity with the Convention and so as to eliminate the contradiction within the above-mentioned provisions of the Labour Code. The Committee requests the Government to indicate all steps taken to that end.**

The Committee had previously noted that pursuant to section 97(2) of the Code on Administrative Breaches (2014), an unfounded refusal to conclude a collective agreement is punishable by a fine. The Committee had recalled that legislation which imposes an obligation to achieve a result, particularly

when sanctions are used in order to ensure that an agreement is concluded, is contrary to the principle of free and voluntary negotiation. The Committee had thus requested the Government to repeal the mentioned provision. The Committee notes in this respect the Government's indication that under article 158(5) of the Labour Code, any unjustified refusal to conclude a collective agreement by those authorized to conclude it renders them liable, under article 97(2) of the Code on Administrative Breaches, to a fine of 400 monthly calculation index (MCI). The Government provides detailed information on the procedure to follow prior to the conclusion of a collective agreement as set out in article 156 of the Labour Code. The Government points out that once all the procedures have been followed, any unjustified refusal to conclude the collective agreement is deemed unlawful. The Government further explains that the sanctions provided for in article 97(2) of the Code on Administrative Breaches are designed to protect the right to conclude a collective agreement and to avoid any forced conclusion thereof. **While taking notes of this explanation, the Committee requests the Government to take the necessary measures in order to ensure the full conformity of the legislation with the principle of free and voluntary negotiation. The Committee also requests the Government to provide information on the application of the above-mentioned provisions in practice, in particular on the offences committed and the sanctions applied.**

## Kuwait

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

*Article 2 of the Convention. Migrant workers.* In its previous comments, the Committee had requested the Government to recognize the right of migrant workers to establish and join organizations of their own choosing. The Committee notes that the Government indicates that the Labour Law No. 6 of 2010 does not prohibit migrant workers from establishing or joining organizations, and that the conditions set for admission of migrant members to trade unions in Ministerial Order No. 1 of 1964, namely holding a work permit and having resided in the country for at least five years, are not discriminatory but merely organizational. The Government further indicates that the work permit shows that the worker is lawfully residing in the country and specifies the type of occupation on the basis of which a request to join the union is made. The Committee recalls in this regard that it had already noted that section 99 of the Labour Law of 2010 limits to Kuwaiti workers the right to establish a trade union organization. It further recalls once again that the right of workers, without distinction whatsoever, to establish and join organizations of their own choosing implies that anyone residing in the territory of a State, whether or not they have a residence permit, benefits from the trade union rights provided for by the Convention, without any distinction based on nationality or the absence thereof. **Therefore, the Committee urges the Government to: (i) amend section 99 of Labour Law of 2010 by removing the condition of Kuwaiti nationality for establishing a trade union organization; (ii) repeal the provisions of Ministerial Order No. 1 of 1964 requiring migrant workers to have a work permit and to have resided in the country for five years in order to join a trade union organization, and; (iii) remove any other legal or practical impediment to the free exercise of the right of migrant workers to establish or join organizations. The Committee further requests the Government to keep it informed of the measures taken in this regard.**

*Domestic workers.* The Committee recalls that the rights of domestic workers under the Convention are not recognized in Kuwait, as on the one hand, pursuant to section 5 they are excluded from the scope of the Labour Law, including its provisions on freedom of association; and on the other hand Law No. 68 of 2015 on Employment of Domestic Workers does not contain any provisions recognizing the right of domestic workers to organize. The Committee notes with **regret** that despite its repeated requests in this regard, the Government has not taken any measure to recognize the rights of domestic workers under the Convention. **It therefore once again urges the Government to take all the**

**necessary measures, including through revising the legislation, to ensure the full recognition in law and in practice of the right of domestic workers to establish and join organizations. It requests the Government to indicate the measures taken or envisaged in this regard.**

*Article 3. Financial administration of organizations.* In its previous comments, the Committee had requested the Government to amend section 104(2) of the Labour Law that prohibits trade unions from using their funds in financial, real estate and other forms of speculations. The Committee notes that the Government once again indicates that this provision regulates the activity of trade unions with the aim of protecting them from possible negative consequences of the indicated investments. In this regard, the Committee once again recalls that legislative provisions that restrict the freedom of trade unions to administer, utilize and invest their funds as they wish for normal and lawful trade union purposes, including through financial and real estate investments, are incompatible with *Article 3* of the Convention, and that the control exercised by public authorities over trade union finances should not go beyond the requirement for the organization to submit periodic reports. **It therefore once again urges the Government to review section 104(2) of the Labour Law in order to allow trade unions to freely administer and invest their funds in accordance with Article 3 of the Convention.**

*Overall prohibition on trade union political activities.* Since 2006, when it first made comments on the drafts of what later became the 2010 Labour Law, the Committee has requested the Government to eliminate the total ban on political activities of trade unions that is enshrined in section 104(1) of this law. It notes with **regret** that the Government has not taken any measures in this regard and merely repeats its previous indications. The Committee recalls that the right of trade unions to organise their activities includes the rights to organize protest action, as well as certain political activities, such as expressing support for a political party considered more able to defend the interests of members (see 2012 General Survey on the fundamental Conventions, paragraph 115) Sweeping bans on trade union political activities give rise to serious difficulties with regard to the exercise of these rights and are therefore incompatible with the Convention. **On these grounds, the Committee urges the Government to revise section 104(1) of the Labour Law to allow for legitimate political activities of trade unions and to keep it informed of the measures taken in this regard.**

*Compulsory arbitration.* In its previous comments, the Committee had requested the Government to amend sections 131 and 132 of the Labour Law. Section 131 gives the Ministry of Labour the power to intervene in a labour dispute without the request of any of the parties and eventually to submit the dispute to conciliation or arbitration. Section 132 prohibits strikes during conciliation or arbitration proceedings initiated because of the intervention of the Ministry. The Committee had recalled that compulsory arbitration to end a collective labour dispute and a strike is only acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted, even banned, i.e. in disputes concerning public servants exercising authority in the name of the State, or in essential services in the strict sense of the term – that is, services whose interruption would endanger the life, personal safety or health of the whole or part of the population. The Committee notes the Government's indication that in practice it has never intervened in any dispute out of respect for the principles enshrined in the Convention, and that it will continue to follow this approach of refraining from intervention unless the parties to the dispute request its intervention. **While duly noting this information, the Committee recalls the need to ensure the conformity of legislative provisions with the Convention, even when they are not applied in practice, and once again requests the Government to take the necessary measures to amend sections 131 and 132 of the Labour Law in light of the above and to keep it informed of the measures taken in this regard.**

*Dissolution of executive boards.* In its previous comments, the Committee had requested the Government to amend section 108 of the Labour Law, which provides that an organization's board of directors can be dissolved by judicial order, in case the board engages in an activity that violates the provisions of the Labour Law or "laws relevant to the preservation of public order and morals". The Committee recalls that it had pointed out in this regard that the reference to the "laws relevant to the

preservation of public order and morals" is too broad and vague and could lead to an application that hinders the exercise of the rights enshrined in the Convention. The Government indicates that the application of section 108 is not broad or vague and that any Ministry lawsuit seeking the dissolution of a board pursuant to section 108 should refer to the instances and aspects of the alleged violation whereupon the matter will be submitted to judicial examination. The Committee notes this information and recalls that while the organizations and their members are bound to respect the law of the land, the law of the land shall not be such as to impair the guarantees provided in the Convention. The dissolution of the executive board involves a serious risk of interference by the authorities, in particular as to the right of organizations to elect their representatives in full freedom. Furthermore, it may paralyse the activities of a trade union for some time. The Committee considers that authorizing dissolution of executive boards based on indeterminate references such as to "laws relevant to the preservation of public order and morals" provide an exceedingly broad basis for such intrusive measures. ***In light of the foregoing, the Committee once again requests the Government to take the necessary measures to revise section 108 of the Labour Law, in order to make it compatible with the guarantees provided in the Convention. In the meantime, it requests the Government to provide information on any cases of application of section 108 in practice, and communicate the judicial decisions issued on its basis.***

*Articles 2 and 5. Limitation to a single confederation.* In its previous comments, the Committee had requested the Government to amend section 106 of the Labour Law which provides that "there should not be more than one general union for each of the workers and employers". The Government indicates in this regard that the Labour Law of 2010 resulted from consultation and agreement between the Government and the social partners and that section 106 aims at protecting the unity of the labour movement in Kuwait. The Committee recalls in this respect that although the Convention does not make trade union diversity an obligation, it does require this diversity to remain possible in all cases and at all levels. Although it is generally to the advantage of workers and employers to avoid proliferation of competing organizations, trade union unity directly or indirectly imposed by law is contrary to the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 92). ***Therefore the Committee once again requests the Government to take the necessary measures to amend section 106 of the Labour Law so as to ensure the right of workers and employers to establish organizations of their own choosing at all levels, in particular the possibility of forming more than one confederation (general union). It further requests the Government to provide information on any developments in this respect.***

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

## **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 2007)

*Scope of application of the Convention. Migrant and domestic workers.* In its observations concerning the application of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) in Kuwait, the Committee has noted that pursuant to section 99 of the Labour Law, the right to establish trade unions is restricted to Kuwaiti workers. Furthermore, Order No. 1 of 1964 subordinates the exercise of the right of migrant workers to join workers' organizations to the possession of a valid work permit and a minimum of five years' residence in the country. The Committee notes that these legal restrictions on the right to organize seriously impede the exercise by migrant workers of all rights enshrined in the Convention. Furthermore, the Committee has noted that domestic workers are excluded from the scope of the Labour Law and Law No. 68 of 2015 on Employment of Domestic Workers does not contain any provisions concerning the right to organize and collective bargaining. In its previous observation, the Committee had requested the Government to take all necessary measures to ensure the recognition of these rights for all migrant and domestic workers. It notes with **regret** that the Government does not indicate any measures taken in this regard, neither has

it provided information on the way migrant and domestic workers exercise these rights in practice. ***In view of the foregoing, the Committee urges the Government to take all necessary measures, including legislative reform, to ensure the full recognition, in law and in practice, of the rights enshrined in the Convention for all migrant workers as well as for domestic workers. It also requests the Government to provide information on the way in which these workers exercise in practice the rights set out in the Convention, including information on trade union organizations established and collective agreements in force.***

*Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* In its previous observations, the Committee had noted that beyond the general prohibition of anti-union dismissals, national legislation does not provide for effective procedures and dissuasive sanctions against acts of anti-union discrimination and interference. It had therefore urged the Government to take all the necessary measures to bring national legislation into conformity with the Convention. The Committee notes with ***regret*** that the Government does not indicate any measures taken in this regard. ***Therefore, it once again urges the Government to take all necessary measures to ensure that the legislation provides for the prohibition of all acts of anti-union discrimination and interference forbidden by the Convention, and to ensure that there are redress mechanisms that provide adequate protection, including effective procedures and dissuasive sanctions.***

*Article 4. Promotion of collective bargaining. Compulsory arbitration.* In its previous observations, the Committee had noted that section 131 of the Labour Law gives the Ministry the power to intervene in a collective labour dispute without the request of any of the parties, and eventually refer the dispute to conciliation or arbitration while section 132 bans strikes during conciliation or arbitration proceedings initiated by the Ministry. The Committee had requested the Government to amend these provisions. The Committee notes that the Government indicates that in practice, it has never intervened in any dispute out of respect for the provisions of the Convention and it shall continue to do so in the future, except if the parties to a dispute request its intervention. The Committee once again recalls in this regard that compulsory arbitration in the framework of collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (*Article 6 of the Convention*), essential services in the strict sense of the term (services whose interruption would endanger the life, personal safety or health of the whole or part of the population), and acute national crises. While noting the Government's indication that the above-cited provisions are never applied in practice, the Committee recalls that State parties are required to ensure the conformity of their laws with the Convention. ***Therefore, it once again urges the Government to take all the necessary measures to amend sections 131 and 132 of the Labour Law, as well as other provisions on compulsory arbitration, to ensure their full conformity with the above-mentioned principles and to provide information on any developments in this respect.***

*Promotion of collective bargaining. Application of the Convention in practice.* In its previous observation, the Committee had requested the Government to provide information on its concrete measures to promote collective bargaining and to indicate the collective agreements concluded. The Government reports that it always encourages collective bargaining and provides the list of 11 collective agreements concluded during the 2014–20 period. The Committee notes that all these agreements concern the petroleum sector. ***Recalling that Article 4 of the Convention requires Governments to take measures to encourage and promote the full development and utilization of machinery for collective bargaining, the Committee requests the Government to indicate the concrete measures it has taken to promote and encourage collective bargaining in all economic sectors. It also requests the Government to continue providing information concerning the number of collective agreements concluded, specifying the sectors and the number of workers covered.***

## Kyrgyzstan

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1992)

The Committee recalls that it had previously noted with concern that the provisions of the draft Law on Trade Unions, developed upon the initiative of several members of Parliament, regulated in detail the internal functioning of unions by imposing excessive mandatory requirements for trade union by-laws and elections, and imposed a trade union monopoly. The Committee had noted in this respect the concerns expressed by the International Trade Union Confederation (ITUC) and the Federation of Trade Unions of Kyrgyzstan (FPK). The Committee notes the Government's indication that in its observations on the draft, based on the comments provided by the International Labour Office, the Government concluded that the draft was not in conformity with the national Constitution, nor with international labour standards. Taking into account the position of the Government, the President of the Republic vetoed the draft law on two occasions. The Committee on Freedom of Association (CFA) examined the allegations of noncompliance of the vetoed draft Law on Trade Unions with freedom of association in Case No. 3386 (Report No. 396, November 2021) and drew the legislative aspects of this case to the attention of the Committee. The Committee notes that in December 2021, the President of the Republic vetoed the draft law for a third time. The Committee notes with **interest** the information, outlined by the Government in its report on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), regarding the process of the labour legislation inventory undertaken by the Ministry of Labour and Social Development, as per Presidential Order No. 26 of 8 February 2021, with a view to bringing the legislation into conformity with ratified Conventions. ***The Committee requests the Government to take the necessary measures to ensure that the FPK is included in the above-mentioned inventory process with a view to ensuring that any amendments to the Law on Trade Unions in force or any new proposed draft Law on Trade Unions are subject to full and meaningful consultations with the social partners and that any new legislative provisions affecting trade union rights are in full conformity with the Convention. The Committee requests the Government to provide information on all developments in this regard and reminds it of the possibility to continue to avail itself of ILO technical assistance.***

The Committee recalls that in their September 2020 communications, the ITUC and the FPK alleged reprisals against FPK leaders and interference in FPK financial activities thereby paralyzing its work. The Committee **regrets** that the Government provides no information in this regard. The Committee further notes that in the above-mentioned case, the CFA examined similar allegations in the absence of the Government's reply and urged the Government to conclude without delay any pending investigation involving the FPK and its affiliates, to return all documents concerning their internal administration and to ensure that its bank accounts can be used to conduct their legitimate trade union activities. ***The Committee requests the Government to provide detailed information on all allegations of interference into the FPK activities and reprisals against its leaders and activists, including actions taken by the Government in response to any such interference and reprisals.***

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

## Lebanon

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

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

The Committee notes the observations of the General Confederation of Lebanese Workers (CGTL), communicated with the Government's report. The Committee observes that the Government has not replied

to the observations made by the International Trade Union Confederation (ITUC) in 2010, alleging that the law imposes a high threshold on representative organizations for engaging in collective bargaining, as well as imposing the requirement of obtaining the agreement of two-thirds of the union membership at a general meeting to validate a collective agreement. **The Committee once again requests the Government to send its comments concerning the observations made in 2010 by the ITUC.**

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

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

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

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

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

*Compulsory arbitration.* For many years, the Committee has been asking the Government to take measures so that recourse to arbitration in the three public sector enterprises governed by Decree No. 2952 of 20 October 1965 is only at the request of both parties. The Committee also requested the amendment of

section 224 of the draft Labour Code, which provides that, should mediation fail, any dispute in the case of the three public sector enterprises governed by Decree No. 2952 will be settled by an arbitration board. The Committee notes with **regret** the Government's indication that Decree No. 2952 has been replaced by Decree No. 13896 of 3 January 2005, and that now all investment enterprises in the private and public sectors which are responsible for managing public services on behalf of the State or on their own account must resort to compulsory arbitration should negotiations fail. The Committee recalls that compulsory arbitration is generally not compatible with the promotion of free and voluntary collective bargaining required by *Article 4* of the Convention and therefore that compulsory arbitration in the context of collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and in the event of an acute national crisis. **Noting with regret that the Government has been merely indicating, for over a decade, that the draft Labour Code is under examination and that due account will be taken of the Committee's comments, and that the Labour Code in force continues to contain provisions that are not compatible with the Convention, the Committee urges the Government to take the necessary legislative measures to amend the Labour Code in force so as to guarantee the collective bargaining rights of workers, including domestic workers. The Committee reminds the Government that it may avail itself of technical assistance from the Office in this regard.**

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

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

## Lesotho

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1966)

*Article 3 of the Convention.* *Right of workers' and employers' organizations to organize their activities and formulate their programmes.* In its previous observations, the Committee had noted that section 198F of the Labour Code grants specific advantages (access to premises to meet representatives of the employer, to recruit members, to hold a meeting of members and to perform any trade union functions in terms of a collective agreement) to trade unions representing more than 35 per cent of employees, and that section 198G(1) of the Labour Code provides that only members of registered trade unions representing more than 35 per cent of the employees in enterprises employing 10 or more employees were entitled to elect workplace union representatives. The Committee requested the Government to take measures, including in the context of the ongoing labour law reform, to ensure that the distinction between most representative and minority unions does not result, in law or in practice, in granting privileges that would unduly influence workers' free choice of organization. The Committee notes that the Government indicates that in the draft revised Labour Code, which has not been tabled before the Parliament, the distinction between the most representative and the minority unions will not unduly influence the workers' choice of organization, as bargaining rights are granted to both majority and minority trade unions. The Committee once again recalls that the distinction between most representative and minority unions should be limited to the recognition of certain preferential rights (for example, for such purposes as collective bargaining, consultation by the authorities or the designation of delegates to international organizations). **The Committee encourages the Government to also include in the revision of the Labour Code the consideration of measures to amend sections 198F and 198G(1) to ensure that workers' free choice of organization is not unduly influenced by the privileges granted by these provisions, and to send a copy of the revised Labour Code once adopted.**

*Articles 2, 3 and 5. Public officers' associations.* The Committee had previously noted that section 14(1)(b), (c) and (d) of the Societies Act required registered societies to supply to the Registrar-General, upon his or her order at any time, a list of office bearers and members of the society, the number and place of meetings held within the preceding six months, and such accounts, returns and other information as he or she thinks fit. It requested the Government to pursue its efforts to amend the Public Service Act to ensure that organizations of public officers were not subject to the obligations outlined in section 14(1)(b), (c) and (d) of the Societies Act, and that their supervision was limited to the obligation of submitting periodic financial reports or where there were serious grounds for believing that the actions of an organization were contrary to its rules or the law. The Committee further expressed its firm hope that the Government would take the necessary measures to ensure that public officers were able to establish and join federations and confederations, and affiliate with international organizations. The Committee notes that the Government indicates that: (i) the Ministry of Public Service is still awaiting Cabinet approval for the review of the Public Service Act; (ii) the draft revised Labour Code has abolished the divided system of labour law and will apply to all sectors of the economy, including the public service; (iii) a Labour Policy which underlines the application of international labour standards to all workers across sectors, including public servants, has been approved; and (iv) the Ministry had requested technical assistance from the ILO but the workshops that were scheduled were suspended because of the COVID-19 pandemic and the nationwide lockdowns. ***The Committee expects that the review of the Public Service Act will be conducted in the near future and will ensure that organizations of public officers are exempted from the application of section 14(1)(b), (c) and (d) of the Societies Act and that their supervision is limited to the obligation of submitting periodic financial reports or where there are serious grounds for believing that the actions of an organization were contrary to its rules or the law. The Committee also requests the Government to provide information on the specific measures taken, within the framework of the labour law reform, to ensure that public officers are allowed to establish and join federations and confederations, and affiliate with international organizations, in accordance with Article 5 of the Convention.***

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

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1966)

*Article 4 of the Convention. Promotion of collective bargaining. Recognition of the most representative union.* In its previous comments, the Committee noted that section 198A(1)(b) of the Labour Code defined a representative trade union as a “registered trade union that represents the majority of the employees in the employ of an employer”, and that section 198A(1)(c) specified that “a majority of employees in the employ of an employer means over 50 per cent of those employees”. It requested the Government to take the necessary measures in the context of the labour law reform to ensure that if no union reached the required majority to be designated as the collective bargaining agent, minority unions would be given the possibility to bargain collectively, jointly or separately, at least on behalf of their own members. The Committee notes that the Government indicates that in the labour law reform, all recognised unions are given bargaining rights and therefore minority unions should also enjoy the right to bargain collectively. ***While taking due note of these elements, the Committee requests the Government to provide information on the specific measures taken within the framework of the labour law reform to ensure that the rules determining the access of trade unions to collective bargaining comply with the Convention, and to provide copies of any laws or regulations adopted in this regard.***

*Representativeness requirements for certification of a union as the exclusive bargaining agent.* The Committee previously noted that section 198B(2) of the Labour Code provides that the arbitrator may conduct a ballot “if appropriate” in the determination of disputes concerning trade union representativity. It also noted that the drafting instructions for the 2016 consolidation and revision of

the Labour Code referred to the introduction of a formal requirement for ballots to be held in determining trade union representativeness, removing the arbitrator's discretion as to whether a ballot is appropriate. The Committee takes note of the Government's indication that it has undertaken to put in place regulations upon the enactment of the revised Labour Code to ensure that disputes which require the holding of secret vote to determine which trade union is most representative are in fact disposed of by means of a ballot. It further notes that the Government indicates that a copy of the envisaged regulations will be provided once adopted. ***The Committee expects that the ongoing labour law reform will be completed shortly and that the revised Labour Code and its accompanying regulations will ensure that a vote by secret ballot is held for the determination of disputes regarding trade union representativity. It requests the Government to provide a copy of the above-mentioned texts once adopted. Moreover, the Committee once again requests the Government to take the necessary measures to ensure that the revised Labour Code allows new organizations, or organizations failing to secure a sufficiently large number of votes, to ask for a new election after a reasonable period has elapsed since the previous election.***

*Collective bargaining in the education sector.* The Committee previously noted the Government's indication that the drafting instructions for the 2016 consolidation and revision of the Labour Code identified that the Education Act should be clarified to state that teachers enjoy collective bargaining rights. It noted that section 64 of the Education Act of 2010 provided that a teacher had a right to form or become a member of any teacher formation, and that a teachers' formation representing more than 40 per cent of practising teachers could apply for recognition to the Minister. The Committee requested the Government to provide information on the amendment to the Education Act and to ensure that if there is no union that reaches the required threshold to be designated as the collective bargaining agent, minority unions should be given the possibility to bargain collectively, jointly or separately, at least on behalf of their own members. It also requested the Government, in the meantime, to provide information on the application of section 64 of the Education Act in practice. The Committee notes the Government's indication that there is no amendment of the Education Act of 2010 to date. It further notes that the Government informs that the Progressive Association of Lesotho Teachers has been recognized by the Ministry of Education and Training as the largest trade union in Lesotho, as per section 64 of the Education Act of 2010. The Government indicates, however, that when giving effect to this provision in practice, the minority unions are always included in the negotiations on issues relating to their members. ***While taking due note of this information, the Committee requests the Government to take, within the context of the labour law reform, the necessary measures to ensure that the right of teachers to bargain collectively is explicitly recognized in the legislation in a manner that, as mentioned in its previous comments, gives full effect to the Convention. The Committee also reiterates its previous requests to the Government to provide information on any collective bargaining agreements reached with teachers in the public and private sectors.***

*Collective bargaining in practice.* ***The Committee requests the Government to provide information on the number of collective agreements signed and in force in the country and to indicate the sectors concerned as well as the number of workers covered.***

## Liberia

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

The Committee notes the observations made by the African Regional Organisation of the International Trade Union Confederation (ITUC-Africa), received on 31 August 2021, denouncing the dissolution of a trade union by a state-owned company; the use of police force to break up peaceful strikes; and the arrest of union leaders and wrongful dismissal of workers for their participation in strike actions. ***The Committee requests the Government to provide its comments in this regard.***

The Committee had previously noted the observations made by the National Health Workers' Union of Liberia (NAHWUL), received on 1 October 2020, alleging the Government's failure to grant it legal recognition, which it considered even more detrimental in the context of the COVID-19 pandemic, as well as infringements of the right to strike. The Committee notes the Government's reply that, since 2018, the Ministry of Health has given functional acceptance of NAHWUL as a body representing its members, pending the revision of appropriate national laws. The Government states that this has entailed the reinstatement to employment of the NAHWUL leadership, their integration into decision making and privileges such as study opportunities, and their involvement in the monitoring of the conditions of health workers around the country, with provision of logistical and other support. **The Committee requests the Government to provide additional information as to other pending allegations raised in NAHWUL's observations and, recalling the recommendations of the Committee on Freedom of Association concerning case No. 3202 [see Report No 384, paragraph 387], to inform on the specific steps taken to ensure that this organization can be granted full legal recognition without further delay.**

*Scope of application.* In its previous comments, the Committee had noted that section 1.5(c)(i) and (ii) of the Decent Work Act of 2015 (the Act) excluded from its scope of application work falling within the scope of the Civil Service Agency Act. The Committee had previously noted the Government's indication in 2012 that the legislation guaranteeing the right of public employees to establish trade unions (the Public Service Ordinance) was being revised with the technical assistance of the Office and had requested it to report on any developments in this regard. The Committee notes the Government's indication that the employees of state enterprise are already being represented by unions of their choosing, and that other public servants, including public defenders and prosecutors, have their collective bodies that seek their wellbeing and articulate their interests without seeking to be described as unions. The Committee further notes the Government's acknowledgement that the Act does not cover workers in the mainstream public sector and indicates that a national labour conference was convened in 2018 to create a framework for the harmonization of the Act and the Civil Service Standing orders. **Recalling that all workers, with the sole possible exception of the police and the armed forces, are covered by the Convention, the Committee requests the Government to provide specific information on developments in this regard and to detail what legal provisions ensure that public sector workers enjoy the rights and guarantees set out in the Convention, including provisions drafted or envisaged for enactment and the time frame expected for such enactment.**

The Committee had noted that section 1.5(c)(i) and (ii) of the Act also exclude from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. The Committee had therefore requested the Government to indicate how the rights enshrined in the Convention are ensured to maritime workers, including trainees, and to indicate any laws or regulations adopted or envisaged covering this category of workers. The Committee notes the Government's indication that Liberia's Maritime Regulations 10-318.3, addressed to accommodation and recreational facilities, incorporate by reference the terms of the Maritime Labour Convention (MLC) as inherent parts of the conditions of work on flagged vessels and that a further review of how these provisions are applied in practice is planned in line with the report on the MLC, which is due in 2022. **Noting that the Government has not provided the specific information requested regarding how the particular rights enshrined in the Convention are ensured to maritime workers, the Committee once again requests that the Government provide detailed information as to how, both in law and in practice, these particular rights are ensured to maritime workers, including trainees.**

*Article 1 of the Convention. Right of workers, without distinction whatsoever, to establish organizations.* The Committee had noted that section 2.6 of the Act provided that all employers and workers, without distinction whatsoever, may establish and join organizations of their own choosing without prior authorization, and subject only to the rules of the organization concerned, and that section 45.6 of the Act recognized the right of foreign workers to join organizations. The Committee had requested the Government to indicate whether, in addition to the right to join organizations, foreign

workers are entitled to establish organizations of their own choosing. The Committee notes the Government's indication that the right to establish organizations exists for foreign workers, that there is no prohibition to the establishment of bodies solely composed of foreign workers or foreign employers and it refers in this respect to existing bodies like the World Lebanese Cultural Union and the Indian Community, although adding that these consist of both employers and employees and give attention to issues affecting the wellbeing of people of their nationality in general. **Having duly noted this information, the Committee requests the Government to take any necessary measures, including through the amendment of section 45.6 of the Act, to ensure that the right to establish organizations to defend their occupational interests is fully recognized to foreign workers both in law and in practice, as well as to provide information on any developments in this regard.**

*Article 3. Determination of essential services.* The Committee had noted that the National Tripartite Council (established under section 4.1 of the Act) has the function to identify and recommend to the Minister services that are to be considered essential, which are those that in the opinion of the National Tripartite Council, if interrupted, would endanger the life, personal safety or health of the whole or any part of the population (section 41.4(a) of the Act). The Committee had further noted that upon considering the recommendations of the National Tripartite Council, the President decides whether or not to designate any part of a service as an essential service and publishes a notice of the designation of that essential service in the *Official Gazette* (section 41.4(c) of the Act), and in making this decision, the President is neither bound by nor obliged to follow the recommendations of the National Tripartite Council (section 41.4(d) of the Act). The Committee had therefore requested the Government to indicate whether, in determining which services are considered essential, the President is bound by the definition of the notion of essential services set out in section 41.4(a) of the Act, and had also requested the Government to provide information on how the designation of essential services (section 41.4 of Act) has operated in practice. The Committee notes the Government's indication that since the Act took full effect in 2018, the nation has been gradually setting up its required structures and instituting its full provisions, and that the formal designation of essential services is one of those tasks that is subject to the recommendation of the National Tripartite Council, which is yet to occur. The Committee notes that the Government emphasizes that placement of industries or workers in different categories as a method of epidemic response or control should not be perceived as a designation of essential services within the context of section 41.1 of the Act. **The Committee requests the Government to continue to provide information on any developments with regard to the designation of essential services by the National Tripartite Council and how such designation operates in practice, as well as to clarify whether the President is also bound by the definition of the notion of essential services set out in section 41.4(a) of the 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.**

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

The Committee notes the observations made by the African Regional Organisation of the International Trade Union Confederation (ITUC–Africa), received on 31 August 2021, alleging acts of anti-union discrimination and interference in trade union internal affairs by a state-owned company and its refusal to bargain collectively. **The Committee requests the Government to provide its comments in this regard.**

*Scope of the Convention.* In its previous comments, the Committee had noted that section 1.5(c)(i) and (ii) of the Decent Work Act of 2015 (the Act) excluded from its scope of application work covered by the Civil Service Agency Act. Furthermore, the Committee had noted the Government's indication in 2012 that the legislation guaranteeing the right of collective bargaining of public servants and

employees in state enterprises (Ordinance on the public service) was under revision with the technical assistance of the Office, and had requested it to provide information on any developments in this regard. The Committee notes that the Government acknowledges that the Act does not cover workers in the mainstream public sector and indicates that a national labour conference was convened in 2018 to create a framework for the harmonization of the Act and the Civil Service Standing Orders. **Recalling that all workers, except the armed forces and the police, as well as public servants engaged in the administration of the State, are covered by the Convention, the Committee expresses the firm hope that the legislation will soon be brought into conformity with the Convention and requests the Government to provide information on developments in this regard.**

The Committee had also noted that section 1.5(c)(i) and (ii) of the Act also excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. The Committee had therefore requested the Government to indicate how the rights enshrined in the Convention apply to these workers, including any laws or regulations, adopted or envisaged, covering them. The Committee notes the Government's indication that Liberia's Maritime Regulations 10-318.3 incorporate by reference the terms of the Maritime Labour Convention (MLC) as inherent parts of the conditions of work on flagged vessels and that a further review of how these provisions are applied in practice is planned in line with the report on the MLC, which is due in 2022. **Noting that Liberia's Maritime Regulations 10-318.3 refers to shipboard living conditions and recreational facilities, the Committee requests the Government again to detail how, both in law and in practice, the rights enshrined in the Convention are ensured to maritime workers.**

*Article 1 of the Convention. Adequate protection against anti-union discrimination.* In its previous comment, the Committee had noted the various provisions of the Act that guarantee the protection against acts of anti-union discrimination. The Committee had requested the Government further information on the sanctions applied in cases of acts of anti-union discrimination and to provide statistics on the number of cases of discrimination examined, the duration of the procedures and the type of penalties and compensations ordered. The Committee notes the Government's indication that the Ministry ruled in favour of the workers in the three cases of anti-union discrimination brought up during the period under review and ordered the reinstatement of the workers. While noting that section 14.10 of the Act provides for dissuasive sanctions in the event of termination of employment due to violations of the worker's or the employer's rights under the Act, including the possibility for Ministry or court to order the reinstatement of the worker, the Committee recalls that adequate protection against acts of anti-union discrimination 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. **The Committee requests the Government to take, after consultation with the representative organizations of workers and employers, necessary legislative and regulatory measures to guarantee the application of sufficiently dissuasive penalties against all acts of anti-union discrimination. It also requests the Government to continue to provide detailed statistics on the number of complaints of anti-union discrimination received by the relevant authorities, the average duration of the proceedings and their outcome, and the types of remedies and sanctions imposed in those cases.**

*Article 2. Adequate protection against acts of interference.* The Committee recalls that for many years it has been requesting the Government to take measures to introduce in the legislation provisions guaranteeing adequate protection for workers' organizations against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions. The Committee notes the Government's indication that the Ministry of Labour has issued directives against interference with the activities of workers' organizations and that it desires to ensure that the workers and employers' interests coexist harmoniously. **The Committee requests the Government to provide a copy of the Ministry of Labour's directives against interference in trade union's activities. Furthermore, noting the**

**observations made by the ITUC alleging acts of interference, and recalling the importance of the effective prohibition by the national legislation of all of the acts of interference covered by Article 2, the Committee once again requests the Government to take the necessary measures to include in the relevant legislation provisions explicitly prohibiting acts of interference and providing for sufficiently dissuasive sanctions and rapid and effective procedures against such acts.**

*Article 4. Promotion of collective bargaining.* The Committee had noted that, under the Act, trade unions that represent the majority of the employees in an appropriate bargaining unit are able to seek recognition as exclusive bargaining agents for that bargaining unit (section 37.1(a)), and that if the trade union no longer represents this majority, it must acquire a majority within three months, otherwise, the employer shall withdraw recognition from this trade union (section 37.1(k)). The Committee recalled that while it is acceptable that the union which represents the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights, it considers that, if no union reaches the required majority to be designated as a bargaining unit, minority unions should be given the possibility to bargain collectively, jointly or separately, at least on behalf of their own members. The Committee therefore requested the Government to indicate whether, if no union represents this majority the minority unions in the same unit enjoy collective bargaining rights, at least on behalf of their members. **In the absence of information from the Government in this respect, the Committee reiterates its request.**

*Settlement of disputes affecting national interest.* The Committee had noted that section 42.1 of the Act underlined prerogatives of the President, Minister and National Tripartite Council with regard to disputes affecting the national interest. The Committee had requested the Government to provide additional information regarding those prerogatives, and to indicate the extent to which section 42.1 of the Act provides the parties with complete freedom of collective bargaining and does not alter the principle of voluntary arbitration. The Committee notes the Government's information that while the Ministry has not formally classified any dispute addressed since the advent of the Act as a dispute affecting the national interest, the process of voluntary arbitration is being protected in all disputes. **In the absence of a response with regard to the exercise of the prerogatives granted to the public authorities by section 42.1 of the Act, the Committee reiterates its request.**

*Collective bargaining in practice.* **The Committee requests the Government to provide information on the number of collective agreements signed and in force in the country and to indicate the sectors and levels concerned as well as the number of workers covered.**

## Madagascar

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

The Committee notes the observations made by the Autonomous Trade Union of Labour Inspectors (SAIT), received on 15 March 2021, alleging the infringement of the right of trade unions to organize their activities under *Article 3 of the Convention*. **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 International Trade Union Confederation (ITUC) and of the Confederation of Malagasy Workers (CTM), received on 25 September and 26 October 2017, respectively, on the application of the Convention in practice, and notes the Government's comments in this regard. The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 20 September 2017, containing allegations of restrictions on the right to organize, and especially the right of trade unions to organize their management and training activities, and also on the difficulties

encountered in establishing trade unions. **The Committee requests the Government to provide its comments on the observations of SEKRIMA.**

*Restrictions on trade union activities in the maritime sector.* In its previous comments, the Committee urged the Government to ensure that the independent inquiry conducted into anti-union acts in the maritime sector is concluded as soon as possible. The Committee notes that no information has been provided by the Government in this regard. **The Committee therefore reiterates its previous request and once again urges the Government to ensure that the independent inquiry is concluded as soon as possible and to communicate the findings thereof.**

*Legislative matters*

*Article 2 of the Convention. Workers governed by the Maritime Code.* In its previous comments, the Committee noted that a new Maritime Code was to be adopted and hoped that the right of seafarers to establish and join trade unions would be recognized. The Committee notes the Government's indication that a roadmap on the adoption of the Maritime Code has been established and received the approval of the tripartite partners. The Committee also notes that a plan of action has been adopted to put into practice the efforts of the Malagasy Government to comply with the provisions of the Convention, and that the Maritime Code that will soon be adopted will take this plan into account. **The Committee requests the Government to provide information on any progress achieved in this regard and to provide a copy of the Maritime Code as proposed or adopted, and to ensure that the Code establishes the right of seafarers to establish and join trade unions.**

*Article 3. Representativeness of workers' and employers' organizations.* In its previous comments, the Committee noted the adoption of Decree No. 2011-490 on employers' and workers' organizations and representativeness and asked the Government to provide information on its application and its impact on the determination of the employers' and workers' organizations that participate in social dialogue at the national level. The Committee notes the Government's indication that the Decree is to be implemented in several phases, the first of which is the holding of elections for staff delegates at the enterprise level. The Committee notes that, according to the Government, the election process began in 2014, but was slowed down by the adoption of Order No. 34-2015 on the determination of trade union representativeness, as an appeal was lodged to set aside the result of the elections. The Committee notes the Government's indication that, in early 2017, the Council of State (CE) issued a decision rejecting the appeal, and that the process to determine representativeness was relaunched. Moreover, the Committee notes the Government's indications that a tripartite meeting on the issues of representativeness and the composition of the National Labour Council (CNT) was held on 10 November 2017. Lastly, the Committee notes that a new ministerial order (Decree No. 2017-843), which envisages the optimization of the CNT and tripartite labour councils with a view to facilitating the determination of employers' and workers' representativeness, has been adopted. **The Committee requests the Government to provide information on any progress made in the election of staff delegates at the enterprise level and on the application and impact from such election in the determination of the employers' and workers' organizations that participate in dialogue at the national level.**

*Right of workers' organizations to organize their activities and formulate their programmes. Compulsory arbitration.* In its previous comments, the Committee requested the Government to take all necessary measures to amend sections 220 and 225 of the Labour Code, which provide that if mediation fails, the collective dispute is referred by the Minister of Labour and Social Legislation to a process of arbitration and that the arbitral award ends the dispute and the strike. The Committee recalled that, in a collective dispute, a compulsory arbitration order is acceptable only where strikes may be prohibited, namely in the case of public servants exercising authority in the name of the State, in essential services in the strict sense of the term and in the event of an acute national crisis. The Committee also asked the Government to take the necessary measures to amend section 228 of the Labour Code on the requisitioning of striking employees, so as to replace the concept of the disruption of public order by the concept of acute national crisis. The Committee notes the Government's indication that a compilation of the Committee's observations, in relation to the requested legislative amendments, has been made so that it can be transmitted to the CNT for examination and adoption. **The Committee encourages the Government to take all the necessary measures to amend sections 220 and 225 of the Labour Code on arbitration, as well as section 228 of the Labour Code on requisitioning, in order to bring them into conformity with the above principles, and to provide information on any progress made in this regard.**

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

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

The Committee notes the observations from the Autonomous Trade Union of Labour Inspectors (SAIT), received on 15 March 2021, alleging anti-union discrimination measures against its members. ***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 made by the International Trade Union Confederation (ITUC) and the Christian Confederation of Malagasy Trade Unions (SEKRIMA) in communications received on 1 and 4 September 2017, respectively, concerning points being examined by the Committee and, according to SEKRIMA, new acts of anti-union discrimination in various sectors (telecommunications, banking, textiles, the salt industry and fishing). The Committee also notes the Government's comments in reply to the observations made by SEKRIMA in 2015 and by the ITUC in 2015 and 2017. With regard to allegations of anti-union dismissals in the mining sector, the Government indicates that the Council of State of the Supreme Court, in a judgment dated 9 December 2015, ruled in favour of the trade union leader Barson Rakotomanga, suspending implementation of the decision by the Minister for the Public Service, Labour and Social Legislation opposing his reinstatement in the enterprise; and that in other cases the Antananarivo Labour Court ruled that the dismissals of trade union activists were procedurally flawed and therefore gave entitlement to the payment of damages. With regard to another case concerning the situation of two workers at a Malagasy mattress manufacturing company, the Government refers to intervention by the competent services of the labour administration and inspectorate, which resulted in amicable termination of the employment contract in one case and reinstatement in the company in the other case. ***Emphasizing the persistence of allegations of anti-union discrimination in numerous sectors, the Committee requests the Government to continue sending information on this matter. The Committee also requests the Government to ensure that all the events reported are the subject of investigation by the public authorities and, if acts of anti-union discrimination are proven, that these will give rise to full compensation for the damage suffered, in both occupational and financial terms, and to the imposition of penalties that constitute an effective deterrent.***

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comments, the Committee asked the Government to provide information on the number of cases of anti-union discrimination examined by the labour inspection services and labour courts, and on the corresponding penalties actually applied by these institutions. The Committee notes the Government's indications that the Ministry of Labour has taken steps to direct the activities of the Regional Labour Services (SRT) to enable the collection of the required data. In this regard, it notes that a suitable report template taking account of data on cases of anti-union discrimination is being prepared by the Inspection Support Service at the Directorate for Labour and Social Legislation and that the reports drawn up in relation to this template will be compiled centrally every six months from 2018 onwards, with a view to analysing them and setting up a database containing reliable information. ***The Committee hopes that the Government will soon be a position, as a result of these new tools, to provide information on the number of cases of anti-union discrimination examined by the labour inspectorate and the labour courts, and also on the corresponding penalties actually applied by the aforementioned bodies.***

*Articles 1, 2, 4 and 6. Public servants not engaged in the administration of the State.* The Committee recalls that its previous comments were concerned with the need to adopt formal provisions clearly recognizing the protection of all public servants and public sector employees not engaged in the administration of the State against acts of anti-union discrimination and interference and their right to bargain collectively their conditions of employment. The Committee noted the Government's indication that contractual public employees, governed by Act No. 94-025 of 17 November 1994, are not covered by specific provisions relating to acts of anti-union discrimination or interference or the right to bargain collectively. The Committee notes that, according to the Government, the recommended measures will be taken into account in the context of the future National Public Service Policy (PNFOP) and the revision of the legal framework

governing the public service, including texts concerning civil servants and contractual public employees (Act No. 2003-011 of 3 September 2003 issuing the general conditions of service of public servants and Act No. 94-025 of 17 November 1994 issuing the general conditions of service of contractual public employees). **While noting this information, the Committee expects that the Government will be in a position in the near future to provide information on the measures taken to clearly recognize the protection of all public servants and public sector employees not engaged in the administration of the State against acts of anti-union discrimination and interference and their right to bargain collectively their conditions of employment. The Committee reminds the Government that it may avail itself of technical assistance from the Office in this regard.**

*Article 4. Promotion of collective bargaining. Representativeness criteria.* With regard to the implementation of the representativeness criteria determined by Decree No. 2011-490 on trade unions and representativeness, the Committee notes the Government's indication that an appeal was lodged seeking the cancellation of Order No. 34/2015 determining trade union representativeness for 2014–15. In this regard, the Committee refers to its observation on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

*Collective bargaining in sectors subject to privatization.* The Committee notes the information provided by the Government on the situation of collective agreements in the energy sector, particularly that of the Malagasy Electricity and Water Company (JIRAMA), the revision of which is reportedly in progress. It notes that information on the Télécom Malagasy (TELMA) company will be provided in due course. The Committee further notes that, according to SEKRIMA, collective bargaining in privatized sectors continues to pose problems, in that the privatization operations have resulted in the collective agreements in force being discarded. **Recalling that the restructuring or privatization of an enterprise should not in itself result automatically in the extinction of the obligations resulting from the collective agreement in force and that the parties should be able to take a decision on this subject and to participate in such processes through collective bargaining, the Committee requests the Government to take all necessary steps to promote the full use by the parties concerned of collective bargaining mechanisms in privatized sectors. The Committee hopes that the Government will be in a position in the very near future to report tangible progress in this regard.**

*Collective bargaining for seafarers.* In its previous comments, the Committee noted that the Labour Code excluded maritime workers from its scope of application and requested the Government to take the necessary measures to ensure the adoption of specific provisions guaranteeing the collective bargaining rights of seafarers governed by the Maritime Code. The Committee notes the Government's reference to a roadmap relating to the ratification of the Maritime Labour Convention, 2006 (MLC, 2006), and to the adoption of the Maritime Code due in May 2018. **The Committee expects that the Government will be able to report, in the near future, the adoption of the new Maritime Code and that this Code will make provision for maritime workers to enjoy the rights guaranteed by the Convention.**

*Promotion of collective bargaining in practice.* **Further to its previous requests, the Committee requests the Government to provide information on the number of collective agreements concluded in the country, including in enterprises employing fewer than 50 workers, 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.**

## Malaysia

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)

The Committee notes the observations of the Malaysian Trades Union Congress (MTUC), received on 30 August 2019, denouncing violations of the Convention in practice, including numerous instances of anti-union discrimination, employer interference and violations of the right to collective bargaining in a number of enterprises. The Committee further notes that specific violations of the Convention in practice were also previously denounced in the 2016, 2017 and 2018 observations of the International

Trade Union Confederation (ITUC) and the 2015 MTUC observations and **regrets** that the Government has not yet provided its reply to these concerns. **The Committee requests the Government to take the necessary measures to address all of the above allegations, in particular to ensure that allegations of anti-union discrimination and interference are rapidly investigated, that effective remedies are ordered and that sufficiently dissuasive sanctions are imposed on the perpetrators. The Committee trusts that the Government will be in a position to provide detailed information in this regard.**

*Ongoing legislative reform.* The Committee previously noted that a holistic review of the main labour laws (including the Employment Act, 1955, the Trade Union Act, 1959 and the Industrial Relations Act, 1967 (IRA)) was ongoing in the country. The Committee welcomes the Government's indication that it has been working closely with the Office in the labour law review and that the IRA has been amended through the Industrial Relations (Amendment) Act, 2020, with effect from January 2021. The Committee will address the amendments to the IRA in more detail below. It further notes the Government's statement that the Employment Act and the Trade Union Act are currently undergoing the due processes to be amended and tabled at the Parliament. **The Committee trusts that the Government's continued cooperation with the Office will facilitate the review of the Employment Act and the Trade Union Act and contribute to achieving full conformity of these laws with the Convention. The Committee requests the Government to provide information on any developments in this regard.**

*Article 1 of the Convention. Adequate protection against anti-union discrimination. Effective remedies and sufficiently dissuasive sanctions.* In its previous comment, the Committee requested the Government to provide detailed information on the general remedies effectively imposed for acts of anti-union discrimination dealt with through sections 5 and 8 of the IRA (referral of a complaint to the Director-General or to the Industrial Court and used in the vast majority of reported anti-union discrimination cases), as well as the sanctions and measures of compensation in relation to anti-union discrimination acts under section 59 of the IRA (a process before a criminal court with a higher standard of proof (beyond reasonable doubt), explicitly providing for penal sanctions and the possibility of reinstatement, but only used in less than 6 per cent of reported cases). In light of that information, the Committee requested the Government to take any necessary measures to ensure that the rules and procedures relating to anti-union discrimination afford adequate protection, without placing on victims a burden of proof that constitutes a major obstacle to establishing liability and ensuring an appropriate remedy.

The Committee notes that, with a view to expediting the procedure with respect to anti-union discrimination, the Government indicates that under section 8 as amended, the Director-General of Industrial Relations may take any steps or make enquires to resolve the matter and if not solved, may, if he/she thinks fit, refer the matter directly to the Industrial Court without having to first refer the matter to the Minister. The Committee observes however that the Director-General would appear to retain certain discretion in this regard and it is not evident on what basis the decision not to refer a case would be made. As regards effective remedies for anti-union discrimination, the Committee notes the Government's indication that the amendments to section 30(6A) of the IRA allow the Industrial Court to have at its disposal a full range of remedies to be awarded to a worker dismissed for anti-union reasons. In this respect, the Committee further observes with **interest** that: (i) section 33B of the IRA, as amended, stipulates that an award of the Industrial Court for reinstatement or reemployment of a worker may not be subject to a stay of proceedings by any court; and (ii) pursuant to new section 33C, a worker dissatisfied with an award of the Industrial Court may appeal to the High Court within 14 days of receiving the award, suggesting that the Industrial Court's decision will be subject to appeal on facts and law. While welcoming these amendments, the Committee observes that the Government does not provide information on the remedies imposed in practice for acts of anti-union discrimination dealt with through section 8 of the IRA, nor on the sanctions and measures of compensation awarded in practice for anti-union discrimination acts under section 59 of the IRA. **The Committee therefore requests the Government once again to: (i) provide detailed information on the general remedies imposed in**

***practice for acts of anti-union discrimination dealt with through sections 5, 8 and 20 of the IRA, whether by the Director-General or the Industrial Court, especially in view of the above amendments to the relevant provisions, as well as on the sanctions and measures of compensation awarded in practice in relation to anti-union discrimination acts under section 59 of the IRA; (ii) in light of this information, to take any necessary measures to ensure that workers who are victims of anti-union discrimination can lodge a complaint directly before the courts in order to access expeditiously adequate compensation and the imposition of sufficiently dissuasive sanctions and recalls its recommendation to consider reversal of the burden of proof once a prima facie case is made; and (iii) to provide information on the average duration of the proceedings under section 8 of the IRA, in view of the amendments to expedite the process, as well as on the number of cases in which the complaint was resolved by the Director-General, as opposed to instances referred to the Industrial Court.***

Articles 2 and 4. Trade union recognition for purposes of collective bargaining. Criteria and procedure for recognition. Exclusive bargaining agent. The Committee recalls that under section 9 of the IRA, when an employer rejects a union's claim for voluntary recognition for the purpose of collective bargaining, the union has to inform the Director-General who should take appropriate action, including a competency check through a secret ballot, to ascertain whether the union has secured the required ballot (50 per cent plus one) of the workers or class of workers, in respect of whom recognition is being sought. Having observed the concerns raised by the MTUC and the ITUC in this regard (the use of the total number of workers on the date of the request and not at the time of the ballot, leading to large discrepancies, as well as the lack of protection against employer interference in the secret ballot procedure), the Committee requested the Government to take the necessary steps to ensure that the recognition process provides safeguards to prevent acts of interference and that if no union reaches the required majority to be declared the exclusive bargaining agent, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members.

The Committee notes the Government's indication that: (i) the recognition process was reviewed, in consultation with the social partners, and is, in the Government's view, adequate; (ii) concerns pertaining to the formula currently used for the secret ballot have been acknowledged and will be reviewed subject to consultations and views from stakeholders through the National Labour Advisory Council; (iii) a simple majority is a minimum requirement which will be maintained in order for a trade union to become exclusive bargaining agent and the social partners agree with it; and (iv) the Government continuously takes the necessary steps to ensure that the recognition process provides safeguards to prevent acts of interference and the parties may lodge a complaint in case of interference under section 8 and 18 of the IRA. The Committee observes in this regard that the main amendments to section 9 relate to expediting the process, addressed in more detail below, and to clarifying that, in case of refusal to grant recognition by the employer: (i) the Director-General shall ascertain the scope of membership of the trade union on the date of the claim, whether it is in accordance with the union's constitution (instead of ascertaining the competence of the trade union to represent the workers concerned, as previously stipulated by the IRA); and (ii) by way of secret ballot, the Director-General, shall ascertain the percentage of workers, in respect of whom recognition is being sought, who indicate support for the trade union making the claim (instead of ascertaining the percentage of workers who are members of the trade union making the claim, as previously stipulated). While taking due note of the above, the Committee observes that the Government does not provide details as to the steps it indicates it is taking to ensure safeguards against employer interference during the recognition process and understands from the Government's report that the formula used in the secret ballot by the Director-General to ascertain the percentage of workers who support the union, in case of employer's refusal to grant recognition (denounced by the MTUC and the ITUC), needs to be further reviewed. It observes that the Committee on Freedom of Association also examined allegations of employers' refusal to recognize trade unions as collective bargaining agents and the weaknesses of the existing secret ballot process and referred the legislative aspect of the case to this Committee (see Case No. 3334,

391st Report, October 2019, paragraphs 374 and 382 and 393rd Report, March 2021, paragraphs 28 and 31). The Committee wishes to recall in this regard that the recognition procedure should seek to assess the representativeness existing at the time the ballot vote takes place to take into consideration the actual size of the workforce in the bargaining unit and that the process should provide safeguards to prevent acts of employer interference. ***In line with the above, the Committee trusts that any further necessary amendments will be made to the secret ballot process, in consultation with the social partners, so as to effectively address the concerns raised by the trade unions in this respect, and to ensure that the recognition process as a whole, regarding both the initial employer response and the verification procedure with the Director-General, provides safeguards to prevent acts of employer interference. The Committee trusts that the amendments already made to the recognition process will contribute to these efforts and requests the Government to indicate their effect in practice. The Committee further requests the Government to provide additional details on the steps the Government indicates it is taking to ensure sufficient safeguards against employer interference in the recognition process.***

The Committee further observes, in relation to the recognition procedure and the right to collective bargaining, that additional amendments were made to the IRA, but are not yet in force, adding new section 12A relating to exclusive bargaining rights. The Committee understands that this provision was introduced to govern situations where more than one trade union obtains recognition for the purpose of collective bargaining and provides for a procedure to determine which trade union will benefit from the exclusive bargaining rights to represent the workers (agreement among the unions or determination by the Director-General, including through a secret ballot based on the highest number of votes). ***Noting in this regard the Government's general indication that simple majority is a requirement for a trade union to become an exclusive bargaining agent but observing that the law does not make reference to this threshold, the Committee requests the Government to specify the manner in which collective bargaining rights are granted and exercised when no trade union has reached the 50 per cent requirement once section 12A comes into force and to provide information on its application in practice. In this regard, the Committee also requests the Government to indicate whether in situations where no union is declared the exclusive bargaining agent, collective bargaining can be exercised, jointly or separately, by all unions in the unit, at least on behalf of their own members.***

***Duration of recognition proceedings.*** In its previous comment, the Committee requested the Government to provide additional information on the administrative and legal actions undertaken by the Department of Industrial Relations to expedite the recognition process and to take any necessary measures to further reduce the length of proceedings. The Committee notes the Government's indication that the amendments to the IRA confer the powers to determine the matters related to the recognition of trade unions previously vested in the Minister of Human Resources to the Director-General of Industrial Relations, thus expediting the dispute resolution processes relating to claims for recognition by trade unions. ***Welcoming these amendments, the Committee requests the Government to indicate the effect they have on the recognition procedure, in particular to indicate the average duration of the process, both for voluntary recognition and for instances where recognition is determined by the Director-General. Further observing that section 9(6) of the IRA providing for the final nature of the decision on recognition by the Director-General has been deleted, the Committee requests the Government to indicate whether such decision may now be appealed by the concerned union or the employer.***

***Migrant workers.*** In its previous comment, the Committee welcomed the Government's statement that current laws do not prohibit foreign workers from becoming trade union members but observed that the Government did not provide any information on the announced legislative amendment to enable non-citizens to run for election for union office if they have been legally residing in the country for at least three years or in response to a series of concerns that had been previously

noted by the Committee. The Committee **regrets** that the Government's report is limited to reiterating that foreign workers are eligible to becoming members of a trade union and to hold trade union office upon approval of the Minister, if it is in the interest of such union (a condition which, in the Committee's views, hinders the right of trade union organizations to freely choose their representatives for collective bargaining purposes) and does not elaborate on any of the concerns previously raised on limitations on collective bargaining of migrant workers in practice. The amendments to the IRA also do not seem to address these issues. **The Committee therefore reiterates its request to the Government to take the necessary measures to ensure the full utilization of collective bargaining by migrant workers, including as to enabling foreign workers to run for trade union office, and to provide information on any developments in this regard, whether legislative or other.**

*Scope of collective bargaining.* In its previous comment, the Committee expressed firm hope that section 13(3) of the IRA would be amended in the near future to remove its broad restrictions on the scope of collective bargaining (restrictions with regard to transfer, dismissal and reinstatement, some of the matters known as "internal management prerogatives"). The Committee notes the Government's indication that while section 13(3) was retained during the labour law reform, so as to maintain industrial harmony and speed up the collective bargaining process, the provision is not obligatory in that, if both parties agree, they may negotiate the subject matters stipulated therein. The Government adds that additional amendments were introduced to section 13(3) of the IRA, allowing trade unions to raise questions of a general character relating to transfers, termination of services due to redundancy, dismissal, reinstatement and assignment or allocation of work. While welcoming these amendments, the Committee considers that it remains unclear how the possibility to raise questions of a general character on matters that are within the scope of legislative restrictions on collective bargaining would be articulated in practice. **The Committee therefore requests the Government to indicate the practical implications of the amendment of section 13(3) of the IRA on the scope of collective bargaining, in particular to clarify the meaning of the new wording – questions of a general character. While further noting the Government's indication that the parties may, if they agree, negotiate the matters prohibited by section 13(3) of the IRA, the Committee invites the Government to consider lifting the broad legislative restrictions on the scope of collective bargaining, so as to promote the right to bargain freely between the parties, without any intervention by the Government.**

*Compulsory arbitration.* In its previous comment, the Committee noted that section 26(2) of the IRA allows compulsory arbitration by the Minister of Labour of his own motion in case of failure of collective bargaining and expressed hope that the Government would take any necessary measures to ensure that the legislation only authorizes compulsory arbitration in essential services in the strict sense of the term, for public servants engaged in the administration of the State or in cases of acute national crisis. The Committee notes the Government's statement that amendments have been made to section 26(2) of the IRA, enabling trade unions to engage freely and voluntarily in collective bargaining, except in certain situations, but that this provision is not yet enforced. The Committee observes, in particular, that pursuant to the new wording of section 26(2) of the IRA, the Minister may of his/her own motion refer any trade dispute to the court if satisfied that it is expedient to do so provided that where the trade dispute relates to a refusal to commence collective bargaining or a deadlock in collective bargaining, reference to the court shall not be made without the consent in writing of the parties, unless: (a) the trade dispute relates to the first collective agreement; (b) the trade dispute refers to any essential services specified in the First Schedule; (c) the trade dispute would result in acute crisis if not resolved expeditiously; or (d) the parties to the trade dispute are not acting in good faith to resolve the trade dispute expeditiously. The Committee notes with **interest** that the amendments made restrict compulsory arbitration to instances generally compatible with the Convention, except to the extent that the reference in section 26(2) to "any Government service" and "the service of any statutory authority", as well as the reference to a number of Government services in point 8 of the First Schedule, may go beyond what can be considered as public servants engaged in the administration of the State, and point

10 of the First Schedule, which considers as essential services businesses and industries connected with the defence and security of the country (while the armed forces may be exempt from the provisions of the Convention, businesses and industries connected with them should be afforded the full guarantees of the Convention). ***In line with the above, the Committee trusts that these amendments will enter into force without delay and invites the Government to continue to engage with the social partners with a view to: (i) further delimiting the categories of Government services in section 26(2) and point 8 of the First Schedule, so as to ensure that compulsory arbitration may only be imposed on those public servants engaged in the administration of the State; and (ii) removing businesses and industries mentioned in point 10 of the First Schedule from its the scope of application.***

*Restrictions on collective bargaining in the public sector.* The Committee has for many years requested the Government to take the necessary measures to ensure for public servants not engaged in the administration of the State the right to bargain collectively over wages and remuneration and other working conditions and emphasized that simple consultations with unions of public servants not engaged in the administration of the State did not meet the requirements of *Article 4* of the Convention. The Committee notes that the Government, on the one hand, asserts that it has taken the necessary measures to ensure that public officers are given fair opportunities to collectively bargain over wages and remuneration and other working conditions, in conformity with *Article 4* of the Convention, subject to the applicable laws and regulations governing the employment of civil servants, and on the other hand, reiterates that collective bargaining is done through the National Joint Council and the Departmental Joint Council, as stipulated in Service Circular No. 6/2020 and Service Circular No. 7/2020, or through direct engagement with the Government. While taking due note of the above, the Committee observes that the Government does not provide any details as to the content of the Circulars or the measures it indicates it has taken to ensure that public officers are given fair opportunities to collectively bargain, that section 52 of the IRA explicitly excludes workers employed by the Government or any statutory authority from the collective bargaining machinery of the Act and that it, therefore, remains unclear what precise substantial changes were made to the existing regime of collective bargaining in the public sector. ***In line with the above, the Committee requests the Government to provide further information in this respect, in particular to: (i) indicate the concrete changes made to the existing regime of collective bargaining in the public sector; (ii) to specify the content of Service Circular No. 6/2020 and Service Circular No. 7/2020 or any other applicable legal provisions, which, according to the Government, ensure that public servants can bargain collectively in conformity with Article 4 of the Convention; and (iii) provide information on collective bargaining undertaken in the public sector and any agreements concluded.***

*Collective bargaining in practice.* In its previous comment, the Committee requested the Government to provide statistical information in relation to collective bargaining in the country. The Committee notes that the Government refers to statistical information by the Industrial Court but observes that no such information has been provided. It further notes that the Government points to additional measures taken to promote the full development and utilization of collective bargaining under the Convention, including engagement sessions with the social partners during the process of legislative amendments and industrial visits conducted to workplaces to promote industrial harmony. The Committee notes, however, the concerns expressed by the MTUC as to the low percentage of workers covered by collective agreements (1 to 2 per cent) and the declining level of trade union density (6 per cent). ***The Committee encourages the Government to continue to provide statistical information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.***

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

## Maldives

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2013)

The Committee notes the observations of the Maldivian Trade Union Congress (MTUC), received on 26 September 2021, denouncing the absence of a legal framework to enforce the rights guaranteed by the Convention, resulting in the impossibility to freely join trade unions and exercise union activities. The MTUC also alleges threats and interference in union affairs by state authorities. **The Committee requests the Government to provide its comments on the MTUC observations.**

*Legislative framework.* In its previous comment, the Committee requested the Government to take the necessary measures to achieve the adoption of the draft Industrial Relations Act and ensure its full conformity with the Convention. The Committee notes the Government's indication that the adoption of the Industrial Relations Bill has been included in the Government's Strategic Action Plan 2019–2023 as a priority, that it continues to be reviewed for alignment with international obligations and that it is expected to be sent to the Parliament for final decision and adoption in the near future. The Government states that the Bill provides for registration of workers' and employers' organizations, effective mechanisms for resolving industrial disputes and the establishment of a Tripartite Labour Dialogue Forum to foster cooperation on labour issues. The Government further informs that the Associations Bill, which was drafted through a consultative process with the relevant stakeholders and which seeks to align the protection of the right to freedom of association with the principles of the Convention (right to participate in associations, registration, dissolution, etc.) was submitted to the Parliament in October 2019. The Committee notes however the concerns raised by the MTUC in relation to the legislative reform that: (i) despite ILO technical assistance since 2013, the Industrial Relations Bill has not yet been adopted and workers' associations were not consulted in its elaboration; and (ii) the Associations Bill does not cover trade union formation and trade union rights should be protected in the Industrial Relations Bill. The Committee further notes that the Committee on Freedom of Association (CFA), when examining Case No. 3076 concerning the Maldives: (i) observed with deep concern allegations that the Government's systematic failure to ensure effective protection of trade union rights both in law and in practice led to a denial of the right to freedom of association to workers in the country, including denial of freedom of assembly, enforced by the police; and (ii) requested the Government to take the necessary legislative and enforcement measures, in consultation with the social partners concerned, to address those allegations and to ensure that protection for trade union rights, in particular the right to freedom of assembly, is fully guaranteed both in law and in practice and referred the legislative aspects of the case to this Committee (see Case No. 3076, 391st Report, October 2019, paragraphs 410 and 412(h); 395th Report, June 2021, paragraphs 282 and 283). **In view of the above and recalling that the Industrial Relations Bill and the Associations Bill have been pending adoption for several years, the Committee expects that they will be adopted without delay, following meaningful consultation with workers' and employers' organizations, and will address all of the Committee's observations below so as to ensure their full conformity with the Convention and contribute to the promotion of freedom of association in the country. The Committee invites the Government to continue to avail itself of the technical assistance of the Office, should it so desire, and requests it to provide a copy of the amended laws once adopted.**

Pending the adoption of the above Bills and emphasizing the desirability of establishing a comprehensive legislative framework regulating collective labour relations, the Committee has been examining the legislation currently in force, taking into account the legislative proposals indicated by the Government.

## Associations Act, 2003

*Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish organizations.* The Committee previously requested the Government to take the necessary measures to amend section 6(b) of the Associations Act, so as to allow minors who have reached the minimum legal age for admission to employment (16 years) to be able to exercise their trade union rights. The Committee notes the Government's indication that deliberations are ongoing at the Committee stage of the Parliament to allow minors who have attained the legal age of employment under the Child Rights Protection Act, 2019 to be able to exercise trade union rights under the new Associations Bill. **The Committee expects the proposed legislative amendments to ensure that minors who have attained the legal age of employment will be able to exercise their trade union rights.**

*Right to establish organizations without previous authorization.* In its previous comment, the Committee requested the Government to take the necessary measures to amend section 9(a) of the Associations Act to limit the discretionary power of the Registrar to refuse the establishment of an organization. The Committee notes the Government's statement that section 34(a) of the new Associations Bill obliges the Registrar to accept any names that do not fall within the situations listed in the section and that administrative decisions are subject to judicial review. **Observing that the Government does not provide any details as to the permitted grounds for rejecting a proposed name under section 34(a) of the Associations Bill, the Committee expects these to be sufficiently restrictive so as to limit the Registrar's discretionary power, ensuring that registration is a mere formality and does not amount to a previous authorization contrary to Article 2 of the Convention.**

The Committee further requested the Government to take the necessary measures to amend section 37(b) of the Associations Act to ensure that the exercise of legitimate trade union activities is not dependent upon registration and is not subject to penalties. The Committee welcomes the Government's indication that section 37(b) will be repealed in the new Bill, which does not prohibit the operation of unregistered associations.

The Committee also requested the Government to provide statistics on the number of workers' and employers' organizations registered, the sectors and the number of workers covered. The Committee notes that the Government provides a list of registered associations in the social, recreational and sports domains, without however specifying whether some of them are associations of workers and employers, and further indicates that an NGO portal is being developed to enhance data collection and extraction. The Committee observes that the MTUC contends that the Government does not have a mechanism to collect data on workers' organizations and that the NGO portal will not solve this issue. **The Committee encourages the Government to take the necessary measures to enable collection of data on the number of workers' and employers' organizations registered in the country, the sectors in which they are active and the number of workers covered, and requests it to provide statistics in this regard.**

*Right of workers and employers to establish organizations of their own choosing.* In its previous comment, the Committee requested the Government to provide information on whether workers and employers, engaged in more than one occupation or sector, could join more than one organization. The Committee welcomes the Government's clarification that they can and that there are no legislative bars to such activities.

*Article 3. Freedom to elect representatives.* The Committee previously requested the Government to take the necessary measures to amend section 24 of the Associations Act so as to ensure that minors who are eligible for employment are also eligible for trade union office. The Committee notes the Government's indication that deliberations are ongoing to allow minors eligible for employment to exercise trade union rights under the new Associations Bill. **The Committee expects the proposed legislative amendments to ensure that minors who have attained the legal age of employment will be able to exercise their trade union rights, including the right to be eligible for trade union office.**

The Committee further notes that the Government informs that under the new Associations Bill, a person cannot become a member of the executive committee of an association if they are already an executive committee member of another association. **Recalling that such restrictions can unduly infringe the right of organizations to elect representatives in full freedom by preventing qualified persons from holding trade union office if they are already engaged in a similar position in another association, the Committee requests the Government to take the necessary measures to review the relevant provisions of the Associations Bill so as to allow persons to hold trade union office in more than one association, subject only to the statutes of the organizations concerned.**

*Right to organize administration and activities and to formulate programmes.* In its previous comment, having noted that the Associations Act contained a number of provisions which regulate in detail the internal functioning of associations (sections 5(f), 10, 11, 14(b), 18, 23 and 31), the Committee requested the Government to take the necessary measures to amend these provisions. The Committee welcomes the Government's indication on the proposed amendments to sections 10 and 11 (changes to the association's name), 18 (changes to an association's governing regulations) and 31 (voluntary winding-up of associations), which remove detailed regulation and limit the discretionary powers of the Registrar in relation to some aspects of the internal functioning of associations. **Observing, however, the Government's statement that sections 5(f) (stipulating that any money or property of the association after its dissolution will be given away to another non-profit association or to a government-approved charity) and 23 (providing detailed instructions on how to address debts of an association) have not been substantively changed, the Committee reiterates its request in this regard.**

The Committee further requested the Government to indicate the necessary prerequisites for a workers' or employers' association to be able to receive foreign assistance in line with section 22 of the Associations Act. The Committee notes the Government's clarification that it is section 34 of the Associations Regulation, 2015 that stipulates the prerequisites to receive foreign assistance by associations (approval from the Registrar before seeking and accepting assistance from foreign parties and submission of documents with details on the party seeking foreign assistance, the party providing assistance, as well as on the amount and purpose for which it is being sought). The Government adds that these prerequisites are being amended through the new Associations Bill but does not specify in what manner. **Recalling that provisions requiring approval by the authorities of financial assistance from abroad can result in control over the financial management of organizations and restrictions on their right to organize their administration and activities, which control and restrictions are incompatible with Article 3 of the Convention, the Committee expects the Government to ensure that the amendments proposed by the Associations Bill will be fully in line with the Convention.**

*Article 4. Administrative and judicial dissolution.* In its previous comment, having observed that under sections 32(a) and 33 of the Associations Act, an association could be dissolved by the Registrar or the courts for overly broad reasons, the Committee requested the Government to take the necessary measures to amend these provisions. The Committee notes the Government's indication that under Chapter 10 of the Associations Bill the Registrar will be required to follow the procedure stipulated in the relevant sections and will have to apply to court to obtain an order to dissolve an association, but observes that the Government does not provide any details on the actual procedure or on the grounds on which such a dissolution may be requested. **Recalling once again that dissolution of a workers' or employers' organization is an extreme measure with serious consequences upon the right to organize which should only be used in limited circumstances, the Committee requests the Government to ensure that the proposed amendments will only allow dissolution of an association following a judicial decision on the basis of precise and predetermined criteria.**

*Article 5. The right to form federations and confederations.* The Committee previously requested the Government to take the necessary measures, including through the adoption of specific legislative provisions, to ensure that workers' and employers' organizations can form federations and confederations, and affiliate with international organizations. The Committee notes that according to

the Government, while there are no specific legislative provisions governing the issue, there are no legal barriers to forming federations or confederations or to affiliate with international organizations. **Observing, however, the MTUC concerns that neither the Government nor the judicial system recognize federations and confederations of unions or international affiliation and further observing the Government's indication that the issue could be considered for inclusion in the draft Industrial Relations Bill, the Committee requests the Government to include in the ongoing reform process the consideration and adoption of any necessary legislative provisions and other measures to ensure that workers' and employers' organizations can, both in law and in practice, form federations and confederations, and affiliate with international organizations.**

#### Associations Regulation, 2015

The Committee notes that the Government provides a copy of the Associations Regulation, which currently implements the Associations Act, and observes that it contains a number of provisions which are not in line with the Convention and need amending: sections 4(a) (obligatory registration), 4(c) and 24(ii) (founding members and members of the executive committee must be 18 years old); 4(d) (prohibition to have any criminal record for the person registering the association); 13(a) (detailed regulation of the name of the association); 15(d) (penalty for use of a seal, flag, colour or motto without registration); 17(b)(vi) (detailed regulation of the financial assets); 19(a) (restrictions as to the objectives of the association); 23(a) (only nationals can be elected as President, Secretary and Treasurer); 24(i) (members of the executive committee must be members of the association); 30(a) (detailed regulation of annual reports and accounts); 36(a) (audit by government-accredited audit firm for certain associations); 38 (police inspection with court order if activities undermine societal harmony); 40(ii), 42 and 43 (dissolution of an association by the Registrar or the courts for overly broad reasons); 41 (requirement of a special resolution for voluntary dissolution); 44(a)(iii) and 45(a) (detailed regulation on the use of assets after dissolution), as well as sections 12(a)–(b), 14(a), 16(b), 20, 26(c), 29, 34(a), 35(b), 37(a) and 39(a) providing for excessive discretionary power of the Registrar in relation to associations' establishment, administration, activities and suspension. **In line with the Committee's requests and expectations above, and considering that the Associations Act is being amended, the Committee fully expects the Government to ensure that, in the framework of the current legislative reform, the Associations Regulation will also be amended to ensure its full conformity with the Convention.**

#### Freedom of Peaceful Public Assembly Act, 2013, and Regulation governing dispute resolution between the employer and the employee, 2011

In its previous comment, the Committee requested the Government to repeal section 24(b)(7) of the Freedom of Peaceful Public Assembly Act and amend sections 5, 7, 8 and 11 of the Regulation on dispute resolution, so as to remove undue restrictions on the right to strike and ensure that all workers covered by the Convention, including those in island resorts, can in practice exercise their right to strike. The Committee notes that, according to the Government, restrictions to assemble in tourist resorts, imposed by section 24(b)(7) are in place considering the "one island one resort" situation and the strategic importance of the tourism industry to the Maldives. The Government asserts that the provision does not completely prohibit the right to assemble in island resorts, as it allows for the right to be exercised with permission from the police. The Committee observes in this regard the concerns raised by the MTUC that since workers in tourist resorts live in remote islands, the restriction to assemble imposed by section 24(b)(7) completely denies any form of assembly or gathering without approval of the resort's owners and that the police have never allowed workers to perform any such activities. In view of the above and observing that the Government does not provide any information on the measures taken to address the restrictions placed on strikes by sections 5, 7, 8 and 11 of the Regulation on dispute resolution, the Committee recalls once again that these restrictions on the right to assemble and strike, together with the limitation in section 24(b)(7) of the Freedom of Peaceful Assembly Act, are

so broad that they could seriously impede the right of workers' organizations to organize their activities, including through strike action, especially considering that any stoppage of work could be considered to harm the employer or the workplace or obstruct customer services, in particular in tourist resorts. As to the geographical particularities of island resorts, the Committee also recalls that in situations in which a substantial restriction or prohibition of strike action would not appear to be justified but where, without calling into question the right to strike of the large majority of workers, there is a need to ensure that users' basic needs are met or that facilities operate safely or without interruption, such as in public services of fundamental importance, consideration might be given to introducing negotiated minimum service (defined through participation of workers' organizations concerned along with the employer). **The Committee therefore requests the Government once again to take the necessary measures to repeal section 24(b)(7) of the Freedom of Peaceful Public Assembly Act and amend sections 5, 7, 8 and 11 of the Regulation on dispute resolution, so as to remove undue restrictions on the right of workers' organizations to organize their activities and ensure that all workers covered by the Convention not performing essential services in the strict sense of the term, including those in island resorts, can in practice exercise their right to strike.**

Finally, having observed that section 6 of the Regulation on dispute resolution did not set any time limit for the exhaustion of the obligatory grievance redress mechanism at the employer level before a strike could take place, the Committee requested the Government to provide information on the application in practice of section 6 of the Regulation. The Committee notes that the Government informs that the Industrial Relations Bill intends to amend the procedures stipulated in the Regulation without however indicating what concrete amendments will be made to section 6 of the Regulation. **Recalling once again that obligatory grievance redress mechanisms at the employer level should not be so complex, or without time limits, or so slow in implementation, that a lawful strike becomes impossible in practice or loses its effectiveness, the Committee expects that the grievance redress mechanism, as amended by the Industrial Relations Bill, will be in full conformity with the above.**

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 2013)

The Committee notes the observations of the Maldivian Trade Union Congress (MTUC), received on 26 September 2021, denouncing the absence of a legal framework for industrial relations and collective bargaining and alleging that the Government's 2017 report has not yet been shared with workers' organizations. **The Committee requests the Government to provide its comments on the MTUC observations and requests it once again to share its reports on the Convention with the representative organizations of workers and employers for their observations.**

*Legislative framework. The draft Industrial Relations Act.* In its previous comment, the Committee requested the Government to take the necessary measures to achieve the adoption of the draft Industrial Relations Act, developed to create an integrated and comprehensive legislation dealing with all aspects of collective labour relations. The Committee also notes in this respect that the Committee on Freedom of Association (CFA), when examining Case No. 3076 concerning the Maldives: (i) observed with deep concern allegations that the Government's systematic failure to ensure effective protection of trade union rights both in law and in practice led to a denial of the right to freedom of association to workers in the country; (ii) requested the Government to take the necessary legislative and enforcement measures, in consultation with the social partners concerned, to address those allegations and to ensure that protection for trade union rights, in particular protection against anti-union discrimination, is fully guaranteed both in law and in practice; and (iii) referred the legislative aspects of the case to this Committee (see Case No. 3076, 391st Report of the Committee on Freedom of Association, October 2019, paragraphs 410 and 412(h) and 395th Report of the CFA, June 2021, paragraphs 282 and 283).

The Committee notes the Government's indication that the adoption of the Industrial Relations Bill has been included in the Government's Strategic Action Plan 2019–2023 as a priority, that it

continues to be reviewed for alignment with Government policies and international obligations and that it is expected to be sent to the Parliament for final decision and adoption in the near future. The Government states that the Bill provides for a system to facilitate collective bargaining, effective mechanisms for resolving industrial disputes and the establishment of a Tripartite Labour Dialogue Forum to foster cooperation on labour issues. The Committee also notes the concerns raised by the MTUC that, despite ILO technical assistance since 2013, the Bill has not yet been adopted, that workers' associations were not consulted in its elaboration and that the Government lacks commitment in this regard, resulting in a lack of protection of the right to collective bargaining. **Recalling that the Industrial Relations Bill has been pending adoption for several years and regretting the absence of tangible progress in this regard, the Committee expects that it will be adopted without delay following meaningful consultations with workers' and employers' organizations and will address all of the Committee's observations below so as to ensure its full conformity with the Convention. The Committee invites the Government to continue to avail itself of the technical assistance of the Office, should it so desire, and requests it to provide a copy of the law once adopted.**

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Persons protected.* Having previously noted that section 34(a) of the Employment Act, 2008 exempted several categories of persons (persons working in emergency situations, crew of sea going vessels or aircraft, imams and other employees at mosques, persons on on-call duty during the hours of duty and persons in senior management posts) from the provisions of Chapter 4 (prohibition of anti-union dismissal, access to court, measures of redress) and that section 34(b) provided for the possibility to enact regulations to further exempt employees in certain situations from the provisions of Chapter 4, the Committee requested the Government to take the necessary measures to ensure that all workers covered by the Convention can benefit from the rights enshrined in it and are adequately protected against acts of anti-union discrimination. The Committee notes the Government's indication that following the September 2020 amendment to the Employment Act, section 34 exempts the mentioned categories of workers only from sections 32 (working hours), 37 (overtime) and 38 (working on public holidays). The Committee notes with **interest** that the referred categories would thus be eligible for the rights and protections under the remaining provisions of Chapter 4 of the Employment Act.

*Acts covered.* In its previous comment, the Committee requested the Government to take the necessary measures to amend section 4(a) of the Employment Act so as to include trade union membership and legitimate trade union activities as one of the grounds of prohibited discrimination at all stages of employment. The Committee notes the Government's statement that while trade union affiliation and participation in legitimate trade union activities are not included as one of the grounds of prohibited discrimination at all stages of employment in section 4(a) of the Employment Act, it is covered in the draft Industrial Relations Bill. The Committee observes however that the Government does not provide details as to the protection against anti-union discrimination foreseen in the Industrial Relations Bill and also notes the concerns raised by the MTUC that the 2020 amendments to the Employment Act do not prevent anti-union dismissals but rather make it easier for employers to declare redundancies following a change in management or financial downturn, which can be used to dismiss targeted persons, including trade union leadership. **The Committee expects the Government to take the necessary measures to ensure that, in the framework of the current reform of labour laws, trade union affiliation and participation in legitimate trade union activities will be included as one of the grounds of prohibited discrimination at all stages of employment in the relevant legislation, so as to provide effective protection against acts of anti-union discrimination, in line with the Convention. The Committee requests the Government to indicate the exact provisions of amended legislation that provide such protection.**

*Rapid appeal procedures.* The Committee previously requested the Government to take the necessary measures to ensure that all workers who allege anti-union dismissal, including those on probation or in retirement age (section 28(b) of the Employment Act), have access to rapid appeal

procedures. It also requested the Government to take the necessary measures to delete the exemption in section 27 of the Employment Act to ensure that the rules on the reversal of the burden of proof are applicable to all proceedings related to anti-union dismissal. The Committee notes with *interest* the Government's indication that section 27 of the Employment Act was amended whereby the exemption mentioned in the section has been removed. **Observing, however, that no new measures have been adopted to amend section 28(b) of the Employment Act, the Committee once again requests the Government to take the necessary measures to ensure that all workers who allege anti-union dismissal, including those on probation or in retirement age, have access, both in law and in practice, to rapid appeal procedures.**

*Sufficiently dissuasive sanctions.* The Committee previously requested the Government to provide information on the application of sections 5(c) and 29 of the Employment Act (remedies for dismissals without reasonable cause) by the tribunals when dealing with anti-union dismissals. The Committee notes that the Government informs that there have been no anti-union dismissal cases to report but that in cases of dismissals without reasonable cause, the Employment Tribunal, the High Court and the Supreme Court ordered a number of different remedies, including reinstatement to the original position, back wages and compensation. **The Committee requests the Government to continue to provide information on the application in practice of sections 5(c) and 29 of the Employment Act in case of anti-union dismissals, specifying the remedies ordered, as well as the type and the amount of sanctions imposable on an employer for acts of anti-union discrimination.**

*Protection against acts of anti-union discrimination in practice.* The Committee notes that the MTUC denounces discriminatory practices in the country, submitting in particular that peaceful union meetings are reprimanded by disciplinary actions, lack of promotion, negative appraisals and redundancies. **The Committee requests the Government to provide its comments thereon and trusts that the ongoing legislative reform will contribute to achieving adequate protection against acts of anti-union discrimination both in law and in practice, in full compliance with the Convention.**

In its previous comment, the Committee requested the Government to provide statistics on the number of anti-union discrimination complaints filed before the courts, the average duration of the proceedings and their outcome. The Committee also requested the Government to indicate the measures taken or envisaged to facilitate access of workers to the Employment Tribunal from areas other than the capital Male, where the Tribunal is located. The Committee notes the Government's statement that at the time of the report, no cases of anti-union discrimination have been filed before the courts and that the October 2021 Regulation on audio/video conference participation in the Employment Tribunal hearings establishes avenues for audio/video conference participation in hearings and submission of cases for those located outside the capital. The MTUC alleges however that workers' associations cannot represent their members in tribunals and that it takes years for tribunals to reach decisions in employment cases. **The Committee requests the Government to continue to collect and provide statistics on the number of anti-union discrimination complaints filed before the courts, the average duration of the proceedings and their outcome, as well as on the use of the audio/video conference participation in court proceedings relating to anti-union discrimination complaints.**

*Article 2. Adequate protection against acts of interference.* The Committee previously requested the Government to take the necessary measures, including legislative, to ensure that acts of interference of workers' and employers' organizations in each other's affairs are explicitly prohibited and are accompanied by access to rapid and effective appeal procedures and sufficiently dissuasive sanctions. The Committee notes the information provided by the Government that no explicit prohibitions in this regard are provided in the current draft Industrial Relations Bill but that it could be included in the Bill upon receipt of the necessary policy decisions. **Given the Government's openness to including provisions on protection against acts of interference of workers' and employers' organizations in each other's affairs in the Industrial Relations Bill, the Committee requests the Government to take the necessary measures to this effect, in consultation with the social partners.**

*Articles 4 and 6. Promotion of voluntary negotiations and collective bargaining in the private and public sectors.* The Committee previously requested the Government to take the necessary measures, including legislative, if necessary, to ensure that all workers, with the only possible exception of the police, the armed forces and public servants engaged in the administration of the State can, in law and in practice, negotiate collectively through their trade unions and conclude collective bargaining agreements regulating terms and conditions of their employment. It also requested the Government to provide statistics on the number of collective agreements concluded and the sectors and number of workers covered. The Committee welcomes the Government's indication that the right to collective bargaining and its governance are extensively covered in the Industrial Relations Bill and that, while awaiting its enactment, the right to collective bargaining can be carried out in practice as there are no legislative prohibitions to this effect. The Committee notes, however, the Government's indication that at the time of reporting, the Labour Relations Authority has not reported the existence of any collective bargaining agreements and observes that the MTUC denounces the absence of social dialogue and collective bargaining, depriving workers of means of defending their interests and challenging the numerous redundancies that occurred during the COVID-19 pandemic, especially in the tourism sector. **Observing that the Government does not provide any details as to the regulation of collective bargaining in the Industrial Relations Bill, the Committee expects the Bill to ensure that all workers, with the only possible exception of the police, the armed forces and public servants engaged in the administration of the State will be able, in law and in practice, to negotiate collectively through their trade unions and conclude collective bargaining agreements regulating terms and conditions of their employment. Noting with regret that the Labour Relations Authority is not aware of the existence of any collective agreement in force in the country and in light of the concerns expressed by the MTUC, the Committee requests the Government to take proactive measures to promote the full development and utilization of collective bargaining both in the private and public sectors. In this respect, the Committee requests the Government to collect and provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.**

## Mali

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)

The Committee notes the Government's detailed replies to the 2017 observations of the International Trade Union Confederation (ITUC) concerning the situation of trade union leaders in the health sector and belonging to a particular national police union. The Committee also observes that the Government states that, in the mining sector, numerous cases relating to the dismissal of workers have been pending before the competent judicial authorities for nearly ten years. **Recalling that it is important to ensure, in cases of anti-union discrimination, that judicial decisions are handed down as quickly as possible, the Committee requests the Government to take appropriate measures to ensure that disputes concerning anti-union discrimination are addressed in a far more rapid manner and to continue providing information in this regard.**

*Article 4 of the Convention. Promotion of collective bargaining. Determination of the representativeness of trade union organizations.* Referring to its previous comments, particularly the results of the high-level mission which visited Bamako in 2015 to address the issue of the representativeness of trade union organizations, the Committee recalled the urgent need to determine the procedures for occupational elections, after consultation of the organizations concerned, in order to give full effect to the provisions of the Labour Code relating to collective bargaining. The Committee notes the Government's indication that the social partners have still not reached an agreement on determining the threshold of representativeness for occupational elections; that it reiterates its

commitment to holding occupational elections with maximum transparency and objectivity in collaboration with the trade unions; and that it intends to continue consultation meetings with a view to determining and adopting the representativeness threshold. The Committee notes the Government's explanation that the action launched to this end could not be pursued because of the social and political instability in the country in 2020 but that it plans to hold occupational elections to determine representativeness by the end of 2021, after the labour conference planned for November. ***The Committee reiterates the firm hope that the Government will soon be able to report on the holding of these elections and that the results will make it possible to determine clearly the representative organizations for the purpose of collective bargaining at all levels. The Committee reminds the Government that it may request technical assistance from the Office in this regard.***

*Right to collective bargaining in practice.* The Committee notes the Government's indication that at present there are 21 collective agreements and 125 collective accords concluded in different sectors of activity but that it does not have statistical data on the number of workers covered. It also notes the indication that the process of reviewing obsolete collective agreements is under way at the National Directorate of Labour; that a new collective agreement for the hotel industry was signed in 2020; that discussions are in progress with the social partners with a view to the adoption of the collective agreement for private transport drivers in Mali and in other sectors such as telecommunications, secular private teaching and the pharmaceutical industry; and, lastly, that an inter-occupational agreement is being examined by the National Union of Workers of Mali (UNTM). ***The Committee requests the Government to continue providing full information on the number of collective agreements and accords concluded in the country, including the sectors concerned and the number of workers covered.***

## Malta

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

The Committee takes note of the observations of the General Workers' Unions (GWU) received on 31 August 2019, which denounce violations of the right to organize in practice. The GWU alleges that various employers and contractors circumvent the legislative provisions on freedom of association by depriving their workers of their right to join trade unions. ***The Committee requests the Government to provide its comments in this regard.***

*Article 2 of the Convention. Right to establish organizations without previous authorization.* The Committee previously observed that section 51 of the Employment and Industrial Relations Act, 2002 (EIRA) provides that a trade union or an employers' association and any member, officer or other official thereof, may not perform any act in furtherance of any of the purposes for which it is formed unless such union or association has first been registered, and that the penalty for contravention of this provision is a fine not exceeding €1,165. It requested the Government to take the necessary measures to repeal section 51 of the EIRA. The Committee notes that the Government indicates that: (i) registration is important so that trade unions, employers' associations and their members can be officially recognized and able to effectively engage in collective bargaining; (ii) registration is free; and (iii) the annual reporting system provides data on the above-mentioned organizations, which helps determine their activity level. The Committee recalls once again that 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. At the same time, the Committee also recalls that the exercise of legitimate trade union activities should not be dependent upon registration, nor should the exercise of such legitimate activities be subject to penalties. ***The Committee reiterates its request for the Government to take the necessary measures to repeal section 51 of the EIRA.***

*Article 3. Right of organizations to freely organize their activities and to formulate their programmes.* In its previous observations, the Committee requested the Government to amend section 74(1) and (3)

of the EIRA – according to which, if an amicable settlement of a trade dispute and conciliation has not resulted in a settlement, one of the parties may notify the Minister, who shall refer the dispute to the Industrial Tribunal for settlement – so as to ensure that compulsory arbitration to end a collective labour dispute is only possible in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term. The Committee notes the Government's indication that: (i) the mechanism provided by the above-mentioned section is to be used in case of failure of conciliation as facilitated under section 69 of the EIRA; (ii) the purpose of the Industrial Tribunal would be gravely undermined if a party could not challenge another party unless the latter agrees; and (iii) since the Industrial Tribunal has exclusive jurisdiction on trade disputes, the parties cannot resort to other means such as the civil courts. The Committee once again recalls that recourse to compulsory arbitration to bring an end to a collective labour dispute is only acceptable when the two parties to the dispute so agree, or when a strike may be restricted or prohibited – that is, in the case of disputes concerning public servants exercising authority in the name of the State, essential services in the strict sense of the term or situations of acute national crisis. It further recalls that accordingly, the failure of conciliation and the existence of protracted disputes are not per se elements which justify the imposition of compulsory arbitration. **The Committee urges the Government to take the necessary measures to modify section 74(1) and (3) of the EIRA to ensure that compulsory arbitration may only take place with the approval of both parties or in circumstances in which a strike can be restricted or prohibited. The Committee requests the Government to inform on any developments in this respect.**

*Article 9. Armed forces and the police.* The Committee previously noted with interest the adoption of the Various Laws (Trade Union Membership of Disciplined Forces) Act, 2015 which amended the EIRA by adding a new section 67A, which gave members of the disciplined forces the right to become members of a registered trade union of their choice. It invited the Government to provide information on the application in practice of section 67A of the EIRA, in particular whether any trade unions have been formed and registered under this provision and the number of their members, and also whether any requests for such trade union registration are under consideration or have been rejected. The Committee notes the Government's indication that 1,189 members have registered with the Malta Police Association, 1,356 members have registered with the Police Officers Union and 165 members have registered with the Union of Civil Protection. It also notes that the Government points out that there have been no further requests for such unions to be registered, and no requests have been rejected. **The Committee invites the Government to continue providing information on the practical application of section 67A of the EIRA.**

## Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1965)

The Committee takes note of the observations of the General Workers' Union received on 31 August 2019 referring to matters examined in this comment.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous observations, the Committee had requested the Government to indicate the procedures applicable for the examination of allegations of anti-union dismissals submitted by public officers, port workers and public transport workers given that, pursuant to the Employment and Industrial Relations Act, 2002 (EIRA) those categories are excluded from the jurisdiction of the industrial tribunal.

Concerning the public officers, the Committee had noted that they could appeal to the Public Service Commission (PSC), an independent body, and requested the Government to indicate whether the PSC was empowered to grant such compensatory relief as to constitute sufficiently dissuasive sanctions against acts of anti-union discrimination. The Committee notes that the Government informs that: (i) according to the provisions of the PSC Disciplinary Regulations, public officers may only be dismissed upon recommendation of the PSC; (ii) the PSC recommends the dismissal of a public officer

after the finding of guilt for having committed an offence listed in the Schedule of offences and penalties appended to the PSC Disciplinary Regulations; (iii) union activity is not considered a disciplinary offence and therefore is not listed in the Schedule; (iv) as there are a number of safeguards which need to be observed prior to the dismissal of a public officer, it is highly unlikely that a public officer could be dismissed from the public service for anti-union reasons, and (v) information about compensatory relief in case of anti-union dismissal of public officers is not currently being sought from the PSC. Regarding the port workers, the Committee notes that the Government indicates that: (i) they are licensed and registered under the terms of the relevant regulations; (ii) all licensed port workers are represented by the Malta Dockers Union; and (iii) the Port Workers Board, which is partly composed by representatives of the Malta Dockers Union, acts as a disciplinary board. The Committee takes due note of the elements provided by the Government concerning the procedures that precede the dismissal of public officers, on the one hand, and port workers, on the other hand, and that contribute to prevent the occurrence of anti-union dismissals. **The Committee requests however the Government to indicate before which body the public officers and the port workers may appeal against decisions taken by the PSC and the Port Workers Board, respectively, in case they consider they were subject to anti-union dismissals.**

Concerning the public transport workers, the Committee notes that the Government informs that: (i) scheduled public transport workers are employed by a private company and the Union UMH is recognized as their trade union; and (ii) collective grievances are raised through this union to the company's management. **The Committee reiterates its request for the Government to indicate the specific procedures applicable for the examination of allegations of anti-union dismissals concerning scheduled public transport workers.**

The Committee also previously observed that the general sanctions set by section 45(1) of the EIRA might not be sufficiently dissuasive, particularly for large enterprises, and requested the Government to take the necessary measures, after consultation with the social partners, to provide for sufficiently dissuasive sanctions for acts of anti-union discrimination. The Committee notes that the Government indicates that it is currently conducting an exercise with the social partners to review and update the EIRA but does not foresee any changes to section 45(1) at this stage. **The Committee requests the Government to take the necessary measures within the framework of the revision of the EIRA to bring the legislation into conformity with the Convention by ensuring that sufficiently dissuasive sanctions are provided for acts of anti-union discrimination.**

*Articles 2 and 3. Adequate protection against acts of interference.* The Committee previously requested the Government to indicate the measures taken or contemplated so as to introduce in the legislation an explicit prohibition of acts of interference, as well as sufficiently dissuasive sanctions against such acts. The Committee notes with **regret** that the Government, in its report, merely reiterates its position that parties who feel wronged by another party's acts of interference can institute a civil action for damages before the courts of civil jurisdiction. The Committee recalls that *Article 2* of the Convention requires the prohibition of acts of interference by organizations of workers and employers (or their agents) in each other's affairs, designed in particular to promote the establishment of workers' organizations under the domination of employers or employers' organizations, 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. **The Committee once again requests the Government to take the necessary measures to adopt specific provisions prohibiting acts of anti-union interference, coupled with rapid appeal procedures and sufficiently dissuasive sanctions.**

*Article 4. Promotion of collective bargaining.* The Committee had previously requested the Government to indicate the measures taken or contemplated with a view to amending section 6 of the National Holidays and Other Public Holidays Act, so as to ensure that this provision: (i) does not render automatically null and void any provisions in existing collective agreements which grant workers the right to recover public holidays falling on a Saturday or Sunday; and (ii) does not preclude voluntary negotiations in the future over the issue of granting workers the right to recover national or public

holidays which fall on a Saturday or Sunday on the basis of a collective agreement. The Committee notes with **interest** the Government's indication that the above-mentioned provision has been amended and now stipulates that when a national holiday or a public holiday listed in the Schedule falls on a Saturday or on a Sunday, it shall be deemed to be a public holiday for the purposes of entitling any person to a day of vacation leave in addition to the leave entitlement for that particular year.

*Article 5. Armed forces and the police.* In its previous observation, the Committee noted with interest the adoption of the Various Laws (Trade Union Membership of Disciplined Forces) Act, 2015 which amended the EIRA by adding a new section 67A, which gave members of the disciplined forces the right to become members of a registered trade union of their choice and stipulated that their organizations were entitled to negotiate the conditions of employment of their members. The Committee had requested the Government to provide information on the practical application of article 67A. The Committee examines the information provided by the Government in this respect under its comments concerning the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

## Mauritania

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

*Civil liberties.* In its previous comments, the Committee noted with concern the 2017 observations of the International Trade Union Confederation (ITUC) and of the General Confederation of Workers of Mauritania (CGTM), denouncing violent repression resulting in deaths during trade union demonstrations and the systematic arrest of trade unionists during trade union demonstrations. It requested the Government to provide its comments in this respect. **Regretting the absence of information in this regard in the Government's report, the Committee urges the Government to provide its comments in response to the serious allegations above.**

*Article 3 of the Convention. Trade union elections.* The Committee previously noted the Government's indication that three orders relating to staff delegates and the procedures for their election, the consolidation of election results and practical procedures for the organization and operation of the National Social Dialogue Council had been adopted since 2014. The Committee requested the Government to provide copies of these orders and continue providing information on the progress achieved and on the legislative reform process that has been initiated with a view to the holding of elections. The Committee notes that the Government, in its report, reiterates that it will continue to provide information on the progress made towards the organization of workers' representatives to determine union representativity in the public and private sectors, and will include all the organizations concerned in its consultations on the legislative reform process, but the Government does not provide a copy of the orders requested nor any specific information on the development of the situation. **The Committee once again requests the Government to provide a copy of the above-mentioned orders and to provide specific information on any developments relating to the legislative reform process with a view to holding the elections of workers' representatives.**

*Articles 2 and 3. Legislative amendments.* In its previous comments, the Committee reiterated its expression of firm hope that in the near future the Government would report tangible progress in the revision of the Labour Code with a view to bringing it fully into conformity with the Convention. In this regard, the Committee expressed hope that the Government would take due account of all the points recalled below:

- *Right of workers to establish and join organizations of their own choosing without prior authorization.* **The Committee requests the Government to take measures to amend section 269 of the Labour Code so as to remove any obstacles that prevent the exercise of the right**

**to organize by minors who have access to the labour market (14 years of age, in accordance with section 153 of the Labour Code), whether as workers or apprentices, without the permission of their parents or guardian being necessary.**

- *Right to organize of magistrates.* The Committee recalls that for many years it has been requesting the Government to take measures to ensure that magistrates enjoy the right to establish and to join organizations of their own choosing, in accordance with *Article 2* of the Convention. **Noting the Government's indication that magistrates now have their own organization in which they exercise their trade union rights to the full, the Committee requests the Government to indicate the legal basis that has enabled this progress.**
- *Right of workers' organizations to freely elect their representatives and to organize their administration and activities in full freedom, without interference from the public authorities.* The Committee recalls that the combined implementation of sections 268 and 273 of the Labour Code is liable to be an obstacle to the right of organizations to elect their representatives in full freedom, by preventing them from electing qualified persons or depriving them of the experience of certain leaders when they do not have among their own ranks sufficient numbers of competent persons. **The Committee therefore requests the Government to make the conditions less rigid for eligibility as trade union leaders or officers, for example by removing the requirement to belong to the occupation for a reasonable proportion of leaders. The Committee also requests the Government to amend section 278 of the Labour Code with a view to ensuring that any change in the administration or leadership of a trade union can take effect as soon as it has been notified to the competent authorities, and without the latter's approval being necessary.**
- *Compulsory arbitration.* **The Committee requests the Government to take measures to amend section 350 of the Labour Code to ensure that the possibility for the Minister of Labour to have recourse to compulsory arbitration in the event of a collective dispute is limited to cases involving an essential service in the strict sense of the term, that is a service the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and situations of acute national crisis.**
- *Duration of mediation.* **Recalling that the maximum duration (120 days) of a mediation procedure before a strike may be called, as set out in section 346 of the Labour Code, is excessive, the Committee requests the Government to take measures to amend this provision in order to reduce the maximum duration.**
- *Strike pickets.* The Committee recalls that the restrictions imposed on strike pickets and the occupation of premises should be limited to cases in which the action ceases to be peaceful or in which the observance of the right to work of non-strikers or the right of the management to enter the premises of the enterprise is impaired. **The Committee therefore requests the Government to take measures to amend section 359 of the Labour Code in order to abolish the prohibition of the peaceful occupation of workplaces or their immediate surroundings, and to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike, and that in no case prison sentences are imposed, except in cases of violence against persons or property or other serious breaches of the law, in accordance with the provisions punishing such offences.**

The Committee notes the Government's indication that it will report tangible progress in the revision of the Labour Code, taking account of the comments formulated by the Committee and that two experts will review the provisions of the Code and propose implementing texts. **Observing once again that it has been commenting for many years on the above-mentioned issues, the Committee urges the Government to complete its revision of the Labour Code in the very near future and, recalling**

**that it may avail itself of the technical assistance of the ILO, requests the Government to continue to report on all developments in this regard.**

## Mauritius

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2005)

The Committee notes the observations made by the Confederation of Free Trade Unions and the State and Other Employees Federation, dated 26 August 2021, concerning matters examined by the Committee in the framework of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

*Legislative developments.* In its last comment, the Committee noted the Government's indication that a revision of the Employment Rights Act (2008) and the Employment Relations Act 2008 (ERA 2008) was under way. The Committee takes note of the Government's indication that: (i) the Employment Rights Act (2008) was replaced by the Worker's Rights Act 2019 (Act N° 20) with effect as of 24 October 2019; and (ii) the ERA 2008 was amended by the Employment Relations (Amendment) Act 2019 (Act No. 21) with effect as of 23 August 2019.

The Committee further notes that section 28(j) of the ERA 2008, as amended in 2019, provides for the establishment of the National Tripartite Council, which aims at promoting social dialogue and consensus building on labour, industrial relations or socio-economic issues of national importance and other related labour and industrial relations issues. **Observing that the Council shall make recommendations to the Government on issues relating, inter alia, to the review of the operation and enforcement of the labour legislation, the Committee requests the Government to provide information on the recommendations made by the Council in relation to matters covered by the Convention, including any discussion and recommendations related to giving effect to the Committee's comments.**

*Article 2 of the Convention. Right of workers to establish and join organizations without distinction whatsoever. Migrant workers.* In its previous comment, the Committee observed that under section 13 of the ERA 2008 non-citizens needed to hold a work permit in order to be members of a trade union. Having noted the Government's indication that a revision of the ERA 2008 was under way, the Committee requested the Government to take the necessary measures to ensure that all migrant workers, whether in a regular or irregular situation, enjoy, in law and in practice, the right to establish as well as join organizations without distinction whatsoever. The Committee notes that the Government reiterates that non-citizens in irregular situations are allowed to join a trade union once they are in possession of a valid work permit. The Committee observes that section 13 of the ERA 2008, on eligibility to trade union membership, was not amended in 2019 by Act No. 21 and that consequently the requirement of holding a work permit in order to be a member of a trade union remains in place. The Committee recalls in this regard that the right of workers, without distinction whatsoever, to establish and join organizations of their own choosing implies that any worker residing in the territory of a State, whether they have a work permit or not, benefits from the trade union rights provided for by the Convention. **Regretting that the work permit requirement provided for under the ERA 2008 was not repealed by Act No. 21, the Committee reiterates its request to the Government to take all measures in the near future to ensure the recognition of the right of all migrant workers to establish and join organizations of their own choosing. The Committee requests the Government to provide information on any developments in this respect.**

*Self-employed workers.* Having observed that there was no legal provision in the labour legislation granting trade union rights to self-employed workers, the Committee requested the Government to hold consultations with social partners and other interested parties with the aim of ensuring, within the framework of the revision of the Employment Rights Act and the ERA 2008, that all

workers, including self-employed workers, enjoy the right to establish and join organizations without distinction whatsoever. The Committee takes note of the Government's indication that workers have the right to join trade unions under section 13 of the ERA 2008 and that individuals other than these workers, such as the self-employed, may form associations under the Registration of Association Act. The Committee recalls that the guarantees of the Convention apply to all workers without distinction whatsoever, including self-employed workers; in this regard, the Committee *regrets* to note that no modification was undertaken in the latest labour review. **The Committee therefore requests again the Government to hold consultations with social partners, including organizations representing self-employed workers if they exist, with the aim of ensuring that all workers, including self-employed workers, enjoy the right to establish and join organizations without distinction whatsoever. The Committee requests the Government to provide information on the progress achieved in this respect.**

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

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

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

The Committee notes the observations made by the Confederation of Free Trade Unions and the State and Other Employees Federation, dated 26 August 2021, concerning matters examined in the present comment.

*Legislative developments.* In its last comment, the Committee noted the Government's indication that a revision of the Employment Rights Act (2008) and the Employment Relations Act 2008 (ERA 2008) was under way. The Committee takes note of the Government's indication that: (i) the Employment Rights Act (2008) was replaced by the Worker's Rights Act 2019 (WRA) (Act No. 20) and (ii) the ERA 2008 was amended by the Employment Relations (Amendment) Act 2019 (Act No. 21).

In addition, the Committee welcomes the establishment of the National Tripartite Council provided for under section 28(j) of the ERA 2008, as amended in 2019, which aims at promoting social dialogue and consensus building on labour, industrial relations or socio-economic issues of national importance and other related labour and industrial relations issues. **Observing that the Council shall make recommendations to the Government on issues relating, inter alia, to the review of the operation and enforcement of the labour legislation, the Committee requests the Government to provide information on the recommendations made by the Council in relation to matters covered by the Convention, including as to giving effect to the Committee's comments.**

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its last comment, the Committee requested the Government to continue to provide statistical data on the number of complaints of anti-union discrimination, their outcome and the number and nature of sanctions imposed or remedies awarded. It also requested it to pursue its efforts, in particular in the export processing zones (EPZs), to ensure that all allegations of anti-union discrimination give rise to expeditious investigations. The Committee takes note of the Government's indication that Act No. 21 introduced the following amendments to the ERA to enhance protection of workers against acts of anti-union discrimination:

- new subsection 31(1)(b)(iii) provides that no person shall discriminate against, victimize or otherwise prejudice a worker or an accredited workplace representative on any employment issue on the ground of his trade union activities;
- new subsection (1A) provides for stringent conditions to curb any decision to terminate workers' employment in relation to trade union membership or activities; and

- in section 2 of the ERA, the definition of labour dispute has been broadened to include reinstatement of a worker where the employment is terminated on the grounds specified in section 64(1A) (above-mentioned).

The Committee takes note with **interest** of the above-mentioned measures introduced by Act No. 21 to the ERA which complement the protection against acts of anti-union discrimination already provided for in the legislation. **The Committee requests the Government to indicate the impact in practice of the legislative amendments and to provide statistical data in that regard, including on the number of complaints of anti-union discrimination, including anti-union dismissals, brought before the competent authorities (labour inspectorate and judicial bodies), their outcome and the number and nature of sanctions imposed or remedies awarded.**

In its last comment, the Committee invited the Government to engage in a dialogue with the national social partners with a view to identifying possible adjustments to improve the rapidity and efficiency of the conciliation proceedings. The Committee takes note that the Government indicates that section 69 of the ERA, as amended in 2019, provides for a timeframe for the expeditious resolution of disputes involving anti-union discrimination: 45 days at the Commission for Conciliation and Mediation (CCM) and, if no agreement is reached, the Employment Relations Tribunal (ERT) (an arbitration tribunal) must make an award within 90 days. **The Committee also observes that section 87(2) of the ERA, as amended in 2019, has doubled the number of the CCM members and expresses the firm hope that this will contribute to improving the rapidity and efficiency of the conciliation procedures.**

Having taken note of allegations made by social partners concerning the excessive length of judicial proceedings in rights disputes (six to seven years), the Committee had requested the Government to take measures with a view to accelerating relevant judicial proceedings and to provide statistical data on their average duration. **Regretting that no information was provided in this regard, the Committee requests the Government once again to take measures with a view to accelerating relevant judicial proceedings and to provide statistical data on their average duration, including with respect to cases that may arise in EPZs.**

*Article 4. Promotion of collective bargaining.* The Committee takes note of the Government's indication that Act No. 21 introduced the following amendments to the ERA concerning collective bargaining:

- Section 51(1)–(4) of the ERA was amended to facilitate the process of collective bargaining by drawing up a procedure agreement in view of signing a collective agreement. According to the Government, this will further encourage the union and management to proceed with the negotiations keeping abreast good faith at all times with a view to reaching a collective agreement.
- Section 88(4)(e) of the ERA was amended to widen the scope of the CCM with the aim at reinforcing the mutual trust between employer and employees.
- Section 69 of the ERA was amended to promote the settlement of labour disputes. Section 69(3) has been specifically introduced to make the recommendation of the President of the CCM binding should both parties to a labour dispute agree to confer upon the President such power. The Government indicates that this provision was added to provide a speedy solution to break the deadlock between the parties instead of having recourse to the Tribunal, thus saving time, which is crucial in industrial matter.
- Section 69(9)(b) was amended to enable both the union or the employer to request the CCM to refer a labour dispute to the ERT (arbitration tribunal) once the conciliation attempt has failed. The Government indicates that prior to the amendment; the CCM could only refer to the ERT cases brought by an individual worker. The Committee observes that, while section 63 of the ERA provides that the parties may jointly refer a dispute for voluntary arbitration, section 69(9)(b), as amended, concerns the referral of a dispute to an arbitration tribunal at

the request of one of the parties. **Recalling that compulsory arbitration in the case that the parties have not reached agreement is generally contrary to the principles of collective bargaining, the Committee requests the Government to clarify whether the revised section 69(9)(b) does allow for compulsory arbitration at the request of one party.**

- Section 87(2) was amended to reinforce the human resource of the CCM. The Committee recalls that in its previous comments it had noted allegations in relation to the lack of human resources at the CCM. As mentioned in the present comment under *Article 1* of the Convention, it appreciates that the revised section 87(2) has doubled the number of its members. The Committee **regrets** to note, however, that the revised section 87(2) has removed the requirement for the Minister to hold consultations with the most representative organizations of workers and employers in relation to the appointment of conciliators or mediators. **The Committee requests the Government to clarify the rationale behind the removal of consultations to social partners under this section.**

**The Committee takes due note of the above-mentioned amendments and expresses the hope that, as indicated by the Government, they will contribute to facilitating collective bargaining. The Committee requests the Government to indicate the impact of the legislative amendments in practice.**

In its previous comment, the Committee expressed its expectation that the Government would continue to carry out and strengthen inspections and sensitization activities with respect to collective bargaining. The Committee notes the Government's indication that: (i) 132 sensitization activities carried out between 2017 and 2021 benefited 2,660 workers in the EPZ/textile sector; and (ii) 161 inspection visits carried out in the EPZ sector covered 21,273 local workers and 1,284 inspection visits in undertakings in the manufacturing sector covered 231,793 migrant workers. The Committee notes that 64 collective agreements have been registered with the Ministry of Labour from 2017 to 2020 and that neither of them pertains to the EPZ sector. The Committee also notes the Government's indication that the COVID-19 pandemic has somehow affected the activities of the Ministry. **The Committee takes note of the information provided and requests the Government, in consultation with the social partners, to strengthen these activities, in particular in the EPZs, textile sector, sugar industry, manufacturing sector and other sectors employing migrant workers. It also requests the Government to continue to supply statistics on the functioning of collective bargaining in practice (number of collective agreements concluded in the private sector, especially in EPZs; branches and number of workers covered).**

**Interference in collective bargaining.** In its previous comment the Committee expressed the hope that the Government would continue to refrain from unduly interfering in and give priority to collective bargaining of a voluntary nature as the means of determining terms and conditions of employment in the sugar sector in particular and in the private sector in general. The Committee also requested the Government to provide its comments on observations made by Business Mauritius that the Remuneration Orders of the National Remuneration Board (NRB) were so elaborated and prescriptive that they acted as a disincentive to collective bargaining. The Committee notes that the Government states that: (i) as from 24 October 2019, the core conditions of employment of workers under Remuneration Orders (ROs) have been harmonized with the adoption of the WRA; (ii) the ROs have been repealed and replaced by 32 Remuneration Regulations, which provide for conditions of employment specific to the sector; (iii) a National Minimum Wage (NMW) was introduced as from January 2018 and was last reviewed in January 2020 and (iv) payments of additional remuneration continue to be made following recommendations by a national tripartite forum, chaired by the Prime Minister. **The Committee expresses the firm hope that these developments will contribute to prioritizing bipartite collective bargaining of a voluntary nature as the means of determining terms and conditions of employment in the private sector in general.**

*Article 6. Collective bargaining in the public sector.* In its previous comments, the Committee invited the Government, together with the professional organizations concerned, to study ways in which the current system could be developed to effectively recognize the right to collective bargaining of public servants who are not engaged in the administration of the State. The Committee notes that the Government states that: (i) salary determination in the private sector is completely different than in the public sector; (ii) in the private sector, the wage fixing institution establishes a floor wage and this eventually gives room to collective bargaining; and (iii) this system cannot be imported to the public sector as the Pay Research Bureau (PRB) establishes a ceiling wage for public sector employees. The Committee notes that the Confederation of Free Trade Unions and the State and Other Employees Federation precisely highlight that collective bargaining does not exist in the public service since the setting up of the PRB. The Committee takes note that the Government states that with a view to promoting social dialogue in the public service, an Employment Relations Committee (ERC) is being set up by the Ministry of Public Service, Administrative and Institutional Reforms comprising representatives from Management and the four most representative federations of the Civil Service. Such Committee would, inter alia, consider any matter relating to or arising out of the course of employment of public officers and would make recommendation to appropriate instances. The draft regulation has been finalized after consultations with different stakeholders and is presently at the level of the Attorney-General's Office for vetting. **The Committee welcomes these developments, which aim at promoting social dialogue in the public service. It requests the Government to transmit a copy of the ERC once it has been adopted.** The Committee must recall, however, that, pursuant to *Article 6* of the Convention, all public servants, other than those engaged in the administration of the State, should enjoy collective bargaining rights, and that, under the Convention, the establishment of simple consultation procedures for public servants who are not engaged in the administration of the State (such as employees in public enterprises, employees in municipal services, public sector teachers, etc.), instead of real collective bargaining procedures, is not sufficient. **The Committee therefore invites once again the Government, together with the professional organizations concerned, to take the necessary measures to effectively recognize the right to collective bargaining of public servants who are not engaged in the administration of the State.**

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

## Mexico

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1950)

The Committee notes the observations of the Authentic Workers' Confederation of the Republic of Mexico (CAT), the International Confederation of Workers (CIT), the Regional Confederation of Mexican Workers (CROM), the Confederation of Workers of Mexico (CTM), the National Union of Workers (UNT) and the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN) provided with the Government's report relating to matters examined in this comment.

The Committee also notes the observations of the UNT, received on 24 July 2021, and of IndustriALL Global Union (IndustriALL) on 1 September 2021, relating to matters examined in this comment and allegations that are the subject of case No. 2694 currently before the Committee on Freedom of Association, as well as the Government's response to those.

*Trade union rights and civil liberties.* In its previous comment, the Committee noted that in their 2018 observations, the International Trade Union Confederation (ITUC) and the UNT alleged further acts of anti-union violence, including the murder on 18 November 2017 of two miners who were participating in a strike in the state of Guerrero, attacks on over 130 unionized university workers in San Cristobal de las Casas on 9 February 2017, as well as the death of a trade union activist in January 2018 after receiving

threats relating to the promotion of a new union. The Committee notes that the Government indicates its willingness to provide its comments on the observations of the social partners, expressing its readiness to take the appropriate measures and thanking the organizations that provide additional information. The Committee also notes that the observations of IndustriALL highlight the need to make progress in eliminating impunity and punishing those responsible for anti-union violence. ***The Committee once again invites the organizations concerned to provide the Government with any additional information that they have and requests the Government to take the necessary measures to investigate the allegations and to punish and eradicate all acts of anti-union violence.***

*Article 2 of the Convention. Conciliation and arbitration boards. Constitutional reform of the labour justice system.* In its previous comment, having noted the concerns expressed by the social partners and the information provided by the Government, the Committee encouraged the submission of the legislative texts relating to the constitutional reform of the labour justice system to a broad process of tripartite consultation. The Committee notes the Government's indication that the implementation of the new Mexican labour model is progressing successfully in accordance with the Convention and the comments of the ILO supervisory bodies. The Government has provided detailed information on its process of implementation, referring to the work of the Coordination Council for the Implementation of the Reform of the Labour Justice System (which approved a three-stage strategy to be completed in three years, which is one year earlier than scheduled in the reform); recognizing the complex cultural change this implies, which requires time and resources; and emphasizing its priority nature and the full commitment of the authorities in this respect. With regard to tripartite consultation, the Government highlights that: (i) the reform is the result of an ongoing social dialogue between the national authorities and specialists, academics, trade unionists, entrepreneurs and civil society actors; (ii) with the purpose of enriching the discussion and exchanging views with the sectors involved, from 25 February to 6 March 2019, the Chamber of Deputies of the Congress of the Union convened representatives of the executive and judicial branches, labour courts, bar schools and associations, academics, civil society bodies and associations, trade union organizations and the general public to participate in six public meetings on the labour justice reform, organized in thematic roundtables with 62 speakers; (iii) working groups Nos 2 (on collective law) and 4 (on labour conciliation and registration centres) were composed of trade union and employer representatives from various organizations; (iv) during this open parliamentary work, a transparent and pluralistic dialogue was maintained with the most representative workers' and employers' organizations in the country, as well as with academics, experts and civil society organizations – including the complainant organizations in Case No. 2694 before the Committee on Freedom of Association; (v) the Senate of the Republic carried out a similar open parliamentary exercise, convening all sectors involved in the reform. Regarding certain concerns raised in the previous observation, the Government indicates that, while there was a proposal for a regulatory Act in 2017 on a tripartite composition of the fundamental body responsible for upholding union democracy (the Federal Labour Conciliation and Registration Centre (CFCRL)), it was not adopted, and therefore recalls that this is a decentralized body, under the Secretariat for Labour and Social Welfare (STPS), which has a Government Board composed of the heads of the Ministry of Finance, the National Institute for Transparency, Access to Information and the Protection of Personal Data, the National Electoral Institute and the National Institute of Statistics and Geography. Lastly, the Government denies the allegations that this dialogue was confined to certain organizations, recalls the diversity of partners and affirms that social dialogue has been strengthened in recent years.

The Committee also notes the following observations of the social partners in this regard: (i) the CONCAMIN emphasizes the need to ensure that when the new labour courts become operational, they genuinely address the aspects of the activities of the boards that were criticized; (ii) the CAT considers that in the application of the reforms the authorities have taken on greater powers, thereby undermining trade union autonomy; (iii) the CIT highlights the difficulties of implementing the reforms in a context in which independent trade unionism is a minority, most collective agreements have not

been legally validated and it will take a long time to replace the boards, which continue to be an obstacle to the exercise of freedom of association; (iv) the CROM considers that the CFCRL registration system involves government interference; (v) the UNT indicates that the reforms have been carried out without real or genuine ongoing institutional and social dialogue with the representative organizations, but through a pretence of open parliamentary processes based on direct invitations, without the participation of the social partners; and (vi) IndustriALL, while recognizing the significant progress made in implementing a real labour reform that could transform the existing model, emphasizes that practices that limit freedom of association persist, particularly in states outside the federal capital, reports that enterprises and corporate unions continue to control the boards, and that it is necessary to establish genuine social dialogue with independent and democratic trade unionism. ***In light of the above, and while welcoming the efforts made, the Committee encourages the Government to continue to ensure that the following stages of the implementation of the labour reform are submitted to broad and effective tripartite consultation, in order to take note of the concerns raised by the social partners and consider the measures necessary to ensure full respect of the Convention in law and practice. Reiterating that the technical assistance of the Office remains available to it, the Committee requests the Government to keep it informed of any developments in this respect.***

*Trade union representativity. Trade unions and protection contracts.* In its previous observations, the Committee reiterated its request to the Government, in consultation with the social partners, to continue taking the necessary measures to resolve the problems raised by the phenomenon of protection unions and contracts. In this regard, the Government indicates that the necessary legislative and regulatory adjustments have been made to implement a new industrial relations model that guarantees the full exercise of freedom of association and workers' representation in collective bargaining. Among the main amendments made to Mexican labour law, the Government emphasizes the processes to: (i) legally validate collective labour agreements signed before the entry into force of the reform, through majority approval by the workers, expressed through personal, free, secret and direct ballot. To this end, on 31 July 2019, a Protocol for the legal validation of existing collective agreements was published and, on 1 May 2021, the verification function was transferred to the CFCRL (while the CFCRL was still not operational, the STPS had been empowered to verify the legal validation procedures). The Government indicates that, during the reporting period, 2,231 consultations regarding legal validation were held, in which more than 348,000 workers cast personal, free, direct and secret ballots to determine whether they agreed to maintain 1,297 collective labour agreements; (ii) demonstrate that, prior to the negotiation of an agreement, the union is representative of at least 30 per cent of the workers, through an attestation issued by the CFCRL, and that ballot processes are personal, free, secret and direct, and are also applicable to the election of union officers; and (iii) approve the content of the collective labour agreements negotiated by the union, following the completion of negotiations with the employer, through majority approval expressed through the personal, free, secret and direct ballots of the workers. This requirement for consultation also applies to the general revision of the agreements (which must be carried out every two years), as well as to disputes between unions over their status to negotiate agreements (which are heard by impartial and independent courts). In its report, the Government provides details of the implementation of these processes and considers that, through these processes and the establishment of the CFCRL, the problem of agreements signed without the knowledge or consent of the workers has been addressed.

With regard to the observations of the social partners, the CIT warns of the persistence of the problems related to protection unions and contracts despite the reforms, and refers to an estimate that protection contracts account for 80 per cent of collective labour agreements. IndustriALL, while recognizing the Government's ongoing efforts to advance with the reform that may eradicate the system of protection unions and contracts: (i) denounces the proliferation and the signing of protection contracts by the public authorities; (ii) refers to specific cases that illustrate how the system operates (for example in a transnational car company and the petrol supply sector); (iii) denounces the repression

of trade union industrial action (for example, in sectors such as the electronics industry in the state of Jalisco); (iv) highlights the significant challenges in practice in guaranteeing that the legal validation processes are compliant with freedom of association (citing examples such as failing to implement results that did not favour the protection union and obstacles to the registration of independent organizations); and (v) refers to the report of the Board of Independent Labour Experts of Mexico of 7 July 2021, which lists the strategies used to intimidate workers and prevent them from voting. Further, IndustriALL refers, as an example of an ultimately satisfactory resolution, to the case of a union in an automobile company in Silao, in which the workers reported intimidation and serious irregularities in the process for the legal validation of the collective labour agreements and had recourse to the Canada, United States and Mexico Rapid Response Labour Mechanism (T-MEC), through which a new vote was called in August 2021; the validation process was monitored and supervised by the National Electoral Institute together with a mission of ILO observers, as a result of which the protection contract was rejected.

The Committee notes that in response to IndustriALL, the Government: (i) provides updated information on the application of the procedures referred to above (as of 12 October 2021, the number of legal validation processes had risen to 1,890 collective agreements covering some one million workers); (ii) denies that practices of complicity persist between employers and workers with the endorsement of the labour authority and rejects any criticism of the impartiality or integrity of the officials or operators of the labour justice system, as well as of their selection process; (iii) highlights that the reports of the Board of Independent Labour Experts have also recognized the progress made by the Government, especially considering that it has been made in the context of the pandemic, and have recognized that some of the changes of the reform have yet to be implemented, and thus it is therefore necessary to wait before a full evaluation can be conducted; (iv) refers to the lessons that have been drawn from the legal validation processes carried out, thereby improving the verification functions and reforming the Protocol referred to above; and (v) refers to the validation process in Silao as a positive example that illustrates the Government's commitment to implement the reform and establish a new industrial relations model based on greater transparency and union democracy. ***In light of the above, the Committee encourages the Government to take the necessary additional measures to ensure that the legal validation processes of collective agreements, both in their rules and their application in practice, guarantee full and timely respect for freedom of association. While welcoming the progress made in implementing the reform, the Committee notes with concern the continuing allegations of violations of the Convention and invites the Government, in consultation with the social partners, to continue taking any further measures that may be necessary to find effective solutions to the problems raised by the phenomenon of protection unions and contracts for workers in relation to their rights to establish and join organizations of their choosing.***

*Publication of the registration of trade unions.* In its previous observation, the Committee requested the Government to provide information on the legal requirement for conciliation and arbitration boards to publish the registration and statutes of trade unions, and any impact that the implementation of the new constitutional reform and its secondary legislation has had on the procedure for trade union registration, including the publication of the registration and statutes of trade unions. In this regard, the Government indicates that: (i) the reform of 1 May 2019, in accordance with the 2017 constitutional reform, transferred the registration functions for trade unions and collective agreements to the CFCRL, which includes the obligation to publish the corresponding registrations; (ii) in accordance with the implementation plan for the new labour model, the CFCRL will take up its registration functions fully on 11 October 2021, from which date there will be a single register of unions and contracts at the national level, under the responsibility of the CFCRL (up to now, these functions have been exercised only in the bodies covered by the first stage of the implementation of the new labour model); (iii) the CFCRL, the STPS and the conciliation and arbitration boards have worked in coordination to digitalize all the registry files and transfer them within the legal deadlines to the CFCRL, so that it can meet the

obligation to publish them once this work is completed; (iv) notwithstanding the above, new registrations of unions and collective labour agreements by the CFCRL are already available on its website, which will gradually include the files of the unions and agreements currently registered by conciliation and arbitration boards; this is to be completed between the second half of 2021 and the first half of 2022; and (v) as of 17 September 2021, 95.5 per cent of unions registered at the federal level and 38 per cent of unions registered at the local level have adapted their statutes to the applicable rules of the new labour register.

The Committee also notes that in their observations: (i) the UNT states that in July 2021, the status of publication was still not clear, and the collective labour agreements registered on a daily basis were still not available; and (ii) IndustriALL expresses concern that as of 2021 the legal obligation to publish the registration and statutes of unions, and the existing collective agreements, has still not been fully complied with, and indicates that in practice many workers covered by collective labour agreements are still unaware that these contracts exist and cannot obtain a copy of them.

***Taking due note of the recent progress in implementing a single register of trade unions and agreements at the national level under the responsibility of the CFCRL, as well as the persistence of allegations of difficulties in accessing information on existing trade unions and collective agreements in practice, the Committee requests the Government to follow up on these allegations and to continue providing information on developments in this respect.***

*Articles 2 and 3. Public sector workers.* The Committee recalls that for many years it has been asking the Government to take measures to amend the following provisions that limit trade union pluralism in state agencies and the possibility of the re-election of union officials: sections 68, 69, 71, 72, 73, 75, 79 and 84 of the Federal Act on State Employees (LFTSE), and the legislative declaration establishing the trade union monopoly of the National Federation of Banking Unions (FENASIB). The Committee has repeatedly noted the Government's statements that, in accordance with the case law of the Supreme Court of Justice, these legislative restrictions on the freedom of association of public servants are not applied, emphasizing that the re-election of trade union officers is possible and that multiple unions can be registered, and the fact that the applicant unions are in the same body is not an obstacle to their registration. The Committee notes that, in addition to reiterating these explanations, the Government refers to the Decree reforming, adding and repealing various provisions of the LFTSE, giving effect to article 123(b) of the Constitution.

The Committee notes with **satisfaction** that this Decree introduces the following amendments to the LFTSE: (i) it repeals section 68 (which established that there would be only one union in each agency); and (ii) it amends section 69 (removing the ban on trade unionists leaving the union of which they have become members and introducing the right of workers to join and establish unions without prior authorization), section 71 (removing from the requirements for establishing a union the fact that "there is no other union group with a greater number of members within the same state agency"), section 73 (removing the reference to "when a different union group that is in the majority is registered" as grounds for the dissolution of the union), section 79 (removing the prohibition on unions of public servants joining trade union organizations of workers or rural workers) and section 84 (removing the reference to the Federation of Unions of State Employees as the single central trade union recognized by the State).

However, the Committee notes that no amendments have been made in the LFTSE to section 72 (in which the problematic clause remains that "the Federal Conciliation and Arbitration Court, upon receiving the application for registration, shall verify by the means it deems most practical and effective, that there is no other trade union within the state agency concerned and that the applicant has a majority of workers in that agency before proceeding with registration, where applicable") and section 75 (maintaining the prohibition on re-election within trade unions). The legislative declaration

establishing the trade union monopoly of the FENASIB (section 23 of the Act issued under article 123B(XIIIbis) of the Constitution) has also been maintained.

The Committee also notes the observations of IndustriALL which: (i) denounces the persistence in the centralized public sector of the model of union control through union organizations whose leadership is close to those in political power, and that, although the unions of decentralized organizations have used case law to escape this control system, their freedom of association amounts to nothing because of the impossibility of exercising their collective bargaining rights and the right to strike; and (ii) alleges that rank-and-file workers have been illegally categorized as “personnel in positions of trust”, who would be systematically excluded from the right to freedom of association; and that the Federal Conciliation and Arbitration Board has adopted a criterion that denies these workers the possibility of having their own union and imposes the control union on them.

***The Committee requests the Government to provide its comments in this respect, specifying whether workers in positions of trust covered by the LFTSE have the right to join a trade union or establish their own trade unions, and to provide information on the exercise of this right. It also requests the Government to continue taking the necessary measures to ensure that all public sector workers, with the only possible exception of the police and the armed forces, enjoy the guarantees set out in the Convention in both law (pending the amendment of the above provisions) and practice.***

*Article 3. Right to elect trade union representatives in full freedom. Prohibition on foreign nationals becoming members of trade union executive bodies (section 372 of the Federal Labour Act).* In its previous comments, the Committee has noted the Government’s indications that: (i) section 372 of the Federal Labour Act, which prohibits foreign nationals from becoming members of trade union executive bodies, was tacitly repealed by the amendment to section 2 of the Act, which prohibits any discrimination based on ethnic or national origin; and (ii) the registration authorities do not require trade union leaders to have Mexican nationality, and this prohibition is not applied in practice. The Committee notes that in its latest report the Government reiterates that the legislative restriction is not applied in practice, specifying that the registration authorities are not in a position to verify this. The Committee also notes that the UNT emphasizes in its observations the need to remove this prohibition and discrimination on grounds of nationality in order to bring the law into line with the Convention. ***Recalling once again the need to ensure the conformity of the legislative provisions with the Convention, even if they are in abeyance or are not applied in practice, the Committee requests the Government to take the necessary measures to amend section 372 of the Federal Labour Act with a view to making explicit the tacit repeal of this restriction.***

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

## Montenegro

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

The Committee notes the observations of the Union of Free Trade Unions of Montenegro (UFTUM) received on 31 August 2021, referring to the matters addressed below.

The Committee takes note of the adoption of the Law on Civil Servants and State Employees (2018), the Labour Law (2019), a revised Rulebook on the Registration of Trade Unions (2019) and a Rulebook on the Registration of Representative Trade Union Organizations (2019), as well as the Government’s indication that there have been no legislative changes or other measures that significantly affect the application of the Convention.

*Article 3 of the Convention. Right to organize activities in full freedom.* In its previous comment, the Committee noted that under section 18 of the Law on Strikes, 2015, the police, employees of state bodies and the public service could organize a strike in a way that would not endanger national security,

safety of persons and property, the general interest of citizens or the functioning of government authorities and that in such occupations, minimum services must be ensured. Having noted that it was the prerogative of the state authority responsible for national security to determine whether the organization of a strike endangered the general interest of citizens and functioning of government authorities, the Committee requested the Government to take the necessary measures to amend the Law on Strikes in consultation with the social partners so as to ensure that responsibility for declaring a strike illegal rests with an independent body that has the confidence of the parties involved. The Committee notes the Government's indication that: (i) in line with section 7, work disruption not organized in accordance with the provisions of the Law on Strikes shall be considered an illegal strike; (ii) section 31 of the Law provides that the employer, the representative association of employers, the representative trade union or the strike committee can initiate a procedure for determining the illegality of a strike or unlawful dismissal, which will be decided upon by the competent court within five days of such a request (this provision applies to any organized strike regardless of the area of activity in which it is organized); and (iii) the assessment under section 18 of whether the organization of a strike for the above employees endangers the general interest of citizens and functioning of government authorities is done by the public authority responsible for national security. While taking due note of this indication, the Committee understands that even if section 18 does not, in its wording, refer to the determination of the legality of a strike (which is regulated by section 31, providing for a judicial determination irrespective of the area of activity in which the strike is organized), section 18 provides for an assessment by a public authority of whether a strike endangers the general interest of citizens and functioning of government authorities and thus, whether it can lawfully take place under section 18 or not. The Committee notes in this regard the observations made by the UFTUM that: (i) at the drafting stage, a representative from the UFTUM warned that section 18 was not sustainable as the National Security Agency was a security intelligence service whose work implied the secrecy of information; (ii) the National Security Agency may declare that a strike endangers the public interest, and is therefore illegal, without prescribed clear criteria, acting in its own discretion and without the possibility of objections from the initiators of the strike; and (iii) the UFTUM submitted an initiative to review the constitutionality of section 18 of the Law on Strikes after its entry into force but has not yet received a response from the Constitutional Court. While noting the Government's submission that *Article 9* of the Convention leaves it to Members States to determine the extent to which the guarantees of the Convention apply to members of the armed forces and the police, the Committee observes that section 18 of the Law on Strikes also regulates the right to strike of employees of state bodies and the public service who are not excluded from the scope of the Convention under *Article 9* and who, unless they are engaged in essential services in the strict sense of the term or exercising authority in the name of the State, should benefit from the right to strike. ***In view of the above, the Committee once again requests the Government to take the necessary measures to amend the Law on Strikes in consultation with the social partners so as to ensure that any determination of whether a strike organized under section 18 endangers the general interest of citizens and functioning of government authorities, and is therefore illegal, is the prerogative of an independent body that has the confidence of the parties involved. The Committee also requests the Government to provide information on the current status of the initiative to review the constitutionality of section 18 filed to the Constitutional Court by the UFTUM.***

*Article 4. Dissolution and suspension by administrative decision.* The Committee previously requested the Government to indicate whether suspensive effect was granted to an appeal, made pursuant to the Law on General Administrative Procedure, of a decision to delete a trade union organization from the register pursuant to section 10(3) of the former Rulebook on the Registration of Trade Union Organizations – deletion if the registration was based on inaccurate data from the applicant or on the application of an unauthorized person (possibility currently also provided under section 12(3) of the revised Rulebook and section 13(3) of the Rulebook on the Registration of Representative Trade Union Organizations). The Committee notes the Government's indication that an appeal filed against a

decision of the Ministry of Labour to delete a union from the register does not have suspensive effect in that it does not delay the execution of the decision. **Recalling that the dissolution and suspension of trade union organizations constitute extreme forms of interference by the authorities in the activities of organizations and should only take place following a normal judicial procedure which should have the effect of a stay of execution, the Committee requests the Government to take the necessary measures, including any necessary legislative amendments, to ensure that the procedure to delete a trade union organization from the register (pursuant to section 12(3) of the revised Rulebook on the Registration of Trade Unions and section 13(3) of the Rulebook on the Registration of Representative Trade Union Organizations) provides such safeguards.**

The Committee further notes that the Government indicates that while the revised Rulebook on the Registration of Trade Unions did not modify the reasons for deletion of a trade union from the register, it introduced a new sub-paragraph stipulating that the procedure for deleting a trade union under section 12(3) (previously section 10(3)) – if the registration was based on inaccurate data from the applicant or on the application of an unauthorized person – can be initiated by a registered trade union (section 13 of the Rulebook on the Registration of Representative Trade Union Organizations provides for the same possibility). **The Committee requests the Government to clarify whether the effect of the new sub-paragraph is simply to allow the concerned union to initiate the procedure for deleting it from the register in the previously described circumstances, or whether it enables any registered trade union to request deletion of another union from the register under section 12(3) of the Rulebook and section 13(3) of the Rulebook on the Registration of Representative Trade Union Organizations, and if so, to indicate the grounds for having introduced this possibility.**

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2006)

The Committee notes the observations of the Union of Free Trade Unions of Montenegro (UFTUM) received on 31 August 2021, alleging lack of adequate protection against acts of anti-union discrimination in practice. **The Committee requests the Government to provide its comments thereon.**

The Committee notes the adoption of the Law on the Representativeness of Trade Unions (2018), the Labour Law (2019), the Rulebook on the Registration of Representative Trade Union Organizations (2019) and the General Collective Agreement (2019), as well as the Government's indication that there have been no changes in legislative or other measures that significantly affect the application of the Convention. The Government adds that the Committee's previous comments were presented to the tripartite working group which drafted the Labour Law and were largely respected and that further amendments to the Labour Law are foreseen for which the technical assistance of the Office would be useful.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comment, the Committee requested the Government to pursue its efforts to amend the legislation so as to ensure the provision of sufficiently dissuasive sanctions for acts of anti-union discrimination against union members and officials. The Committee notes the Government's indication that: (i) section 189 of the new Labour Law prescribes voluntary membership in a trade union or employers' association and stipulates that no one can be placed in a less favourable position due to membership in such organizations and participation or failure to participate in their activities; (ii) section 7 prohibits direct and indirect discrimination against persons seeking employment, as well as employees, on the ground of, among others, trade union membership; (iii) section 8 details what constitutes direct and indirect discrimination; (iv) section 13 prohibits discrimination on the basis of membership and participation in organizations of employees and employers; and (v) section 209(1)(1) stipulates fines for violations of sections 7, 8 and 13 by a legal entity in the amount of €1,000 to 10,000. The Committee also observes that a fine ranging from €100 to 1,000 shall be imposed on the responsible person in the legal entity for violations of sections 7, 8 and 13 (section 209(2)). It further notes that

section 173(5) stipulates that acting as a representative of employees in line with the law does not constitute a justified reason for termination of employment, that section 196 provides protection against anti-union discrimination against trade union representatives during their mandate, as well as six months after its termination, and that section 180(5) stipulates the possibility of reinstatement and compensation in case of illegal dismissal. The Committee notes with **satisfaction** the adoption of the above provisions. The Committee observes, however, the concerns raised by the UFTUM in this respect, alleging lack of adequate protection against acts of anti-union discrimination in practice, in particular numerous cases of discrimination against trade union representatives and the absence of prosecution of employers. **In view of the above, the Committee requests the Government to provide information on the practical application of section 209(1)(1) of the Labour Law concerning anti-union discrimination cases, in particular the type of violations identified, the nature of the remedies and the amount of the fines imposed.**

*Article 2. Adequate protection against acts of interference.* In its previous comment, the Committee requested the Government to take measures to adopt specific legislative provisions prohibiting acts of interference by the employer or employers' organizations and making express provision for rapid appeal procedures, accompanied with effective and sufficiently dissuasive sanctions. The Committee notes the Government's statement in this regard that, under section 197(1) of the Labour Law, the employer is obliged to provide employees with the free exercise of trade union rights and that freedom of trade union organization creates positive and negative obligations for the employer towards the trade union: the positive obligation is to provide conditions for trade union work and to sanction all persons who prevent or hinder trade union activities, whereas the negative obligation implies the absence of any administrative or other barriers by the employer that could prevent or hinder the exercise of trade union rights. The Government adds that the Law on the Representativeness of Trade Unions prescribes general conditions for determining the representativeness of trade unions, which include independence from public authorities, employers and political parties, and it clarifies that in order to establish a quality social dialogue, it is essential to ensure the independence of trade unions from public authorities, employers and political parties. While taking due note of the general obligations of the employer vis-à-vis trade unions and the importance of trade union independence invoked by the Government, the Committee observes that the Government does not point to provisions which provide specific protection against acts of interference by employers or employers' organizations in the establishment, functioning and administration of trade unions, and vice versa, as established in *Article 2(2)* of the Convention, in particular acts designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to place workers' organizations under the control of employers or employers' organizations through financial or other means. **The Committee therefore reiterates its request to the Government to take measures to adopt specific legislative provisions prohibiting acts of interference by the employer or employers' organizations as established in Article 2(2) of the Convention and making express provision for rapid appeal procedures, accompanied with effective and sufficiently dissuasive sanctions.**

*Article 4. Promotion of collective bargaining. General Collective Agreement.* The Committee previously requested the Government to take measures to amend sections 149 and 150 of the Labour Law so as to ensure that the Government may only participate in the negotiation of a general collective agreement on issues linked to the minimum wage and that matters relating to other terms of employment are subject only to bipartite collective bargaining between employers and their organizations and workers' organizations. The Committee notes the Government's indication that many issues previously regulated by the General Collective Agreement (certain rights concerning the employment relationship, salaries, disciplinary responsibilities, termination of the employment contract and conditions for trade union activities) are now governed by the Labour Law and that the General Collective Agreement will thus mainly contain provisions relating to the determination of wages and the calculation of salaries. The Committee observes however the Government's statement that the General

Collective Agreement will also regulate other issues (such as the limitation of overtime work, and increases in annual leave and unpaid leave) in some sectors where branch collective agreements have not been concluded so as to protect the rights of employees (the banking and trade sectors). The Committee further notes that, under section 183 of the revised Labour Law, a general collective agreement defines, in addition to elements for the determination of wages, also the scope of the rights and obligations arising out of employment and that section 184(1) provides for the Government's participation in the conclusion of a general collective agreement. While emphasizing the importance and relevance of concertation between the Government and the social partners on matters of common interest, the Committee recalls that the Convention tends essentially to promote bipartite negotiation and to limit the participation of public authorities to issues which are broad in scope, such as the formulation of legislation and economic or social policy, or the fixing of the minimum wage rate. ***The Committee therefore once again requests the Government to take, in consultation with the social partners, the necessary measures to amend the relevant provisions of the Labour Law to ensure that the general collective agreements are concluded in full compliance with the Convention.***

*Representativeness of employers' federations.* In its previous comments, the Committee requested the Government to take measures to either substantially reduce or repeal the minimum requirements for an employers' federation to be considered as representative (under the current legislation, it must employ a minimum of 25 per cent of employees in the economy of Montenegro and participate in the gross domestic product of Montenegro with a minimum of 25 per cent). While taking due note of the Government's indication that the tripartite working group that drafted the Labour Law agreed to retain the current legal provision and that, as a result, the conditions for determining the representativeness of employers' associations have not been changed (section 198 of the revised Labour Law), the Committee wishes to recall that the requirement of too high a percentage for representativeness 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. ***The Committee therefore invites the Government to continue to assess, together with the social partners, whether the current minimum requirements for representativeness of employers' associations continue to be adapted to the specific characteristics of the country's industrial relations system, with a view to ensuring the promotion and development of free and voluntary collective bargaining.***

The Committee also previously noted that the affiliation of employers' associations to international or regional employers' confederations was a prerequisite for them to be considered as being representative at the national level and requested the Government to pursue consultations with the social partners concerned to ensure that the prerequisites for employers' organizations to bargain at the national level are in line with the Convention. The Committee notes the Government's indication that, while the Rulebook on the manner and procedure of registration of employers' associations and detailed criteria for determining the representativeness of authorized employers' associations (2005) is still in force, further amendments to the Labour Law and the Rulebook should be made in 2022, in particular to create a complete legal basis for the procedure of establishing the representativeness, the manner and the procedure for registration of employers' associations, as well as detailed criteria for determining their representativeness. Welcoming this information, as well as the Government's indication that the Committee's comments will be presented to the tripartite working group so as to achieve full compliance with the Convention, the Committee recalls once again that, for an employers' association to be able to negotiate a collective agreement, it should be sufficient to establish that it is sufficiently representative at the appropriate level, regardless of its international or regional affiliation or non-affiliation. ***In line with the above, the Committee requests the Government to take the necessary measures, including in the context of the upcoming Labour Law reform and in consultation with the social partners, to ensure that the prerequisites for employers' organizations to bargain at the national level are in line with the Convention, in particular with regard to their freedom to affiliate or not to affiliate with international or regional organizations.***

***The Committee reminds the Government that the technical assistance of the Office remains at its disposal, if it so wishes, as regards the legal issues raised in this observation.***

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

## Mozambique

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

In its previous observation, the Committee noted with regret the lack of action taken by the Government to investigate alleged acts of violence against striking workers in the sugar-cane plantation sector and emphasized that where such cases are brought to the Government's attention, the competent authorities should begin an inquiry immediately and take appropriate measures to bring the perpetrators to justice. The Committee notes that the Government emphasizes that, through the Labour Mediation and Arbitration Commission (COMAL) and the General Inspection of Labour, it is committed to rigorously investigate the events to ascertain the facts and apply the appropriate sanctions to bring about justice. It further notes the Government's indication that it will provide information on the matter in its next reports. ***Recalling that the above-mentioned allegations were brought to the Government's attention in 2008, the Committee expects that the events will be investigated shortly, and urges the Government to provide detailed information on the results of the inquiry and, in case of conviction, on the sanctions imposed.***

The Committee also takes note of the observations of Public Services International (PSI) received on 1 October 2020, which refer to the conclusions of the Committee on Freedom of Association in Case No. 3296 and denounce the failure by the Government to amend the legislation to facilitate the registration of a public sector union. ***The Committee requests the Government to provide its comments thereon.***

***Article 2 of the Convention. Registration of workers' and employers' organizations.*** In its last observation, the Committee expected that the Government would take the necessary legislative measures, in full consultation with the social partners, to bring into conformity with the Convention section 150 of the Labour Act, which allows the central authority of the labour administration an unduly restrictive period of 45 days to register a trade union or an employers' organization. It also requested the Government to provide information on the current application in practice of section 150 in the meantime (number of trade unions registered in a year and the time taken by the requesting authorities to register a union). The Committee notes the Government's indication that: (i) the revision process of the Labour Act is not yet completed; (ii) the information on the number of trade unions registered in a year will be provided as soon as available; and (iii) the information on the time taken by the requesting authorities to register a union will be provided as soon as the new Labour Act is approved. ***The Committee expects that the revision process of the Labour Act will be completed in the near future and that, in full consultation with the social partners, the Government will take the necessary measures to ensure that section 150 is brought into line with the Convention. It requests the Government to inform of any evolution in this respect and to provide a copy of the new Labour Act once adopted. The Committee also reiterates its request for the Government to provide information on the practical application of the existing provision, specifically for the years 2019, 2020, and 2021 (number of trade unions registered in a year and the time taken by the requesting authorities to register a union).***

***Article 3. Penal responsibility of striking workers.*** The Committee previously expressed its expectation that the Government would take the necessary measures to amend section 268(3) of the Labour Act, under the terms of which any violation of sections 199 (freedom to work of non-strikers), 202(1) and 209(1) (minimum services) constitutes a breach of discipline for which workers who are on strike are liable under both civil and penal law. The Committee notes that the Government states that

the Labour Act is still under revision and that it will inform of the new measures once the revision is completed. The Committee recalls that it considers that adequate safeguards and immunities from civil liability are necessary to ensure respect for the right of workers to exercise legitimate industrial action. It further recalls that no penal sanction should be imposed against a worker for having carried out a peaceful strike and on no account should measures of imprisonment be imposed except in cases of violence against persons or property or other serious infringements of rights and only pursuant to legislation punishing such acts. ***The Committee trusts that the Government will take all necessary measures to ensure that amendments to the above-mentioned provisions are included in its revision of the Labour Act so as to bring these provisions into conformity with the Convention. The Committee requests the Government to provide information on any evolution in this regard and reminds it that it may avail itself of the technical assistance of the Office.***

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

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

The Committee previously requested the Government to provide its comments on the 2010 observations made by the International Trade Union Confederation (ITUC) regarding acts of anti-union discrimination in export processing zones. The Committee notes with ***regret*** that the Government once again has not provided any information in this respect.

*Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference.* In its previous comments, the Committee requested the Government to take all the necessary measures to be able to provide specific statistics on the number of complaints, including judicial complaints, related to acts of anti-union discrimination and interference, and the number of fines imposed. The Committee notes the Government's indication that four complaints related to acts of anti-union discrimination and interference were registered in 2019 and 2020. It notes however that no information was provided on how these complaints were addressed by the public authorities or on the outcomes of the related procedures. ***Highlighting that the small number of anti-union discrimination and interference complaints may be due to reasons other than an absence of acts of anti-union discrimination and interference, the Committee requests the Government to take the necessary measures to ensure that, on the one hand, the competent authorities take fully into account the issues of anti-union discrimination and interference in their control and prevention activities and that, on the other hand, the workers and employers in the country are fully informed of their rights regarding these issues. The Committee requests the Government to provide information on the measures taken in this regard, as well as specific statistics on the number of complaints, including judicial complaints, related to acts of anti-union discrimination and interference, and the number of fines imposed.***

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

## Myanmar

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

The Committee notes with the ***deepest concern*** the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2021 referring to the systemic violence against workers and harsh suppression of civil liberties carried out by the military junta after it seized power on 1 February, relentlessly cracking down on the crowds of protesters calling for the return of democracy. While the reply provided on 19 November 2021 contends that the peaceful protests had evolved into riots and ultimately reached a stage of insurrection and terrorism, retaliating against members of security forces with all available weapons and forcing them to respond, the Committee cannot but ***deplore*** the allegations that ever since the junta's seizure of power, daily demonstrations

have been met with increasing brutality with hundreds killed, many more wounded and over 2,700 arrested and charged, with some already sentenced.

*Civil liberties.* The Committee **deeply regrets** to note the information provided by the ITUC that trade unionists have been specifically targeted with numerous cases of arrests and killings of trade union leaders and unionists and the wholesale violation of their civil liberties. The ITUC refers in particular to: the shooting of Chan Myae Kyaw, a truck driver at a copper mine and a member of IndustriALL's affiliate Mining Workers' Federation of Myanmar (MWFM), who was killed by soldiers on 27 March 2021 during a demonstration in Monywa; a military ambush of protesters on March 28 and 29 in South Dagon Industrial Zone, killing Nay Lin Zaw, a union leader in the wood processing sector and a member of Myanmar Industry Craft Service-Trade Unions Federation (MICS-TUF); and the shooting in the head of 21 year old Zaw Htwe, a garment worker and a member of Solidarity Trade Union of Myanmar (STUM).

The Committee notes the reply to the ITUC comments that any deaths due to security forces acts were in limited response to terrorist acts, the relevant police have these death cases on files in accord with the legal procedures and systematically registered the case records of all deaths as well as assisted their funeral affairs. According to the lists of Myanmar Police Force, 361 civilians were killed during the reporting period, of which only 193 were due to members of the security forces with Riot Control Agents (RCA) while clearing barricades and defending themselves from the terrorist acts. The remaining 168 were dead by other causes e.g., assassinated by others with arms, fell from buildings and disease, not relevant to the members of security forces. It is added that exaggerated and falsified reports in this regard are aimed at discrediting the Government and the military. As to the specific deaths raised by the ITUC, it is indicated that no casualties were found after the protest at the copper mine where Chan Myae Kyaw is said to have been shot, there were no events of a crackdown by security guards in Dagon township where Nay Lin Zaw is said to have died, and an inquest has been filed at Shwepyithar Township Police Station concerning the death of Zaw Htwe.

The Committee is bound to recall that the mobilization of the Civil Disobedience Movement was due in the first instance to the military seizure of power and destitution of the civilian government. In these circumstances, it must refer to the examination by the Committee on Freedom of Association of the grave allegations of numerous attacks by the military authorities following the coup d'état on 1 February 2021 in Case No. 3405 (see 395th Report, June 2021, paragraphs 284–358). The Committee further observes that the ILO Governing Body had on its agenda an update on the situation in Myanmar and on additional measures to promote the restoration of workers' rights at its 341st, 342nd and 343rd Sessions (March, June and November 2021), at which it, inter alia: expressed profound concern about developments since 1 February and called on the military authorities to respect the will of the people, respect democratic institutions and processes and restore the democratically elected Government (GB.341/INS/17(Add.1) (March)); expressed profound concern that the situation had deteriorated and that no progress had been made in this regard (GB.342/INS/5 (June)); and expressed profound concern that the military authorities have continued with the large-scale use of lethal violence and with the harassment, ongoing intimidation, arrests and detentions of trade unionists (GB.343/INS/8 (November)). Finally, the Committee takes note of the Resolution for a return to democracy and respect for fundamental rights in Myanmar adopted by the International Labour Conference at its 109th Session (2021) which calls upon Myanmar to cease all attacks, threats and intimidation by the military against workers, employers and their respective organizations, and the general population, including in relation to their peaceful participation in protest activities (ILC.109/Resolution II).

The Committee recalls that freedom of association can only be exercised in conditions in which fundamental human rights are fully respected and guaranteed, and in particular those rights relating to human life and personal safety, due process and the protection of premises and property belonging to workers' and employers' organizations. The killing, disappearance or serious injury of trade union leaders and trade unionists requires the institution of independent judicial inquiries in order to shed full

light, at the earliest date, on the facts and the circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events. ***While noting the cursory information provided in respect of the deaths noted above, the Committee calls for a full and independent investigation into the circumstances of the killings of Chan Myae Kyaw, Nay Lin Zaw and Zaw Htwe and requests to receive a full report of the outcome and the measures taken to prosecute and punish the guilty parties.***

The ITUC further refers to the arrest on 18 February 2021 of a union leader from the MICS-TUF who has been sent to Insein Prison and the arrest on 15 April 2021 of the director of STUM, who was charged under section 505-A of the Penal Code, which means she is not eligible for bail and faces up to 3 years in prison. Also in May, forces were deployed to arrest another 22 unionists, including seven members of Myanmar Transport Federation with another 11 warrants pending against national leaders of the Confederation of Trade Unions of Myanmar (CTUM) and other trade unions. On 4 June 2021, the passports of 28 CTUM members were cancelled. Finally, the ITUC recalls a number of arrests, detentions and attacks against trade unionists exercising their right to peaceful industrial action in 2019 and 2020.

In reply it is stated that tens of thousands of prisoners were pardoned on 12 February and 17 April respectively, while pending cases for 4,320 defendants were closed on 18 October with amnesty granted to 1,316 prisoners. As for the cancellation of the passports of 28 CTUM members, it is stated that false news had been perpetrated by the leaders of the organization to discredit the State Administration Council and the military giving rise to charges against the CTUM Chairperson for violation of section 505 of the Penal Code, while he and 28 CTUM members were also charged under section 124-A. The Government cancelled their passports as they were fleeing the arrest warrants due to be issued. ***As regards the serious allegations of a number of arrests, detention and attacks against trade unionists for exercising their right to peaceful industrial action and participating in the civil disobedience movement for the restoration of democracy, as well as the cancellation of their passports, the Committee calls for all measures to be taken to ensure full respect for the basic civil liberties necessary for the exercise of freedom of association, including freedom of opinion and expression, freedom of assembly, freedom of movement, freedom from arbitrary arrest and detention and the right to a fair trial by an independent and impartial tribunal, so that workers' and employers' organizations can carry out their activities and functions without threat of intimidation or harm and in a climate of complete security.***

In this regard, the Committee further notes the ITUC's indication that some of the arrested trade unionists were charged under section 505-A of the Penal Code which sets forth a broad and vague definition of the term "treason" to include attempts "to hinder, disturb, damage the motivation, discipline, health and conduct of the military personnel and government employees and cause hatred, disobedience, or disloyalty toward the military and the government." The Committee further notes that section 124 A of the Penal Code was amended by the military authorities in February using similarly broad wording to make it a criminal act "to sabotage or hinder the success of performance of the Defence Services and law enforcement organizations" under a penalty of up to 20 years' imprisonment. While having been informed that the director of STUM has been released, the Committee observes that the far-reaching nature of the drafting of this section can favour the categorization as treason of any exercise of dissent in a manner so as to compromise the exercise of basic civil liberties necessary to the full exercise of trade union rights. ***The Committee therefore calls specifically for the immediate release of the leader of MICS-TUF and any other trade unionists still being detained or imprisoned for having exercised their trade union rights protected under the Convention, including their engagement in the civil disobedience movement. Just as the Committee on Freedom of Association, the Committee further calls for the repeal of section 505-A of the Penal Code and also calls for the amendment of section 124 A in light of its similar nature.***

As regards the ITUC comments concerning the announcement of a new cyber security law which criminalizes any statement against any law with sanctions of imprisonment and heavy fines, the

Committee notes the reply that the Cyber Law has not yet been promulgated but observes that elements of this draft law were introduced into the Electronic Transaction Act (ETA), adopted on 15 February 2021, which provides in section 38(c) that any person that is convicted of making fake news or false news (not defined) in a cyberspace with the aim of alarming the public, making someone lose his or her faith, disrespecting someone or dividing unity, shall be imprisoned for a minimum of one year to a maximum of three years or fined not more than 5 million in kyat or both. The Committee observes with **deep concern** that this provision is vaguely worded and likely to undermine freedom of expression and other basic civil liberties under the threat of heavy penalties, including imprisonment. **The Committee therefore urges that section 38(c) be revised with a view to ensuring full respect for the basic civil liberties necessary for the exercise of freedom of association so that workers' and employers' organizations can carry out their activities and functions without threat of intimidation or harm and in a climate of complete security.**

Additionally, the Committee recalls that, in its previous comments, it had taken note of the new Law on the Right to Peaceful Assembly and Peaceful Procession, adopted on 4 October 2016, and observed that the Chapter on Rules and the corresponding Chapter on Offences and Penalties could give rise to serious restrictions of the right of organizations to carry out their activities without interference. The Committee requested the Government to ensure that workers and employers are able to carry out and support their activities without threat of imprisonment, violence or other violations of their civil liberties by police or private security and to inform of any sanctions imposed on workers' or employers' organizations under the Law. The Committee observes in this regard that the ITUC refers to a number of incidents in 2019 and 2020 where workers and union leaders engaged in peaceful protests had been prosecuted and convicted under this Law, but who have since been released. The Committee **deeply regrets** that Myanmar's report this year simply states that the Law on the Right to Peaceful Assembly and Peaceful Procession, 2016, was enacted to ensure every citizen has the right to carry out activities in line with the law, without providing any information in reply to the detailed examples of prosecution and conviction provided by the ITUC. **The Committee must therefore urge that all steps be taken to ensure that workers and employers are able to carry out and support their activities without threat of imprisonment, violence or other violations of their civil liberties by police or private security and that the Law on the Right to Peaceful Assembly and Peaceful Procession not be used in any way to restrict these rights.**

*Labour law reform process.* Despite the deeply concerning deterioration of the situation in the country and the Committee's strong conviction that priority must be given to the restoration of democratic and civilian rule, it wishes to recall its previous comments concerning the labour law reform process in the country for further action once the democratic institutions and processes and democratically elected government are restored.

*Article 2 of the Convention.* As regards the membership requirements and pyramidal structure set out in the Labour Organization Law (LOL), the Committee recalls that it had encouraged the Government to pursue consultations within the framework of the National Tripartite Dialogue Forum (NTDF) so as to ensure that all workers and employers, without distinction whatsoever, are able, not only in law but also in practice, to fully exercise their rights under the Convention, bearing in mind key difficulties faced by parts of the population, such as those in remote areas.

The Committee notes from this year's report the information that, since the law's entry into force, 2,887 basic labour organizations, 161 township labour organizations, 25 region or state labour organizations, nine labour federations, one labour confederation and 27 basic employer organizations, one township employer organization and one employer federation have been registered under the law.

**As regards the possible denial of registration, the Committee once again requests information on any denials of registration, including reasons for such decisions and procedures for review and appeal of such denials.**

*Article 3.* The Committee further noted the restrictions for eligibility to trade union office set out in the Rules to the LOL, including the obligation to have been working in the same trade or activity for at least six months (no initial time period should be required) and the obligation for foreign workers to have met a residency requirement of five years (this period should be reduced to a reasonable level such as three years), as well as the requirement to obtain permission from the relevant labour federation under section 40(b) of the LOL in order to go on strike.

***The Committee once again expresses its expectation that, as soon as conditions permit, all of the above matters will be reviewed within the framework of the legislative reform process in consultation with the social partners so as to ensure fully the rights of workers and employers under the Convention.***

***The Committee further notes from the report that the Settlement of Labour Disputes Law was amended in 2019 and requests the final adopted text, as well as the Settlement of Labour Disputes Rules to implement the law, to be transmitted for its consideration.***

*Special economic zones (SEZs).* The Committee notes the information provided in relation to the settlement of labour disputes in SEZs and the setting up of Workplace Coordinating Committees (WCCs) both inside and outside of the zones. It notes further that labour disputes occurring in SEZs have been settled by the Special Economic Zone Management Committee and all disputes have been settled by agreement up to now. If no agreement is reached, such disputes shall be dealt with under the Settlement of Labour Disputes Law. ***The Committee expects that all necessary measures will be taken to guarantee fully the rights under the Convention to workers in SEZs, including by ensuring that the SEZ Law does not contradict the application of the LOL and the Settlement of Labour Disputes Law in the SEZs, and suggests that this matter be followed up within the framework of the NTF as soon as conditions permit.***

***The allegations and issues raised in this comment relating to numerous deaths, massive detentions and arrest of trade unionists and a momentous attack on basic civil liberties have given rise to the Committee's deepest concern. The Committee deeply regrets that despite several decisions by the ILO Governing Body in March, June and November of this year and the Committee on Freedom of Association's recommendations and the International Labour Conference's Resolution in June, no steps have been taken to address these grave concerns or to rectify the serious infringements on fundamental rights introduced this year in the Penal Code and the Electronic Transaction Act and the ongoing concerns with respect to the Law on the Right to Peaceful Assembly and Peaceful Procession of 2016.***

***In these circumstances, and given the urgency of addressing these matters affecting the fundamental rights of workers and employers, their physical integrity and freedom, and the likelihood of irreversible harm, the Committee considers that this case meets the criteria it has developed to be asked to come before the Conference.***

***[The Government is asked to supply full particulars to the Conference at its 110th Session and to reply in full to the present comments in 2022.]***

## Netherlands

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1993)

The Committee takes note of the observations received on 31 August 2021 from the Netherlands Trade Union Confederation (FNV) and the National Federation of Christian Trade Unions (CNV), which refer to matters examined by the Committee. It further notes the Government's reply to the 2017 observations from the FNV, CNV and the Trade Union Federation for Professionals (VCP).

*Article 1 of the Convention.* Adequate protection against acts of anti-union discrimination other than dismissal. In its previous comments, the Committee requested the Government to provide detailed

information on the complaints and procedures on anti-union discrimination in recruitment. The Committee has previously also repeatedly invited the Government to initiate discussions with the most representative employers' and workers' organizations with a view to broadening the protection of both trade union members and representatives in order to cover all acts of anti-union discrimination, including during employment.

The Committee notes the Government's reference to the Equal Treatment Act, which regulates the prohibition of discrimination based on different grounds, including with respect to union members, since it prohibits direct and indirect discrimination based on political opinion or belief or any other ground. Concerning access to remedies, the Government recalls in general terms that there are different possibilities for citizens to file complaints based on the Equal Treatment Act. Although it indicates that is not aware of any recent decision concerning anti-union discrimination, the Government mentions the possibility of seizing: (i) the Institute for Human Rights, which is an independent national supervisory body (although its decisions are not legally binding, the Government points out that they are applied in most cases); and (ii) the Recruitment Code Complaints Committee of the Dutch Association for Personnel Management and Organization Development (NVP). The Committee also takes note of the action plan launched by the Government against labour market discrimination 2018–21, which consists of three pillars (supervision and enforcement, research and instruments, and knowledge and awareness), including the recruitment processes and covering all grounds of discrimination. The Committee finally notes that the Government states that it is open to starting a dialogue with the social partners as part of its regular consultations with the Labour Foundation to gain more insight into anti-union discrimination against union members and representatives. While taking note of the information provided by the Government, the Committee **regrets** that it has not received information on the concrete use of the mechanisms described by the Government. ***In order to enable it to assess whether adequate protection against acts of anti-union discrimination other than dismissal is provided in practice, the Committee requests the Government to provide detailed and updated information on any complaint of anti-union discrimination brought to the Institute for Human Rights, the NVP, the courts or other competent authorities. Noting the availability expressed by the Government in this respect, the Committee once again requests the Government to take the necessary action to initiate national dialogue with the most representative employers' and workers' organizations with a view to ensuring comprehensive protection of both trade union members and representatives against all acts of anti-union discrimination, including during employment (for example, in relation to transfer, relocation, demotion or deprivation or restriction of remuneration, social benefits or vocational training). The Committee requests the Government to provide information on any steps taken in this respect.***

*Article 4. Promotion of collective bargaining. Self-employed workers.* In its previous comments, the Committee invited the Government to hold consultations with all the parties concerned with the aim of ensuring that all workers, including self-employed workers, may engage in free and voluntary collective bargaining. The Committee recalls that the opinion published by the Netherlands Competition Authority (NMA) discouraging collective bargaining on the terms and conditions of contract labour (that is, work performed by individuals who do not necessarily work under the strict authority of the employer and who may have more than one workplace) gave rise to judicial action: (i) the European Court of Justice (ECJ), at the request of the Court of Appeal of The Hague, issued a preliminary ruling on 4 December 2014 in the proceedings *FNV Kunsten Informatie en Media (KIEM) v. the State of the Netherlands*. The ECJ ruled that, under European Union law, it is only when self-employed service providers are "false self-employed" (in other words, service providers in a situation comparable to that of the respective employed workers), that a provision of a collective labour agreement, which sets minimum fees for those self-employed service providers, does not fall within the scope of Article 101(1) of the Treaty on the Functioning of the European Union (TFEU) (prohibition of agreements restricting competition); and (ii) the Court of Appeal of The Hague subsequently issued a decision on 1 September 2015, pursuant to which competition law does not preclude a collective agreement from requiring an employer to apply

the provisions of the collective agreement to self-employed substitutes (that is musicians substituting for members of an orchestra). The Committee also recalls that the Government pointed out that, according to the ECJ ruling, collective agreements for this group of “self-employed” persons (e.g. service providers in similar positions to employees) could be made on their behalf, but that this case had not yet led to amendments to the legislation or regulations. In addition, the Committee noted in its previous comments that, according to the FNV, the Netherlands Authority for Consumers and Markets (ACM) (the former NMA) still refused to more broadly acknowledge the collective bargaining rights of self-employed workers who work side-by-side with regular employees, denying both those workers and the employees a fair income and allowing or even promoting underbidding, and that the Ministry of Social Affairs followed the ACM without giving consideration to the effects of the ruling on collective bargaining rights.

The Committee notes the Government’s indication that after the KIEM case, the ACM published guidelines on price arrangements between self-employed workers in 2017 and a new version in November 2019. The latter provide further clarification on the scope offered by competition law to self-employed workers who work side-by-side with employees to agree on tariffs and other conditions. The Government also points out that the ACM will not impose any fines on arrangements between and with self-employed workers that aim at guaranteeing their subsistence level. The Government finally refers to the research carried out by the European Commission concerning the possibilities of collective bargaining for vulnerable self-employed and platform workers under EU competition law. ***While taking due note of the information provided by the Government, the Committee wishes to recall that the Convention only provides for exceptions to its personal scope of application in respect of the armed forces and the police (Article 5) and public servants engaged in the administration of the State (Article 6), and that it therefore applies to all other workers, including self-employed workers. The Committee also stresses that a limitation of the material scope of collective bargaining in respect of remuneration to the mere guarantee of subsistence conditions would be contrary to the principle of free and voluntary collective bargaining recognized by Article 4 of the Convention. In view of the above, the Committee once again invites the Government to hold consultations with the parties concerned to ensure that all workers covered by the Convention, irrespective of their contractual status, are authorized to participate in free and voluntary collective bargaining. Considering that such consultations are intended to enable the Government and the social partners concerned to identify the appropriate adjustments to be made to the collective bargaining mechanisms in order to facilitate their application to the various categories of self-employed workers, the Committee requests the Government to provide information on any progress achieved in this regard and on any legislative measures adopted or contemplated.***

*Articles 2 and 4. Protection against interference in the context of collective bargaining mechanisms.* The Committee notes that in their observations the FNV and CNV allege that the collective bargaining model is undermined by allowing collective agreements signed by small unions or unions that do not offer sufficient guarantees of independence to be declared applicable to all workers. It also takes note of the Government’s reply to the 2017 observations of the FNV, CNV and VCP on the same issue. The Committee notes that, in their 2021 observations, the FNV and CNV reiterate that in the Netherlands employers and employers’ organizations can decide to conclude a collective labour agreement (CLA) with a small union that does not present sufficient guarantees of independence. They allege specifically that: (i) such CLAs apply to all (sometimes many thousands of) workers, including the members of more representative independent organizations objecting to such agreements; (ii) they are registered without any test and are declared generally binding by the Government; and (iii) if independent trade unions raise objections to such a declaration of binding effect, there are no valid criteria for carrying out an independence test.

The Committee notes in this respect the indications of the Government that: (i) collective bargaining parties are free to decide themselves with whom they negotiate and conclude a CLA, and

hence, a collective labour agreement can also be concluded with a smaller union; (ii) according to section 2 of the Dutch Collective Labour Agreement Act, a party that wishes to conclude a CLA must be authorized to do so by its statutes. This is a formal requirement that is checked by the Government; (iii) CLAs must be registered with the Government and if the parties want a CLA to be generally binding, a request must be filed with the Government (according to the rules and conditions deriving from the Dutch Binding and Non-Binding Status of Provisions of Collective Labour Agreements Act, the Assessment framework for declaring collective labour agreement provisions generally binding, and the Decree on registration of collective labour agreements). The Government indicates that the assessment framework specifically refers to *Article 2* of the Convention and that one of the conditions for declaring CLA provisions generally binding is that they must already apply to a significant majority of the persons working in the sector. Other parties may request dispensation from the process of declaring a CLA generally binding.

The Committee wishes to recall that, by virtue of *Article 4* of the Convention, the right to collective bargaining rests with workers' organizations and employers and their organizations and that the determination of the criteria for the designation of bargaining agents is a central issue. The Committee recalls in this respect that, even if different collective bargaining systems are compatible with the Convention, in particular those which grant the monopoly of collective bargaining to the most representative trade union organization, as well as those which recognize the right of individual trade unions in a bargaining unit to bargain on behalf of their own members, it has stressed the importance of the criteria of representativeness and independence in the event of a controversy concerning the determination of the bargaining agents. In this respect, the Committee has consistently stressed that unjustified refusal to recognize the most representative organizations may impair the promotion and development of free and voluntary collective bargaining within the meaning of the Convention. In this context, the Committee considers that a system that would allow a collective agreement to be applied to all workers in a bargaining unit despite of being opposed by the most representative trade unions concerned, would raise problems of compatibility with the principle of free and voluntary collective bargaining. The Committee also wishes to recall that the criterion of independence of workers' organizations from the employer, or of a grouping of employers, is of key importance. The reality of independence is inseparable from the very existence of a trade union movement that must effectively represent the interests of the workers and is therefore essential to ensure the authenticity of the entire collective bargaining process. ***In view of the above, and since in the Dutch collective bargaining system collective agreements, unless otherwise stipulated, have an effect on the employment contracts of all employees in the companies concerned and not only of members of the signatory unions, the Committee requests the Government to provide detailed updated information on: (i) the mechanisms available to guarantee that the will of the most representative workers' organizations is taken into account in the negotiation, conclusion and extension of collective agreements; (ii) the criteria applied in order to assess the independence of a union and any existing case law on the subject; and (iii) the number of collective agreements concluded and the number of those extended, where the signatory workers' organization is not the most representative in the bargaining unit concerned.***

Sint Maarten

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

The Committee notes the joint observations of the Sint Maarten Hospitality and Trade Association (SHTA) and the International Organisation of Employers (IOE) received on 1 September 2021 and referring to the matters addressed below.

*Article 3 of the Convention. Right of organizations to elect their representatives in full freedom.* The Committee previously noted the observations of the SHTA received on 30 September 2020, which alleged that the Chamber of Commerce and Industry (COCI), a governmental agency, had established

the Soualiga Employer Association (SEA), an umbrella organization to represent employers, including at the tripartite Social Economic Council (SER). The SHTA alleged that through the COCI and the SEA, the Government was attempting to establish an employer representative organization that is more in line with its position and does not reflect actual diligent representation and that this appeared to be an attempt to marginalize the existing employer representative groups. The Committee requested the Government to provide its comments on these serious allegations.

The Committee notes the Government's reply to these observations, received on 19 July 2021. It takes note of the Government's indication that: (i) the SER is an independent advisory organization where representatives from employers' and workers' organizations and independent experts discuss draft legislation and conduct social research into the effects of governmental decisions; (ii) the Government decided to restructure the board of the SER to resolve the unbalanced representation of employers' organizations; (iii) it mandated the COCI to facilitate the establishment of an umbrella employer organization from which the various employers' organizations would obtain membership, which led to the establishment of the SEA on 4 September 2020; (iv) while the COCI was executing its mandated instruction, the SHTA, together with three other employers' organizations, established the Sint Maarten Employers Council (ECSM), as an umbrella employers' organization incorporated under the laws of Sint Maarten; and (v) both the SEA and the ECSM are currently represented on the board of the SER.

On the other hand, the Committee notes with **concern** that the SHTA and the IOE allege that: (i) the establishment of the SEA did not comply with the Ministerial Decree "Instructions for regulations", which required consultations with relevant stakeholders, such as employers' organizations; (ii) the COCI, as a government agency, could not set up an umbrella employers' association, especially when recognized employers' associations were not consulted; (iii) the SEA undermines the employers' right to freely choose their representation under article 12 of the Constitution of Sint Maarten; (iv) the COCI and SEA intend to provide room for government-owned companies as employers' representatives and attempt to marginalize existing employer representative groups; and (v) the ECSM has filed an appeal against the appointments to the SER made by the SEA.

In light of these observations denouncing that the SEA was created through government action with the aim of marginalizing the hitherto most representative employers' organizations in the country, the Committee must emphasize that, under the Convention, it is the prerogative of employers and their organizations to determine the conditions for electing their representatives and to establish higher level organizations, and the authorities should refrain from any undue interference in the exercise of these rights, including interference through the promotion or favouring of organizations that are not freely established or chosen by employers and their organizations.

***The Committee requests the Government to take the necessary measures to review, in consultation with the employers' organizations concerned, the above-mentioned developments, in particular as to the establishment and operation of the SEA and its participation in the SER, in order to ensure complete respect for the rights of employers and their organizations to establish and join organizations of their own choosing and to elect their representatives in full freedom, and redress any interference from the public authorities in this regard. The Committee further requests the Government to provide information on the result of the appeal challenging the appointments to the SER made by the SEA and recalls that it may avail itself of the technical assistance of the Office.***

***The Committee also reiterates its request that the Government reply in full to its other pending comments under the Convention, adopted in 2017.***

***[The Government is asked to send a detailed report in 2022.]***

## New Zealand

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2003)

The Committee notes the observations of Business New Zealand (BusinessNZ) and the International Organisation of Employers (IOE) received on 1 September 2021 and the Government's reply thereto. The Committee further notes the observations of the New Zealand Educational Institute (NZEI) received on 6 September 2021 and the Government's reply, as well as the observations of the New Zealand Council of Trade Unions (NZCTU) communicated with the Government's report.

*Scope of the Convention.* In its previous comments, the Committee had noted that pursuant to an amendment from 2010 to the Employment Relations Act (ERA), workers engaged in film production work are considered to be independent contractors rather than employees, unless they have a written employment agreement that provides that they are employees and were thus not covered by the provisions of the ERA. The Committee requested the Government to take any necessary measures, in consultation with the social partners, to ensure that all film and television workers, including those engaged as self-employed workers, can fully enjoy the rights and guarantees set out in the Convention. The Committee notes with **interest** the Government's indication that it established the Film Industry Working Group in 2017 consisting of industry, business and worker representatives to find a way to restore workers' rights in the industry. The Working Group made recommendations in October 2018 suggesting a bespoke workplace relations regime for contractors in the screen industry which were accepted by the Government in June 2019 and given form in the Screen Industry Workers Bill, which is currently awaiting its second reading. The Bill will provide clarity about the employment status of people doing screen production work, introduce a duty of good faith and mandatory terms for contracting relationships in the industry, allow collective bargaining at the occupation and enterprise levels, and allow access to employment institutions to resolve disputes arising from contracting relations collective bargaining in the industry. **The Committee trusts that the measures proposed will ensure that all film and television workers can fully enjoy the rights and guarantees set out in the Convention and requests the Government to transmit a copy of the final version of the Bill as soon as it has been approved and to provide information on its application in practice.**

*Article 4. Promotion of collective bargaining.* In its previous comments, the Committee requested the Government to, in consultation with the social partners, review and assess the application of section 50(K) of the Employment Relations Act (ERA), which permits any party to apply to the Employment Relations Authority for a determination as to whether bargaining has concluded, with a focus on the restriction this provision may have on further initiation of bargaining, and its impact on the conclusion of collective bargaining agreements. The Committee further requested the Government to provide information on the impact of section 44A, B and C of the ERA which provided an opt-out possibility for employers presented with a notice initiating collective bargaining including them and other employers. The Committee notes with **satisfaction** the information provided by the Government that both these sections were repealed on 12 December 2018 through the Employment Relations Amendment Act and further notes a number of other amendments aimed at strengthening collective bargaining and union rights in the workplace.

*Voluntary nature of collective bargaining.* The Committee notes the detailed observations made by BusinessNZ and the IOE in which they assert that sections 31 and 33, as amended by the Employment Relations Amendment Act 2018, and 50J of the ERA, are inconsistent with the principle of free and voluntary collective bargaining enshrined in *Article 4* of the Convention. In particular, the organizations refer to the obligation in sections 31 and 33 to conclude a collective agreement unless there is a "genuine reason", based on reasonable grounds, not to, regardless of the fact that negotiations may be initiated by a union on behalf of as few as two unionised employees. Prior to the changes to these sections, employers and unions were required to bargain in good faith but bargaining could be

terminated without agreement as long as it was clear that all matters had been considered and responded to in good faith. According to BusinessNZ and IOE, now, once bargaining is initiated, the process mandated by the good faith obligations must be followed to its logical conclusion no matter how many or how few employees are affected by the outcome.

The Committee notes the Government's indication that the amendments to sections 31 and 33 ensure that parties genuinely attempt to reach an agreement but they will not have to settle a multi-employer collective agreement if their reason not to do so is based on reasonable grounds. According to the Government, these provisions seek to encourage the full utilization of the process for good faith collective bargaining by putting in place mechanisms that require parties to make every effort to conclude an agreement, consistent with the duty of good faith. The underlying assumption is that if employers and unions are bargaining in good faith, they intend to reach a collective settlement and that this should result in an agreement unless they are genuinely unable to conclude. The Government indicates that the provisions originally resulted from a review of the principal Act giving rise to amendments in 2004 which identified the need to address the issue of "surface bargaining" where engagement was on matters of form rather than substance, or where deadlocks on some individual issues led to deadlock on the entire negotiation. These provisions were removed in 2015 but restored in 2018 returning the situation to that which existed from 2004 to 2015. The Government adds that the provisions do not make settlement mandatory as good faith bargaining may not always result in a collective agreement in all cases and hence the recognition of "genuine reason" and considers that if the parties are negotiating in good faith they should be able to provide genuine reasons for not being able to conclude. The Government therefore states that it does not agree with the views of BusinessNZ that the provisions impose an absolute duty to conclude contrary to *Article 4*. Finally, the Government considers that the number of employees affected by the outcome is irrelevant.

The Committee further notes that BusinessNZ and the IOE also refer to section 50J which permits the courts to compulsorily fix the terms of a collective agreement where the bargaining parties have not been able to conclude. In their view, this constitutes arbitrary imposition of compulsory arbitration contrary to the principle of free, voluntary negotiation. They note that while this provision was introduced on 1 December 2004, it was not an issue in practical terms until it was first invoked in February 2019 in a case in which bargaining had been protracted and acrimonious and had come to a standstill.

The Committee notes that the Government for its part rejects the interpretation that this amounts to arbitrary imposition of collective agreement terms and states that section 50J does not apply simply because the parties cannot reach agreement over a particular matter or more generally. The Government emphasizes that the section provides a specific remedy of last resort for a serious and sustained breach of the duty of good faith. In such cases, the Employment Relations Authority may make a determination fixing the provisions of the collective agreement following the application of a party only if all of the following conditions are met: the breach of duty relates to bargaining; it was sufficiently serious and sustained as to significantly undermine bargaining; all other reasonable alternatives for reaching agreement have been exhausted; fixing the provisions of the agreement is the only effective remedy for the party affected; and the authority considers it is appropriate in the circumstances so to do. The Government adds that the Committee in its 2012 General Survey (paragraph 247) has already referred to the need for measures to address improper practices in collective bargaining such as proven bad faith and unwanted delays and that compulsory arbitration may be acceptable when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities. The Government emphasizes that the sole case of the use of this remedy in this 15-year period involved protracted bargaining over several years and the prior use of mediation and facilitation and the matter was brought before the Employment Court which held that the employer had breached the duty of good faith in 2015 and continued to do so by delaying and attempting to frustrate bargaining. The Government asserts that there was thus neither an arbitrary

process nor outcome but rather a prolonged process involving careful consideration by independent bodies and the need to provide a remedy to the affected party only when specific conditions are met and after all other avenues have been exhausted.

Finally, the Committee notes the observations of the NZCTU which support the 2018 amendments to the Act, which it considers have advanced the extent to which New Zealand law gives effect to its obligations under the Convention to develop mechanisms for the promotion of collective bargaining, support the rights of workers and their unions to freely organize, and protect union members from discrimination.

The Committee observes that the amendment to section 31 of the Act specifically provides that the object of Chapter 5 on collective bargaining includes the duty of good faith that requires parties bargaining for collective agreements to conclude a collective agreement unless there is a genuine reason, based on reasonable grounds, not to, while section 33 which previously provided that the duty of good faith did not include a duty to conclude an agreement has been replaced by a section defining the elements for determining what may or may not constitute “genuine reason”. In this respect, section 33 subsection 2 specifies that “a genuine reason not to conclude an agreement does not include opposition or objection in principle to bargaining for, or being a party to, a collective agreement or to including rates of wages or salary in a collective agreement or disagreement about including a bargaining fee clause” and adds the situation of unsettled pay equity claims. Subsection 3 provides that opposition to concluding a multi-employer collective agreement is a genuine reason if that opposition is based on reasonable grounds. The Committee notes that these provisions, which had been effective in the country for over a decade in the past and have been reintroduced, do provide a certain flexibility to employers in the collective bargaining process not to conclude an agreement based on notions of good faith and genuine reason and that the amended section 33 appears to principally aim at deterring situations where a party is simply in principle opposed to bargaining or including wage rates or where there is disagreement about a bargaining fee clause. The Committee further observes, however, that section 50J providing for the possibility of the Employment Relations Authority to fix provisions of a collective agreement where there has been a serious and sustained breach of the duty to bargain collectively in good faith is connected with the re-introduction of the amendments to sections 31 and 33 and may therefore also be invoked where a breach of the duty to bargain collectively in good faith concerns the non-conclusion of a collective agreement without genuine reason. The Committee considers that, under the Convention, ensuring the voluntary nature of collective negotiations is inseparable from the principle of negotiation in good faith if the machinery to be promoted under *Article 4* of the Convention is to have any meaning. The Committee recalls in this respect that the overall aim of this *Article* is the promotion of good faith collective bargaining with a view to reaching an agreement on terms and conditions of employment. The Committee observes that sections 31, 33 and 50J as currently drafted had not given rise to any comments by the social partners for the decade in which they were jointly in force until the application of section 50J in 2019 imposing a collective agreement for a period of 14 months on an employer found to have been in serious and sustained breach of the duty of good faith. The Committee observes that the Act provides for significant consideration before section 50J can be applied, including the right of appeal to the Employment Court for a determination of the existence of a serious and sustained breach. The Committee notes that more information would be required in order to determine whether the good faith obligation in section 33 may hinder the voluntary nature of collective bargaining. **Recalling the limited circumstances in which compulsory arbitration may be imposed as referred to by the Government and BusinessNZ and IOE, the Committee requests the Government to provide detailed information on the use and practical implementation of sections 31, 33 and 50J and in particular on any specific cases where genuine reason not to conclude a collective agreement was either found to be present or not and the resulting consequences.**

*Fair pay agreements.* The Committee notes the concerns raised by BusinessNZ and the IOE in relation to the Government's announced intention to introduce Fair Pay Agreements (FPAs) covering all employees in an industry or occupation. Only unions would be allowed to initiate bargaining for an FPA and they will specify whether it will be industry based or occupationally based, as well as the scope and coverage. There is no ability for employers to opt out and any disputes will go to compulsory arbitration with no right of appeal against the terms that are fixed. According to BusinessNZ and the IOE, many of the proposed provisions of the FPA process are also physically cumbersome, unworkable and ultimately ineffective. On the initiation of the process, BusinessNZ and the IOE indicate that the union must show that it represents at least 1000 workers or 10 per cent of the workforce or it is in the public interest to have an FPA for that industry or occupation. It is then for the Government to administer the public interest test, thus inserting itself into the FPA bargaining process. Secondly, they note that union density is very low particularly in the private sector where it is around 9 per cent which means that almost any industry or occupation can be forced into bargaining for an FPA by a union that represents a tiny fraction of the workforce to be covered. In their view, this would be contrary to the principle whereby the most representative organizations have primacy of rights to collective bargaining. They further raise concerns about the mode for ratification of an FPA through a simple majority vote of employers and employees, with smaller employers' votes to be weighted according to the number of employees. Two failed ratification votes however will result in an arbitrated outcome being imposed, without a right of appeal. They consider this contrary to the principle of free and voluntary collective bargaining as well as of the good faith obligations in the domestic law governing collective bargaining generally, while further observing that extensive good faith obligations in the Act will be difficult to meet with respect to ratification. Finally, they refer to a number of statements of the Government which they consider demonstrate the Government's cognizance that its proposals would not be in compliance with the Convention and maintain that the nature of all of the alleged breaches is so significant that failure to address them risks weakening the ILO core values and integrity of the standards supervisory system.

The Committee notes the Government's indication that FPAs are the result of a long, considered and inclusive policy process undertaken over several years. The Government indicates that the FPA Bill is expected to be introduced later in 2021, however at this point the legislation is yet to be drafted, tabled in Parliament, and heard by the Select Committee (including the hearing of public submissions), let alone be voted into law and take effect. The Government nevertheless provides context to the FPA system including entrenched weaknesses in the labour market with wages lagging behind increases in labour productivity and low-quality jobs having grown significantly in prevalence. A decentralised and uncoordinated system of collective bargaining has been operating in the country since the 1990s with the result that most employees are not covered in a union or by a collective agreement, with collective bargaining coverage at around 17 per cent for the last two decades, down from around 70 per cent 30 years ago. Most collective bargaining is confined to the enterprise level and most bargaining per se happens between individual employers and individual employees. The Government also indicates that there is increasing evidence of a race to the bottom in some sectors and believes that the current employment regulatory landscape does not promote effective multi-employer or occupational or cross-industry bargaining at levels that might reduce the negative factors of low wages and wage growth, the decoupling of wages from productivity growth, poor labour practices vulnerability, and an over-reliance on statutory minimum conditions as the norm rather than a floor for bargained terms and conditions. The Fair Pay Agreement Working Group recommended an approach to developing an FPA system to create a new bargaining mechanism to set binding minimum terms at the industry or occupation level. According to the Government, these will build on national minimum standards and provide a new floor for enterprise level collective agreements where an FPA has been concluded, thus improving outcomes for employees with low bargaining power. Firms will benefit from better sector-wide coordination and dialogue, which should reduce transaction costs and allow parties to capitalize on the potential to address industry or occupation-wide issues and opportunities. The level playing field provided by FPAs

will support firms to improve wages and conditions without fear of being undercut on labour costs by competitors and create incentives to increase profitability or market share through increased investment in training, capital and innovation. The Government adds that it is therefore important to note that the policy elements that have been developed to date reflect New Zealand's particular situation and the factors that have led to it (as noted above) and that the key aim of an FPA system is to drive enduring, transformational system-wide change benefiting workers – in particular those in low paid jobs, or in sectors where there is low or no effective collective representation or bargaining. To embed and support this change requires specific measures to incentivise use of the system and generate effective and wide-reaching outcomes that demonstrate its benefits. In light of the rationale and objectives for FPAs, the Government considers that it is appropriate that only workers, through unions, be able to initiate bargaining for an FPA. As regards the threshold for triggering negotiation, the issues raised by BusinessNZ regarding the generally low level of unionisation in New Zealand actually highlight why this level of threshold is necessary. Employees will be represented in bargaining by registered unions. Unions other than the one that applies to initiate FPA bargaining, will be able to decide whether they want to be a bargaining party to that FPA. Union bargaining parties will also have an obligation to represent non-union members within coverage. The Government further contends that it is not 'inserting itself into the bargaining process' as alleged by BusinessNZ – the administration of legislative frameworks for collective bargaining by the competent authority is a common and necessary feature of bargaining systems generally. Nor is the extension of bargaining outcomes to employers and workers not directly involved in the original bargaining a unique feature of FPAs, which will apply to whole sectors or occupations once settled. The Collective Agreements Recommendation, 1951 (No. 91) of the ILO makes explicit provision in its guidance for this. The use of arbitration also needs to be seen against the objective of FPAs of promoting sectoral collective bargaining as a means of addressing the situation of low paid, vulnerable workers and the fact that industrial action by either side will be prohibited within the FPA system. Only if all other reasonable alternatives for settling the dispute have been exhausted or a reasonable time period has elapsed within which the bargaining sides have used their best endeavours to identify and use reasonable alternatives to negotiate and conclude a FPA, and bearing in mind that industrial action is not permitted within the FPA system, will the Authority then be able to proceed to determine the matter. The Government reiterates that, although compulsory arbitration is generally seen as inconsistent with Convention No. 98, it is permissible in specific circumstances as highlighted in the 2012 Committee's General Survey (paras 247 and 250), including when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities or in its use in first agreements.

The Committee notes the observations of the NZCTU supporting the development of legislation to allow bargaining of industry standard agreements, to be known as Fair Pay Agreements. In its view, the direction indicated by the Government for the development of this legislation gives effect to *Article 4* of the Convention by implementing mechanisms appropriate to the country's national conditions for the negotiation and regulation of terms and conditions at an industry sector level. The Government's development of the Fair Pay Agreement mechanism has proceeded on the basis of recommendations from a tripartite working group, with the participation of the NZCTU and BusinessNZ and which were developed in the context of New Zealand's specific national conditions, including the absence of existing effective mechanisms to facilitate industry-level sector bargaining. The Committee further notes the NZEI's view that there is an urgent need for this system to be developed to address previous lacunae and for education to take place to ensure that both employers and employees understand the potential benefits the system can afford them and are able to engage effectively in the system.

The Committee observes that the FPA system is aimed at promoting collective bargaining, especially for low-paid workers and those in vulnerable situations, where trade union representation has been particularly low and, according to the Government, is based on recommendations emanating from a tripartite working group including the main social partners in the country. While no legislation

has apparently yet been drafted, the Committee takes note of a number of concerns that have been raised by BusinessNZ and the IOE and the explanations provided by the Government. As regards the initiation of negotiations, while the Committee observes that it has found over the years a variety of industrial relations systems to be in conformity with the Convention including those that are not based on a system of most representative organizations, the Committee does consider that nothing should impede the possibility of representative employers' organizations or multiple employers in the industry or occupation to initiate negotiations should they so wish. As regards the concern that any disputes will go to compulsory arbitration with no right of appeal against the terms that are fixed while employers are not able to opt out, the Committee first wishes to recall that compulsory arbitration in the case that the parties have not reached agreement is generally contrary to the principles of collective bargaining. In the Committee's opinion, compulsory arbitration is only acceptable in certain specific circumstances, namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis. As regards the possibility of employers to opt out, while duly noting the Government's distinction between an agreement which covers the industry or sector fully at the outset and a collective bargaining agreement between some parties in a given industry or sector and extended through government action to cover the entire sector, the Committee considers that a number of the principles set out in Recommendation No. 91, namely, that the collective agreement covers a number of the employers and workers concerned which is, in the opinion of the competent authority, sufficiently representative bearing in mind the specific conditions, and that the employers and workers to whom the agreement would be made applicable should be given an opportunity to submit their observations, are a sound basis for development of industry-wide agreements. ***In light of the above, the Committee requests the Government to take the above considerations into account in its drafting of the FPA Bill and requests it to transmit a copy of the proposed provisions as soon as they are drafted.***

*COVID-19.* Finally, the Committee notes the comments of the NZEI concerning the challenges of the COVID-19 pandemic and that, throughout the pandemic response, the Government has consulted with education unions ahead of all advice going out to schools; been responsive to feedback; continued to pay the salaries and wages of school employees and provided additional funding in specific circumstances, such as supporting vaccinations. The Committee further notes the NZEI concerns however that in the early childhood sector, which is largely privately operated, the impact has been much more severe. There is very limited collective agreement coverage in the sector and few other industrial mechanisms for setting out employment terms and conditions for employees, while employers exercise considerable power over decision making with little or no union engagement. The NZEI emphasizes that the COVID-19 response requires a carefully nuanced conversation and unions should be involved. As regards vaccinations, the NZEI indicates that the Ministry of Education has also consulted with education unions on recent advice about vaccination and generally been responsive to feedback. The Government in its reply adds that it is conscious of the need to achieve an appropriate balance of individual rights, workplace health and safety duties and public health objectives and has been consulting with affected sectors and unions – directly and via the peak union body, the NZCTU, throughout the process of policy development.

## Nicaragua

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

The Committee notes the observations of the International Organization of Employers (IOE), received on 1 September and 25 October 2021, denouncing acts of persecution, intimidation and repression against leaders of the Superior Council for Private Enterprise (COSEP) and against the business sector affiliated with COSEP, as well as the arbitrary detention of employer leaders without warrant and legal due process. The IOE specifically denounces the arbitrary detention on 8 June 2021 of the former president of COSEP, José Adán Aguerra Chamorro, accused of the crime of conspiracy for undermining national integrity. The IOE also denounces the detention on 21 October 2021, without warrant, of Michael Healy, President of COSEP, as well as its Vice-President, Álvaro Vargas Duarte.

The Committee takes note of the Government's general reply, which indicates that the detention of Mrs. Aguerra Chamorro, Healy and Vargas Duarte is not related to their activities as employers, but that they are being investigated and prosecuted for various criminal acts. The Government also indicates that their detention was carried out in observance of all rights and guarantees, respecting physical and legal security and integrity. The Committee *regrets* to note that in its reply the Government merely states that the employer leaders were detained for common law crimes, without providing any information or documentation regarding the charges brought against them, the legal or judicial proceedings instituted and the outcome of such proceedings. The Committee observes that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights have condemned the detention of the employer leaders and have urged the Government to proceed with their immediate release. The Committee recalls that the rights conferred upon the workers' and employers' organizations protected by the Convention are void of meaning if there is no respect for fundamental freedoms, such as the safety and physical integrity of persons, the right to protection against arbitrary arrest and detention, and the right to a fair trial by independent and impartial tribunal. It also recalls that the arrest of employer officials for reasons linked to actions relating to legitimate demands is a serious restriction of their rights and a violation of freedom of association.

***Expressing its deep concern at the seriousness of these allegations, the Committee requests the Government to provide precise information on the detentions and, in particular, on the judicial proceedings instituted and their outcome. In the absence of any specific indication of the charges giving rise to the detention of the employer leaders, the Committee urges the Government to take the necessary measures to ensure the safety of Mr Aguerra Chamorro, Healy and Vargas Duarte and ensure their immediate release if their detention is related in any way to the exercise of their functions as employer leaders. It also requests the Government to provide its comments relating to all other issues raised by the IOE, including those regarding the Act regulating foreign agents No. 1040, adopted on 15 October 2020, and the allegation that several sections therein place unacceptable restrictions on freedom of association.***

*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 several years it has been referring to the need to take steps to amend sections 389 and 390 of the Labour Code, which provide that collective disputes shall be referred to compulsory arbitration when 30 days have elapsed since the calling of the strike. In this regard, the Committee notes the Government's indication that: (i) since 2007 to date, the provisions of these articles have not been applied and there has been no need to establish an Arbitration Tribunal; and (ii) the Government has prioritized dialogue to resolve labour disputes in both the public and private sectors by setting up roundtables for dialogue in which the Ministry of Labour participated as facilitator. The Government adds that thus far, the results have been successful and it is therefore not currently necessary to amend sections 389 and 390 of the Labour Code. While taking due note of the Government's indications regarding the emphasis placed on dialogue as a

solution to labour disputes, the Committee can only insist once again on the need to amend the above-mentioned provisions of the Labour Code, as the imposition of compulsory arbitration to end a strike, beyond the cases in which a strike may be limited or even prohibited, is contrary to the right of workers' organizations to freely organize their activities and formulate their programmes. **Regretting the lack of progress in this respect, the Committee urges the Government to take the necessary measures to amend sections 389 and 390 of the Labour Code in order to ensure that compulsory arbitration is only possible in cases where strikes may be limited or even prohibited, namely in cases of conflict within the civil service relating to officials exercising authority on behalf of the State, in essential services in the strict sense of the term or in the event of an acute national crisis. The Committee requests the Government to provide information on any developments in this regard.**

*Article 11. Protection of the right to organize.* In its previous comment, the Committee noted the Government's various initiatives aimed at promoting the right to organize and requested it to provide information concerning their implementation. The Committee notes the information provided by the Government in this respect and notes that the Government's initiatives have been focused, inter alia, on building trust among the members of trade union organizations in terms of guaranteeing their right to freedom of association, removing red tape in the registration procedures of trade union organizations, promoting the organization of own-account workers, and providing ongoing training for trade union leaders. The Committee notes that, according to the Government, as a result of the above-mentioned policies to promote and encourage unionization between 2018 and 2021, 111 new trade union organizations were formed, affiliating 3,902 workers, and 2,884 trade union organizations were updated that grouped together 222,370 workers. **The Committee takes due note of this information and requests the Government to continue providing information regarding the initiatives aimed at promoting the right to organize and the results of said initiatives.**

**[The Government is asked to reply in full to the present comments in 2022.]**

## **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1967)

*Article 4 of the Convention. Promotion of collective bargaining.* In its previous comments, the Committee requested the Government to continue taking initiatives to promote collective bargaining in all areas, including export processing zones, and to provide information on this matter. In this regard, the Committee notes the Government's indication that: (i) since 2018 until the first quarter of 2021, a total of 24 collective agreements were signed in the country's export processing zones, covering and benefiting 79,254 workers, 43,374 of whom are women; and (ii) it will continue to promote collective bargaining and dialogue as an instrument to strengthen labour relations in all the economic sectors of the country.

The Committee takes due note of the statistical information provided relating to collective bargaining in export processing zones, as well as the Government's intention to continue promoting collective bargaining in general. **The Committee hopes that the Government will continue taking measures to strengthen the promotion of collective bargaining in all sectors, including export processing zones, and will provide information on the specific action taken in this regard. The Committee also requests the Government to provide fuller information on the collective agreements signed and in force for all private sector and public sector activities, indicating the number of workers they cover.**

## Niger

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1961)

*Article 2 of the Convention. Scope of application.* In its previous comments, the Committee requested the Government to take the necessary steps to amend section 191 of the Labour Code, which provides that workers over 16 years of age but under the age of majority may join trade unions, to ensure that the minimum age for membership to a trade union is the same as that fixed by the Labour Code for admission to employment (14 years, according to section 106 of the Code). In this regard, the Committee noted the Government's indication of its commitment to take this request into consideration when amending the Labour Code, and requested it to provide information on any progress made in this regard. **Noting that the Government has provided no new information on the amendment of Act No. 2012-45 issuing the Labour Code, the Committee once again requests the Government to provide information on any progress made in this regard.**

*Articles 3 and 10. Provisions on requisitioning.* In its previous comments, the Committee recalled that it had been asking the Government for many years to amend section 9 of Ordinance No. 96-009 of 21 March 1996 regulating the exercise of the right to strike of state employees and local authority employees so as to limit the restrictions on the right to strike to public servants exercising authority in the name of the State, to essential services in the strict sense of the term, or to cases in which work stoppages may provoke an acute national crisis. The Committee noted that, according to the Government, the occupational elections process, the purpose of which was to revive the ordinance review mechanism, was proceeding normally and that it remained open to negotiations with the social partners. The Committee therefore invited the Government to take all necessary measures to accelerate this process and requested it to provide information on any developments in this regard. The Committee welcomes the information provided by the Government, according to which, following negotiations with the social partners, it accepted a complete revision of the texts regulating the right to strike requested by the Confederation of Workers of Niger (ITN), and the two parties agreed to create a framework involving all stakeholders to steer the discussions, the results of which were to be made available and transmitted to the National Assembly, for adoption in March 2019. **The Committee trusts that, in this context, the Government will not fail to take, without delay, all the necessary measures to amend section 9 of Order No. 96-009 of 21 March 1996 in light of the Committee's long-standing comments. It requests the Government to provide information on any developments in this regard. It also reminds the Government that it can avail itself of the technical assistance of the Office in relation to the revision of the laws regulating the right to strike.**

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

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

*Articles 1, 2, 3 and 6 of the Convention. Adequate protection against acts of anti-union discrimination and interference. Public servants not engaged in the administration of the State.* In its previous comments, the Committee requested the Government to take the necessary measures for the adoption of specific legislative measures providing adequate protection for public servants not engaged in the administration of the State against acts of anti-union discrimination and interference and, for that purpose, establishing expeditious and effective penalties and procedures. The Committee notes that the Government once again indicates that freedom of association and the right to collective bargaining are recognized by article 9 of the Constitution of 10 November 2010 and that personnel who are not governed by either the provisions of the Labour Code or of the General Public Service Regulations have established trade unions. However, the Committee notes that Government still does not refer to any specific measures that would protect the above category of personnel against acts of anti-trade union

discrimination, and that it does not indicate whether it has taken steps to adopt such provisions. ***The Committee therefore once again requests the Government to take the necessary measures without delay to include in the legislation provisions protecting public servants not engaged in the administration of the State against acts of anti-union discrimination and interference, and to establish, for that purpose, expeditious and effective penalties and procedures. The Committee requests the Government to provide information on any developments in this regard.***

*Article 4. Promotion of collective bargaining. Criteria for determining the representativeness of employers' and workers' organizations.* In its previous comments, the Committee requested the Government to provide information on the holding of occupational elections and their outcome in order to determine the representativeness of workers' and employers' organizations. The Committee notes with ***interest*** the Government's information concerning the holding and results of the occupational elections that took place in 2019 and Order No. 0072/MET/PS/DGT/DT/PDS of the Ministry of Employment, Labour and Social Protection of 19 September 2019 declaring the final results of the occupational elections of 31 July 2019. The Committee trusts that the holding of these elections and the resulting determination of the representativeness of professional organizations will contribute to the increased use of collective bargaining mechanisms in the country. ***In this regard, the Committee requests the Government to provide information on the number of collective agreements signed and in force in the country, the sectors concerned and the workers covered. It also requests the Government to provide information on any other measures adopted or envisaged to promote collective bargaining.***

*Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State.* In its previous comments, the Committee, after having noted with satisfaction the conclusion, between 2012 and 2014, of four major collective agreements concerning both the public and private sectors, invited the Government to ensure that the legislation in force is aligned with the practice concerning the recognition and exercise of the right to collective bargaining in the public sector, and to continue providing information on the number of collective agreements concluded in the public sector. The Committee notes that the Government confines itself to indicating that freedom of association is a constitutional right in Niger, the exercise of which is not subject to any restrictions, but does not provide any new information in response to the Committee's specific requests. ***The Committee therefore once again requests the Government to take all the necessary measures to ensure that the legislation in force is aligned with the practice and guarantees the right to collective bargaining of public servants not engaged in the administration of the State who are governed by a specific legislative or regulatory status, and accordingly excluded from the application of section 252 of the Labour Code.***

## Nigeria

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

In its previous observation, the Committee requested the Government to provide a detailed reply on allegations of denial of the right to join trade unions, massive dismissals for trying to join trade unions, mass persecution and arrests of union members and other violations made by the International Trade Union Confederation (ITUC) in 2015 and 2016, as well as allegations of arrests, reprisals and dismissals against union leaders and members made by the ITUC and the Nigeria Labour Congress (NLC) in 2017. The Committee notes the Government's indication that there will be further consultations with the affected social partners, after which a response will be forwarded to the ILO. ***Regretting the lack of concrete information received in spite of the time elapsed since these serious allegations were brought to its attention, the Committee expects that the consultations referred to above will be held shortly, and urges the Government to provide its detailed comments on each specific allegation made by the ITUC and the NLC in its next report.***

The Committee also takes note of the observations of the ITUC received on 1 September 2021, which allege massive dismissals for trying to join trade unions, acts of anti-union violence during strike actions, arrests of union members, suspensions of union leaders, and a general anti-union climate in the country. **The Committee requests the Government to provide its comments on these new serious allegations.**

*Civil liberties.* The Committee recalls that it had previously requested the Government to provide detailed information on the results of the judicial proceedings regarding the prosecution of the eight suspects arrested in connection with the assassination of Mr Alhaji Saula Saka, the Lagos Zonal Chairman of the National Union of Road Transport Workers. While having noted the Government's indication that the Federal Ministry of Labour and Employment had requested the Inspector General of Police for an update and was awaiting the reply, the Committee deeply regretted that no resolution had been reached regarding the events occurred in 2010. The Committee notes with **regret** that the Government does not provide any update on this matter in its report. **The Committee firmly urges the Government to provide detailed information on the results of the judicial proceedings, and, in the case of conviction, on the nature and implementation of the sentence.**

*Article 3 of the Convention. Right of workers to join organizations of their own choosing.* The Committee previously took note of the National Industrial Court of Nigeria (NICN) judgment of 2016 with regard to the allegation that teachers in federal educational institutions have been coerced to join the Association of Senior Civil Servants of Nigeria (ASCSN) and denied the right to belong to the professional union of their own choice. The NICN judgment concluded that teachers at the 104 Unity Colleges of Nigeria are employed by the Federal Civil Service Commission and, as civil servants, they are automatically members of the ASCSN, but specified that any worker who wishes to disassociate from the ASCSN could do so by writing to the employer. The Government had further indicated that according to section 12(4) of the Trade Unions Act and sections 9(6) and 5(3) of the Labour Act: (i) membership of a trade union by employees shall be voluntary; (ii) no employee shall be forced to join any trade union or be victimized for refusing to join or remain a member; (iii) no contract shall make it a condition of employment that a worker shall or shall not join a trade union; and (iv) the workers have the right to opt out of a trade union in writing. The Committee had requested the Government to continue to provide information on the practical application of the above-mentioned provisions, indicating in particular whether teachers of the federal educational institutions continue to be automatically affiliated to the ASCSN. The Committee notes that the Government, in its report, limits itself to stating that the purpose of the provisions of the said laws is to bring order and good administrative structure to trade unionism in Nigeria. The Committee recalls that it is important for workers to be able to change trade union or to establish a new union for reasons of independence, effectiveness or ideological choice and that trade union unity imposed directly or indirectly by law is contrary to the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 92). **The Committee once again requests the Government to specify whether teachers of the federal educational institutions continue to be automatically affiliated to the ASCSN, and if so to indicate on what legal grounds such automatic affiliation comports with the principle of voluntary affiliation set out in the Trade Unions Act and Labour Code.**

*Freedom of association in export processing zones (EPZs).* The Committee recalls that its previous comments referred to issues of unionization and entry for inspection in the EPZs, as well as to the fact that certain provisions of the EPZ Authority Decree, 1992, make it difficult for workers to join trade unions as it is almost impossible for worker representatives to gain access to the EPZs. It had noted the establishment of a tripartite committee to review and update the Federal Ministry of Labour and Productivity Guidelines on Labour Administration and Issues in Contract Staffing/Outsourcing in the Oil and Gas Sector and to incorporate emerging trends in the world of work. The Committee requested the Government to provide, without delay, information on the review and update of the ministerial guidelines, and to provide statistics on the number of trade unions operating in EPZs and the

membership thereof. The Committee notes the Government's indication that it is currently working towards adopting sectorial guidelines and that EPZs would be included in one of them. It further notes that the Government reports that there are six trade unions already operating in the EPZs. **Expecting that significant progress will be made in the very near future to bring the legislation into conformity with the Convention, the Committee requests the Government to continue to inform on any developments regarding the review and update of the ministerial guidelines. The Committee also requests the Government to continue providing information and statistics on the particular trade unions operating in the EPZs.**

Articles 2, 3, 4, 5 and 6. In its previous comments, the Committee had requested the Government to amend the following provisions:

- section 3(1) of the Trade Unions Act, which requires a minimum of 50 workers to establish a trade union, so as to explicitly indicate that the minimum membership requirement of 50 workers does not apply to the establishment of trade unions at the enterprise level (while this minimum membership would be permissible for industry trade unions, it could have the effect of hindering the establishment of enterprise organizations, particularly in small enterprises);
- section 7(9) of the Trade Unions Act, which provides that the Minister may revoke the certificate of registration of any trade union, by repealing the broad authority of the Minister to cancel the registration;
- sections 30 and 42 of the Trade Unions Act, which impose compulsory arbitration, require a majority of all registered union members for calling a strike, define "essential services" in an overly broad manner, contain restrictions relating to the objectives of strike action, impose penal sanctions including imprisonment for illegal strikes and outlaw gatherings or strikes that prevent aircraft from flying or obstruct public highways, institutions or other premises, so as to lift these restrictions on the exercise of the right to strike; and
- sections 39 and 40 of the Trade Unions Act, which grant broad powers to the registrar to supervise the union accounts at any time, so as to limit this power to the obligation of submitting periodic financial reports, or in order to investigate a complaint.

The Committee welcomed the Government's indication that it had established a Tripartite Technical Committee (TTC) for the purpose of bringing into conformity the relevant sections of the Labour Standards Bill (LSB), Collective Labour Relations Bill (CLRB), Labour Institutions Bill (LIB) and Occupational Safety and Health Bill (OSH Bill) with international labour standards. It noted the Government's indication that the proposed review of the LSB would give the opportunity to the social partners to consider the amendments to the aforementioned provisions of the Trade Unions Act. The Committee notes that the Government states that the Labour Bills will be provided when enacted. **The Committee expects that the above-mentioned laws will be enacted shortly and that sections 3(1), 7(9), 30, 39, 40 and 42 of the Trade Unions Act will be brought into line with the Convention as part of the ongoing legislative review. The Committee requests the Government to provide information on any progress achieved in this regard.**

The Committee previously noted that there were no proposals to amend the following legislative provisions, which it also requested the Government to modify:

- section 3(2) of the Trade Unions Act, which restricts the possibility of other trade unions from being registered where a trade union already exists (workers should be able to change trade union or to establish a new union; trade union unity imposed directly or indirectly by law is contrary to the Convention);
- section 11 of the Trade Unions Act, which denies the right to organize to employees in the Customs and Excise Department, the Immigration Department, the prison services, the

Nigerian Security Printing and Minting Company Limited, the Central Bank of Nigeria, and Nigeria Telecommunications (all workers, without distinction whatsoever, should have the right to establish and join organizations of their own choosing; the only authorized exception are the members of the police and the armed forces); and

- section 34(1)(b) and (g) of the Trade Unions Act (as amended by section 8(a) of the Trade Unions (Amendment) Act 2005), which requires federations to consist of 12 or more trade unions in order to be registered (the number of affiliated trade unions necessary should be lowered) and section 1 of the 1996 Trade Unions (International Affiliation) Act, which provides that the application of a trade union for international affiliation shall be submitted to the Minister for approval (the international affiliation of trade unions should not require the Government's permission).

The Committee notes that the Government states that the social partners are comfortable with the number of trade unions affiliated to federations and reiterates previous observations indicating that the purpose of section 3(2) of the Trade Unions Act is to bring order and good administrative structure to trade unionism in Nigeria and that for security reasons, section 11 of the Trade Unions Act has not been modified but a subsection has been added to create Joint Consultative Committees in the establishments concerned. The Committee refers to its preceding comments in this regard, recalling in particular that the establishment of joint consultative committees cannot be considered as a substitute for the right to organize under the Convention. **Noting that the above provisions have been the subject of its comments for many years, the Committee urges the Government to take all necessary measures to make the appropriate amendments without delay in order to ensure their conformity with the Convention. The Committee requests the Government to provide information on any developments in this respect.**

**The Committee reminds the Government that it may seek the technical assistance of the Office in connection with the revision of the laws and regulations referred above and relating to the application of the Convention.**

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1960)

In its previous observation, the Committee requested the Government to provide information on any investigations, and the results thereof, into allegations of anti-union discrimination and interference in the banking, education, electricity, petroleum, gas and telecommunications sectors, as referred to in successive communications from the International Trade Union Confederation (ITUC). The Committee notes that the Government reports that it is working on sectorial guidelines to address anti-union discrimination and interference. **Observing that in its 2021 observations under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the ITUC denounces massive dismissals for trying to join trade unions, the Committee requests the Government to take the necessary actions to ensure that the allegations of anti-union discrimination referred to by the ITUC in its previous observations give rise to specific investigations. The Committee requests the Government to provide information on the results thereof as well as on the progress made towards the adoption of the above-mentioned sectorial guidelines.**

The Committee also requested the Government to send its comments on allegations of Education International (EI) and the Nigeria Union of Teachers (NUT) denouncing the promotion of a non-registered union in the education sector by various state governments, which would appear to constitute attempted interference. The Committee notes that the Government limits itself to indicating that the Academic Staff Union of Secondary School has not been registered at the federal level. The Committee recalls that the intervention by an employer – either public or private – to promote the establishment of a parallel trade union constitutes an act of interference by the employer in the functioning of a workers' association, which is prohibited under *Article 2* of the Convention. **The**

**Committee therefore requests the Government to take the necessary measures to ensure that Article 2 of the Convention is complied with in the education sector, both at the State and federal levels.**

*Scope of application of the Convention.* In its previous comments, the Committee noted that under the provisions of the legislation certain categories of workers (such as employees of the Customs and Excise Department, the Immigration Department, the prison services and the Central Bank of Nigeria) were denied the right to organize and were deprived of the right to collective bargaining. It noted that some of these categories involve public sector workers not engaged in the administration of the State and requested the Government to provide information on the results of its consultations within the National Labour Advisory Council (NLAC) and any follow-up action taken, particularly with regard to recognition of the right to collective bargaining. The Committee notes that the Government reiterates its previous explanation that these exclusions are made on the grounds of the national interest and national security. The Committee further notes the Government's indication that the NLAC has been inaugurated and that the issue raised will be discussed at subsequent meetings. The Committee recalls that, according to *Articles 5 and 6* of the Convention, only members of the armed forces and the police, as well as public servants engaged in the administration of the State may be excluded from the guarantees set out in the Convention. **Regretting the lack of progress regarding this issue, the Committee requests the Government to take the necessary measures to ensure the full recognition of the right to collective bargaining of all public sector workers not engaged in the administration of the State, and to provide information on its consultations within the NLAC and on the practical results achieved in this regard.**

*Article 4. Free and voluntary negotiation.* The Committee previously requested the Government to provide explanations regarding the legal obligation to submit any collective agreements on wages to government approval, and noted the Government's indication that in practice there is no restriction with regard to wage increases adopted by an employer but that this obligation, which appears in section 19 of the Trade Disputes Act, would be brought to the attention of the tripartite technical committee which was reviewing the labour legislation. The Committee notes with **regret** that the Government does not provide any information on this matter in its report. **The Committee once again requests the Government to take concrete steps to amend section 19 of the Trade Disputes Act in order to ensure full observance of the principle of voluntary collective negotiations in accordance with the provisions of the Convention. The Committee requests the Government to provide information in this respect.**

In its previous observation, the Committee noted the Government's intention to ensure that the reform of the labour legislation undertaken in consultation with the social partners was in conformity with international labour standards and trusted that the new Collective Labour Relations Act and any other texts adopted in the context of the reform of the Labour Law would be in full conformity with the requirements of the Convention. It notes the Government's indication that the social partners will soon hold a meeting to validate the Labour Bills before forwarding them to the National Assembly for legislative action. **The Committee requests the Government to continue to provide information on any developments in relation to the reform of the labour legislation and recalls that it can avail itself of the technical assistance of the Office.**

## North Macedonia

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1991)

The Committee notes the observations of the Confederation of Free Trade Unions of Macedonia (KSS), received on 1 September 2021, which allege restrictions on the right to strike in the education sector, the failure to transfer to trade unions the dues withheld by the employers, as well as pressure on workers to leave their trade unions. **The Committee requests the Government to provide its comments thereon.**

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

*Articles 2 and 9 of the Convention. Scope of application.* In its previous comments, the Committee had noted that, pursuant to article 37 of the Constitution, the conditions for exercising the right to union organization in "administrative bodies" (in addition to the police and the armed forces) can be limited by law and requested the Government to indicate what are the "administrative bodies" referred to in the Constitution and whether, and the extent to which, the law limits the right to organize of their workers. The Committee notes the Government's indication that "administrative bodies" referred to in article 37 of the Constitution includes ministries, other state administration bodies (as independent state administration bodies or within ministries), and administrative organizations (set up for the performance of particular professional and other works requiring the application of scientific and expert methods). The Committee further notes that the Government emphasizes that freedom of association, apart from the general framework in the Constitution, is regulated by the Labour Law, which does not stipulate any limitation thereof. **Recalling that under the Convention only the armed forces and the police may be subject to limitations concerning the enjoyment of the guarantees provided by the Convention, as well as the need to ensure conformity of national constitutional provisions with the Convention, the Committee requests the Government to take the necessary measures to amend article 37 of the Constitution to eliminate the possibility for the law to restrict the conditions for the exercise of the right to trade union organization in administrative bodies.**

*Article 3. Right of organizations to freely organize their activities and to formulate their programmes.* In its previous comments the Committee had noted that, under the Law on Public Enterprises and the Law on Employees in the Public Sector: (i) employees in the public sector are entitled to strike; (ii) employees in the public sector are obliged to provide minimum services taking into account the rights and interests of citizens and legal entities; and (iii) in accordance with the applicable laws and collective agreements, the head of the respective institution determines the performance of the institutional activities of public interest that are to be maintained during a strike, the manner in which the minimum service will be carried out and the number of employees that will provide services during the strike. In this respect, the Committee recalled that the maintenance of minimum services in the event of strikes should only be possible in certain situations, namely: (i) in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term); (ii) other services in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population; (iii) in public services of fundamental importance; and (iv) to ensure the security of facilities and the maintenance of equipment. The Committee further recalled that minimum services imposed should meet at least two requirements: (i) must genuinely and exclusively be minimum services, that is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear; and (ii) since this system restricts one of the essential means of pressure available to workers to defend their interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. The Committee welcomes the Government's indication that it will take appropriate measures to ensure compliance with the Convention of the provisions in the Law on Public Enterprises and in the Law on Public Sector Employees. **The Committee requests the Government to take, in consultation with representative public employee and public employer organizations, any necessary measures to ensure the determination of minimum services in public enterprises conforms with the situations described above, and to provide further information concerning such determination in practice (in particular as to the types of activities, and percentage of employees in those activities, that have been affected by a determination of minimum services, as well as the possibility for employee organizations to participate in the definition of minimum services).**

In its preceding comment the Committee had requested the Government to amend section 38(7) of the Law on Primary Education and section 25(2) of the Law on Secondary Education, which oblige the school directors to provide for the realization of educational activities by replacing the striking employees when the educational activity is interrupted due to a strike. The Committee notes the Government's indication that it started amending the articles concerned to align them with the Convention but observes that, subsequently, a new Law on Primary Education was published on 5 August 2019, including a similar provision to require the replacement of striking workers. Pursuant to section 50(7), of the new Law on Primary Education, in case

of a suspension of the educational and pedagogical work due to strike action, the principal of the primary school, upon receiving a previous consent by the Mayor, and by the Minister in the case of state primary schools, shall be obliged to ensure the performance of the educational and pedagogical work by substituting the striking workers for the duration of the strike action. In this regard, the Committee must recall that teachers and the public education services may not be considered an essential service in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and that provisions allowing for the replacement of striking workers are a serious impediment to the legitimate exercise of the right to strike. **Regretting the lack of progress in this respect, the Committee once again requests the Government to amend the Law on Primary Education and the Law on Secondary Education, so as to remove the possibility of replacing striking workers and to enable workers in the primary and secondary education sectors to effectively exercise their right to strike, as well to provide a copy of the amended legal texts once adopted.**

*Legislative review.* With regard to the review process of the Law on Labour Relations, the Committee notes that the Government indicates that social partners were included from the very beginning and that in the course of drafting the new law attention shall be paid to its compliance with ILO Conventions. **The Committee expects that, in the context of the review of the Law on Labour Relations, the Government will take the necessary measures to bring its legislation into conformity with the Convention in line with the preceding comments and requests it to provide information on any developments, including a copy of the revised Law on Labour Relations once adopted.**

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

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

The Committee notes the observations of the Confederation of Free Trade Unions of Macedonia (KSS), received on 1 September 2021, which denounce (i) acts of anti-union discrimination, including dismissal, against trade union representatives; (ii) the non-application of collective agreements by the Ministry of Education; and (iii) the inability of the Commission for representativeness to decide on the representativeness of the KSS in the public sector. **The Committee requests the Government to provide its comments thereon.**

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

*Article 4 of the Convention. Promotion of collective bargaining.* The Committee notes the information provided by the Government concerning the outcome of the "Promoting Social Dialogue" project implemented from October 2014 until April 2017. It notes that the Government indicates that: (i) training for collective bargaining skills was realized in the framework of this project in six sectors (transport, trade, tourism, agriculture, construction, and textile); (ii) 80 per cent of the planned measures from the Tripartite Action Plan for the promotion of collective bargaining were realized; and (iii) the new Labour Law and the special Law on Worker and Employer Organizations and Collective Bargaining are currently under preparation. **Noting that the mentioned draft laws gave rise to technical comments from the Office, the Committee requests the Government to inform on the adoption process of the new Labour Law and the special Law on Worker and Employer Organizations and Collective Bargaining.**

*Collective bargaining in practice.* The Committee notes the statistical data provided by the Government concerning the number of collective agreements concluded in both the public and private sectors and the number of workers covered (respectively: 102,506 workers from six concluded collective agreements and 51,388 workers from ten concluded collective agreements). The Committee notes with **interest** that since 2014 and the beginning of the "Promoting Social Dialogue" project, the rate of workers covered by collective agreements moved from 21.8 per cent to 24.6 per cent and that the number of collective agreements signed at the enterprise level increased by 29 per cent. **The Committee invites the Government to keep promoting collective bargaining at all levels and to keep providing information on the number of collective agreements signed and the percentage of the workforce covered.**

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

## Pakistan

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

In its previous comment, the Committee requested the Government to provide its reply to the 2020 observations of the International Transport Workers' Federation (ITF), denouncing serious allegations of anti-union discrimination by the national airline company, including the unilateral derecognition of the Pakistan Airline Pilots' Association (PALPA) and other employees' associations in the company, as well as the termination of all working agreements with immediate effect. The Committee notes the Government's comments that: (i) the PALPA is neither a registered trade union nor a recognized collective bargaining agent under the Industrial Relations Act, 2012 (IRA) but an association of persons registered under the Societies Registration Act, 1860 and even this status is jeopardized in a lawsuit before the Sind High Court; (ii) only the IRA and its provincial variants recognize the forum of collective bargaining agent, which can engage in collective bargaining and, under the IRA, only an agreement with the collective bargaining agent is binding on workers and employers; (iii) any agreement that the PALPA had reached was therefore a civil contract which could be terminated by any party with notice to the other party and not a settlement with legal force under the IRA; and (iv) the airline company does not intend to stop trade union and collective bargaining activities in the establishment, which continue to take place, and it recognizes all its duly registered trade unions and collective bargaining agents. While taking due note of the above, the Committee observes that, according to the ITF observations: (i) the PALPA would be the sole representative organization for pilots in the country; (ii) its derecognition would therefore deprive this category of workers of effective means of negotiating the terms and conditions of employment and defending their interests; and (iii) the annulment of all concluded working agreements would have a serious impact on the working conditions of the pilots of the referred airline. The Committee further observes that the restriction of the PALPA's bargaining rights would appear to be linked to the fact that the workers concerned are organized through an association of persons and not a trade union under the IRA, a matter which was already raised under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee also observes in this regard that the Committee on Freedom of Association previously noted that trade union rights had been restored to workers at the company (see 353rd Report, March 2009, Case No. 2242, paragraph 177) and while recalling that, since then, a new IRA was adopted in 2012, it notes with **regret** that, according to the information provided, there appears to be a step backwards in terms of trade union rights and the right to collective bargaining at the company. The Committee recalls in this respect that the Convention guarantees collective bargaining rights to all workers except the armed forces, the police and public servants engaged in the administration of the State (*Articles 5 and 6*). ***In view of the above and given the serious nature of the allegations made, the Committee requests the Government to take all necessary measures to ensure that pilots from both private and public companies can, in law and in practice, negotiate the terms and conditions of their employment through organizations that genuinely represent their interests and to ensure the principle that freely concluded collective agreements should be binding on the parties. Further emphasizing the importance of social dialogue in crisis situations, including during the COVID-19 pandemic, the Committee trusts that the Government will take all necessary measures to promote cooperation and dialogue among all the social partners in the aviation industry, as an effective means to resolving any outstanding issues and maintaining harmonious labour relations in the sector. The Committee requests the Government to provide information on the steps taken in this respect.***

The Committee had also previously requested the Government to provide its comments on the 2012 and 2015 observations of the International Trade Union Confederation (ITUC), alleging anti-union dismissals and acts of interference in trade union internal affairs by employers. The Committee notes the Government's indication that the Ministry of Overseas Pakistani and Human Resource Development (OPHRD) is in close contact with the respective provincial departments and that a detailed response will be provided in its next regular report. **Regretting the delay in the Government's response to allegations that date back to 2012 and 2015, the Committee expects the Government to provide its comments in this regard without further delay.**

*Scope of application of the Convention.* In its previous comments, the Committee noted that the IRA, the Balochistan IRA (BIRA), the Khyber Pakhtunkhwa IRA (KPIRA), the Punjab IRA (PIRA) and the Sindh IRA (SIRA) excluded numerous categories of workers (enumerated by the Committee in its 2018 comments on the application of Convention No. 87) from their scopes of application. It therefore urged the Government to ensure that the federal, as well as provincial governments, take the necessary measures in order to amend the legislation so as to ensure that all workers, with the only possible exception of the armed forces, the police and public servants engaged in the administration of the State, fully enjoy the rights enshrined in the Convention. The Committee **regrets** that the Government does not provide any details as to the measures taken or envisaged in this respect and that its response is limited to reiterating the general protection provided to workers by the federal and regional legislative and institutional frameworks. **Regretting the lack of any tangible progress in this regard and emphasizing that the only categories of workers which can be excluded from the application of the Convention are the armed forces, the police and public servants engaged in the administration of the State (Articles 5 and 6 of the Convention), the Committee urges the Government once again to ensure that the federal, as well as provincial governments, take the necessary measures, in consultation with the social partners, to amend the legislation to this effect. The Committee requests the Government to provide detailed information on any legislative measures taken or envisaged to bring the legislation into full conformity with the Convention.**

*Export processing zones (EPZs).* In its previous comment, the Committee noted with deep regret the lack of progress in the drawing up of rules that would grant the right to organize to EPZ workers and urged the Government to take the necessary steps to ensure that the new Export Processing Zones (Employment and Service Conditions) Rules, 2009 would guarantee the right to organize to EPZ workers and to accelerate the process of their drafting and approval. The Committee notes that the Government does not provide any information about the status of the EPZ Rules, 2009 but informs that the application of labour laws was extended to EPZs and that the provision on the prohibition of strike was deleted from the EPZ Rules, 1982, allowing workers to invoke the right to strike in relation to their demands concerning employment issues. While welcoming this information, the Committee notes that the Government does not provide further details as to the overall impact of these changes on freedom of association of EPZ workers and observes from the text of the Ministerial notification (No. 7(11)/2008-FAC from 5 August 2021) that the EPZs remain exempted from the application of the IRA, which regulates the formation of trade unions, the determination of collective bargaining agents and the relations between workers and employers. **In these circumstances, the Committee requests the Government to clarify the extent to which the rights provided by the Convention are guaranteed to workers in EPZs following the mentioned legislative changes. The Committee also requests the Government to consider extending the application of the industrial relations laws, as amended in line with the Committee's comments, to EPZs, or to take any other necessary measures to ensure that EPZ workers can fully benefit from all the rights provided by the Convention.**

*Article 1 of the Convention. Protection against acts of anti-union discrimination. Banking sector.* The Committee had previously requested the Government to repeal the penal sanctions for the exercise of trade union activities during office hours (imprisonment and/or fines) provided under section 27-B of the Banking Companies Ordinance, 1962. In its previous comment, the Committee noted the

Government's indication that it was agreed in a tripartite meeting to permit only those union activities during office hours that relate to redress of grievances and it therefore reiterated its request. The Committee notes the Government's statement that: (i) the Ministry of OPHRD makes persistent efforts to amend section 27-B and is engaged with other ministries and relevant stakeholders, including social partners, to reach consensus on the subject; and (ii) to accelerate these efforts, a meeting of the concerned stakeholders was organized by the Ministry of Finance and the dialogue on the subject continues. Recalling that for the past 19 years it has been requesting the Government to repeal the penal sanctions provided for in section 27-B, the Committee notes with **deep concern** the lack of any substantial progress in this regard. **The Committee therefore urges the Government once again to take all the necessary measures to repeal section 27-B so as to enable workers in the banking sector to exercise trade union activities, with the consent of the employer, within working hours.**

*Article 4. Collective bargaining.* The Committee previously noted that, according to section 19(1) of the IRA and section 24(1) of the BIRA, KPIRA, PIRA and SIRA, if a trade union is the only one in the establishment or group of establishments (or industry in the BIRA, KPIRA, PIRA and SIRA) but it does not have at least one third of the employees as its members, no collective bargaining is possible at the given establishment or industry. The Committee recalled that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention 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 therefore urged the Government to take the necessary measures to ensure that if there is no union representing the required percentage to be designated as the collective bargaining agent, collective bargaining rights are granted to the existing unions, jointly or separately, at least on behalf of their own members.

The Committee also noted that the provisions on the determination of collective bargaining units gave competence in this regard to the National and Provincial Industrial Relations Commission (sections 62 of the IRA and 30 of the BIRA), the Labour Appellate Tribunal (section 25 of the KPIRA and PIRA) or the Registrar (section 25 of the SIRA) and that previously certified unions could lose the status of collective bargaining agents as a result of a decision in which the parties played no role. The Committee requested the Government to ensure that the necessary measures are taken by the federal and provincial governments to amend the legislation, so that the determination or modification of the collective bargaining unit is made by the social partners, since they are in the best position to decide the most appropriate bargaining level.

The Committee further noted with interest that, in the absence of a collective bargaining agent, worker members of work councils were chosen through an election but considered that even if a union could persuade workers to vote for its members to be represented in several entities (shop stewards, work councils and joint management boards), there was a risk of the union being undermined by workers' representatives. Having noted that a reform of the Provincial Tripartite Consultation Committees was being considered, the Committee requested the Government to ensure that both the federal and provincial governments guarantee that the existence of elected workers' representatives is not used to undermine the position of the trade unions concerned or their representatives and to submit a copy of the Rules providing the notice and procedure for the election of workers' representatives to work councils.

**Regretting that the Government does not provide any updated information in relation to the above matters concerning collective bargaining, the Committee reiterates its requests in this regard and expects the Government to make every effort to advance on the outstanding issues, both by the federal and the provincial governments, so as to achieve compliance with the Convention, and to provide detailed information on the progress made.**

*Collective bargaining in practice.* In its previous comment, the Committee requested the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention. The Committee notes that the Government simply states that the Ministry of OPHRD is in close contact with the respective provincial departments authorized to collect and compile the required information about collective bargaining under their jurisdiction, which will be provided in its next regular report. **The Committee trusts that the Government will be in a position to provide detailed information in this respect in its next report.**

**The Committee expects that all necessary measures will be taken to bring the national and provincial legislation into full conformity with the Convention and requests the Government to provide detailed information on all steps taken or envisaged in this respect.** The Committee recalls that the ILO project financed by the Directorate-General for Trade of the European Commission to support GSP+ beneficiary countries to effectively implement international labour standards is being implemented in Pakistan and trusts that the project will assist the Government in addressing the issues raised in this observation.

## 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 2022, 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 hopes that the Government will make every effort to take the necessary action in the near future.***

## Philippines

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 20 and 29 September 2021, referring to matters addressed below, denouncing a deteriorating situation in the country and requesting the Committee to consider an out-of-cycle review of the application of the Convention by the Philippines. ***The Committee requests the Government to provide its reply thereto.***

Given the urgency of the matters and the questions of life, personal safety and fundamental human rights raised therein, as well as updated information on the Committee's previous observations submitted by the Government in June 2021, the Committee decided to proceed to an examination of the application of the Convention by the Philippines outside of the regular reporting cycle.

*Action plan to implement the 2019 Conference Committee conclusions and achieve full compliance with the Convention. High-level tripartite mission.* In its previous comment, the Committee noted the discussion that took place in the Conference Committee on the Application of Standards (Conference Committee) in June 2019 concerning the application of the Convention and observed that the Conference Committee called upon the Government to: (i) take effective measures to prevent violence in relation to the exercise of workers' and employers' organizations' legitimate activities; (ii) immediately and effectively undertake investigations into the allegations of violence in relation to members of workers' organizations with a view to establishing the facts, determining culpability and punishing the perpetrators; (iii) operationalize the monitoring bodies, including by providing adequate resources, and provide regular information on these mechanisms and on progress on the cases assigned to them; and (iv) ensure that all workers without distinction are able to form and join organizations of their choosing in accordance with Article 2 of the Convention. The Committee further noted the Government's request for guidance on giving effect to these conclusions, expressed trust that, as soon as the situation so permitted, the Government would receive a high-level tripartite mission, as requested by the Conference Committee, and reminded the Government that, in the meantime, it could avail itself of the technical assistance of the Office, including in order to elaborate a plan of action, detailing progressive steps to be taken to achieve full compliance with the Convention.

The Committee notes the Government's indication that in an April 2021 communication to the ILO the Government expressed its intention to accept a high-level mission as a sincere gesture of its continuing commitment under international instruments and of its enduring partnership with the ILO in upholding the fundamental rights of workers. However, due to the ongoing global health crisis, the Government was not yet inclined to accept an in-person mission and considered conducting a virtual one. The Committee observes that due to the COVID-19 pandemic, the high-level tripartite mission has not yet taken place but that, in view of the Government's request for guidance in respect of the application of the 2019 Conference Committee's conclusions, a virtual exchange was organized by the Office in September 2021 between the Government, national social partners and designated representatives from the workers' and the employers' groups of the Conference Committee, in order to

clarify any outstanding confusion in respect of the Conference Committee's conclusions and to assist the Government and the social partners to take effective action for their implementation. The Committee notes that the report of the virtual exchange was circulated to all the parties that met and was submitted to the Committee by the ITUC, as additional observations to its earlier submission requesting an out-of-cycle examination of the application of the Convention, and was also transmitted to the Government. The Committee observes that the report of the virtual exchange concluded that despite measures undertaken and further commitments by the Government, as well as the existence of a number of institutions and strong support from the ILO and other partners, the discussion failed to bring forward evidence of tangible progress on the four areas of concern highlighted by the Conference Committee and that the Government should therefore adopt a time-bound plan of action in consultation with the social partners and with support from the ITUC and the International Organisation of Employers (IOE) to address each of the four areas of concern. The report also emphasized that the virtual exchange was not a replacement for a mission, that there continued to be a pressing need for a high-level tripartite mission to travel to the Philippines and that it would be critical for the mission to take place before the 2022 International Labour Conference, taking into account the sanitary conditions prevailing in the country. ***In these circumstances and given the continuing urgency of the matters raised, as denounced by the trade unions below, the Committee calls on the Government to elaborate a plan of action, in consultation with the social partners, detailing progressive steps to be taken to implement the conclusions of the 2019 Conference Committee and to achieve full compliance with the Convention. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard. The Committee also expects that the high-level tripartite mission will be able to visit the country before the next International Labour Conference, taking into account the sanitary conditions in the country.***

#### Civil liberties and trade union rights

*2019 and 2020 ITUC observations and 2019 Education International (EI) observations.* In its previous comment, the Committee noted with deep concern the grave allegations of violence and intimidation of trade unionists communicated by the ITUC in 2019 and 2020 and EI in 2019, as well as the Government's detailed reply thereto, and expressed trust that all of these allegations would be duly investigated and perpetrators punished to effectively prevent and combat impunity. The Committee notes that the Government reiterates previously provided information on the measures taken to address the above allegations and on the domestic remedies available to victims of human rights violations and adds minor updates on the status of the investigations in some of the cases. With regard to the allegations of red-tagging, it indicates that Senate Bill No. 2121 (seeking to fix legal gaps and institutionalize a system of accountability by criminalizing red-tagging and providing penalties as deterrence thereto) was filed in March 2021. ***The Committee welcomes this initiative and requests the Government to provide information on the progress made in the adoption of Senate Bill No. 2121. It expects that the grave allegations of violence and intimidation referred to above will be duly investigated and perpetrators punished to effectively prevent and combat impunity and requests the Government to provide updated information in this respect.***

*2020 joint observations of EI, the Alliance of Concerned Teachers (ACT) and the National Alliance of Teachers and Office Workers (SMP-NATOW).* In its previous comment, the Committee requested the Government to provide its reply to the 2020 joint EI, ACT and NATOW observations, denouncing extrajudicial killings of eight trade unionists in the education sector and other serious violations of civil liberties, as well as challenges in the application and implementation of the right to freedom of association. The Committee takes due note of the Government's reply in this regard and ***regrets*** to observe that, while quite extensive, it is limited to general statements on the domestic remedies available against violations of human and trade union rights, to refuting the allegations that unionism is equated to communism and to indicating in general that the cases were subjected to monitoring by

the Regional Tripartite Monitoring Bodies (RTMBs) and proceed under the regular process of criminal investigation, prosecution and litigation. ***In view of the lack of details on the progress made in investigating the concrete and serious allegations of violence set out in detail in the 2020 joint EI, ACT and NATOW observations, the Committee expects the Government to ensure that all measures are being taken to address these specific incidents, in particular that they are properly investigated, so as to establish the facts, determine culpability and punish the perpetrators. The Committee requests the Government to provide information on the measures taken in this respect and on the progress in investigations.***

*New allegations of violence and intimidation. 2021 ITUC observations.* The Committee notes that, in its latest communication, the ITUC denounces a severely deteriorating situation in the country since 2019, characterized by increased repression against the independent trade union movement and extreme violence against and persecution of unionists, including extrajudicial killings, physical attacks, red-tagging, threats, intimidation, harassment, stigmatization, illegal arrests, arbitrary detention and raiding of homes and union offices, as well as the Government's institutional failure to address these issues, exacerbating the culture of impunity. The ITUC also alludes to the adoption of additional measures, allegedly worsening the situation of trade unions in the country, including: the establishment of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC); the creation of the Joint Industrial Peace and Concern Office (now referred to as the Alliance for Industrial Peace and Program Office (AIPPO)) in export-processing zones; the adoption of the Anti-Terrorism Act, 2020; and abuse in the use of judicial search warrants. According to the ITUC, the above situation leads to a climate of pressure and fear, exposing workers engaged in trade union activities to imminent danger and undermining the ability of workers to exercise the rights guaranteed by the Convention.

The Committee notes with ***deep concern*** these grave allegations, as well as the following concrete incidents denounced and described in great detail by the ITUC: (i) the extrajudicial killing of ten trade unionists (some of whom were mentioned in previous observations of the trade unions); (ii) at least 17 cases of arrests and detention, in particular following police dispersal of a protest and police raids on union offices and unionists' homes (November–December 2020 and March 2021), as well as additional incidents of arrests and detention since 2019; (iii) 17 cases of red-tagging, intimidation and harassment, including against leaders and members of the ACT, the Kilusang Mayo Uno (KMU), the Philippines National Police Non-Uniformed Personnel Association Inc. (PNP-NUPAI) and other workers' organizations; and (iv) 12 cases of forced disaffiliation campaigns and seminars, including for public school teachers, workers at a beverage producing company and palm oil plantation workers. The Committee observes in this regard that, when examining Case No. 3185 concerning the Philippines, the Committee on Freedom of Association also expressed deep concern at the gravity of similar allegations, as well as their repeated and prolonged nature, resulting in a climate of violence and impunity with an extremely damaging effect on the legitimate exercise of trade union rights in the country, and expressed trust that the Government would prioritize investigation into these serious incidents (see 396th Report, November 2021, Case No. 3185, paragraphs 524–525 and 528(b)). ***In these circumstances, given the extreme seriousness of the allegations and their repeated nature, the Committee urges the Government to take all necessary measures to address the issues of violence and intimidation raised and, in particular, to conduct prompt and effective investigations into all allegations of extrajudicial killings of and assaults against trade unionists, so as to determine the circumstances of the incidents, including any links to trade union activities, determine culpability and punish the perpetrators. The Committee requests the Government to provide detailed information in this respect.***

*Pending cases of alleged killings of trade union leaders.* For several years, the Committee has been requesting the Government to ensure that the investigations into the killings of trade unionists Rolando Pango, Florencio "Bong" Romano and Victoriano Embang are completed to shed full light on the facts and the circumstances in which such actions occurred and, to the extent possible, determine responsibilities, punish the perpetrators and prevent the repetition of similar events. ***Observing with***

**regret that the Government simply reiterates that the cases are being handled through the regular course of criminal investigation and prosecution, without providing details as to any progress made, the Committee reiterates its previous request and expects the Government to be in a position to report substantial progress in this regard.**

*Monitoring mechanisms.* In its previous comment, the Committee requested the Government to take the necessary measures to ensure that all of the existing monitoring mechanisms can function properly and efficiently, so as to contribute to effective and timely monitoring and investigation of allegations of extrajudicial killings and other forms of violence against trade union leaders and members. The Committee notes the Government's indication that: (i) to help ensure that the RTMBs are able to carry out their mandate, mediator-arbiters from the Department of Labour and Employment (DOLE) regional offices were designated to act as focal persons in their respective RTMBs and are tasked to assist in the processing of cases so as to provide more responsive and inclusive reports; (ii) as for the Tripartite Validating Teams, their establishment is case-based when there is a need for further validation or review, but in addition to the previously mentioned challenges concerning security of its members, it is currently not advisable to create such teams given the health risks relating to the COVID-19 pandemic; (iii) the operationalization of the Administrative Order No. 35 Inter-Agency Committee (AO35 IAC) was affected by leadership and administrative changes within the Department of Justice and the secretariat has also undergone leadership changes, as a result of which it is now more active in engaging with tripartite monitoring bodies and the concerned groups and organizations in the deliberation of cases; (iv) the Secretary of Labour and Employment is an observer in AO35 IAC meetings, as well as its technical working group (TWG) meetings; (v) the AO35 secretariat welcomes ILO training programmes which aim at incorporating a labour perspective into the work of the AO35 secretariat and the TWG and at showing the relevance of the principles of freedom of association and collective bargaining for their work; (vi) one of the trainings resulted in the identification of strategies for better handling of cases involving workers and trade unions, which may be considered as policy recommendations in the ongoing review of the AO35 operational guidelines; and (vii) the investigation into the case of Dennis Sequeña, previously referred to by the Government and the social partners, was closed due to difficulties in convincing the family of the victims to cooperate but the AO35 task force will look into other avenues to continue its investigation. While taking due note of the Government's information, the Committee **regrets** that despite a number of initiatives undertaken, trade unions continue to raise concerns as to numerous allegations of violence perpetrated against trade union members for which the presumed perpetrators have not yet been identified and the guilty parties punished. **In view of the above, the Committee trusts that the review of the operational guidelines of the monitoring mechanisms will be completed without delay and, together with the above adjustments, will contribute to ensuring the full operationalization of all existing monitoring mechanisms so that they can function properly and efficiently. Further noting the call of the trade unions for full operationalization and strengthening of the existing monitoring and investigative mechanisms, the Committee requests the Government to continue to take all necessary measures to this effect, including allocating sufficient resources and staff and providing all necessary security to these personnel, in order to ensure effective and timely monitoring and investigation of all pending labour-related cases of extrajudicial killings and other violations against trade union leaders and members. The Committee also requests the Government to continue to provide detailed information on the progress made by the existing monitoring mechanisms in ensuring the collection of the necessary information to bring the pending cases of violence to the courts.**

*Measures to combat impunity. Training.* The Committee previously encouraged the Government to continue to provide regular and comprehensive training to all concerned State actors in relation to human and trade union rights, as well as on the collection of evidence and the conduct of forensic investigation. The Committee notes the Government's indication that several ongoing projects, including the EU-GSP Trade for Decent Work Project, allow for participation of various government

offices, aim at strengthening social dialogue and better application of international labour standards and focus on the principles of freedom of association and the right to collective bargaining, as well as occupational safety and health in the context of the COVID-19 pandemic. According to the Government, these projects involve activities that will help improve the monitoring and investigative mechanisms for resolution of labour-related cases and improve national laws and policies on freedom of association and collective bargaining based on ILO Conventions. **Welcoming the above information, the Committee encourages the Government to continue to pursue its efforts in terms of training and capacity-building of State actors, with the aim of increasing the investigative capacity of the concerned officials and providing sufficient witness protection, and ultimately contributing to combating impunity.**

*Measures to combat impunity. Pending legislative matters.* The Committee previously noted that the Committee on Freedom of Association referred a number of legislative aspects to this Committee and requested the Government to provide information on the progress made in: (i) the adoption of the Bill concerning enforced and involuntary disappearances; and (ii) the previously announced review by the Supreme Court and the Commission on Human Rights of the witness protection programme on the writ of *amparo* adopted in 2007, as well as of the application of the Anti-Torture Act No. 9745 and of Act No. 9851 on crimes against international humanitarian law, genocide and other crimes against humanity. The Committee notes the Government's indication that to date, House Resolution No. 392 (calling for justice for the victims and to urge the House Committee on Human Rights to investigate, in aid of legislation, the spate of enforced disappearances in the country) was filed in October 2019 and is currently pending with the Committee on Rules. The Government adds that in March 2021, the Supreme Court announced a five-week information gathering on the extent of threats against lawyers, after which it will decide on the next course of action. **Taking due note of the above, the Committee requests the Government to continue to provide information on any developments with respect to all pending legislative matters referenced above.**

*Anti-Terrorism Act.* In its previous comment, having noted the concerns expressed by the ITUC over the adoption of the Anti-Terrorism Act, 2020, which it alleged aimed at silencing dissenting voices and further entrenched State repression and hostility against workers and trade unionists, the Committee requested the Government to provide information on any aspects of implementation of the Act that affect trade unionists or trade union activities. **Observing with concern that, according to the information contained in the ITUC communication, the law has been used to label trade unions, such as COURAGE and ACT, as terrorist organizations, the Committee reiterates its previous request in this regard and requests the Government to take any necessary measures to ensure that the Act does not have the effect of restricting legitimate trade union activities.**

## Legislative issues

*Labour Code.* In its previous comments, the Committee had been noting the numerous amendment bills pending before Congress over many years and in various forms with a view to bringing the national legislation into conformity with the Convention. **Considering that the Government does not provide any updated information and fails to show any substantial progress in the adoption of the numerous amendment bills, the Committee reiterates all of its previous comments and requests in this respect and expects the Government to be in a position to report progress on this matter.**

The Committee further reiterates its comments contained in the 2020 request addressed directly to the Government.

## Republic of Korea

### Workers' Representatives Convention, 1971 (No. 135) (ratification: 2001)

The Committee notes the observations from the Federation of Korean Trade Unions (FKTU), the Korean Confederation of Trade unions (KCTU) and the Korea Enterprises Federation (KEF), which were received with the Government's report on 8 September 2021, as well as the Government's reply to them. The Committee recalls that it previously noted the observations received on 1 September 2014 from the International Trade Union Confederation (ITUC) alleging violations of trade union rights in practice, including anti-union dismissals affecting the Korean Government Employees Union and the Korean Railway Workers' Union. The Committee takes note of the Government's reply thereto, in particular the information on the process of resolution of the conflicts in both cases and the reinstatement of dismissed union members.

*Article 2 of the Convention. Facilities granted to workers' representatives.* In its previous comments, the Committee had questioned a number of provisions of the Trade Union and Labour Relations Adjustment Act (TULRAA) prohibiting as an unfair labour practice the payment of wages by an employer to full-time trade union officials, and had requested the Government to take measures to amend them in a way which allowed the parties to determine through free and voluntary negotiation the issue of the payment of wages to full-time trade union officials. The Committee notes with *interest* that the TULRAA was amended on 5 January 2021 with the deletion of such provisions. Additionally, the Time-off System Deliberation Committee was transferred to the Economic, Social and Labour Council (ESLC), where members representing public interest are not recommended by the Government, thus strengthening the representation of the labour and management in the determination of the time-off system. The Time-off System Deliberation Committee decided that the time-off limit would vary according to the size and geographical distribution of a trade union. Each workplace would ultimately fix the wage within the set time-off limit. The Committee notes the observations of the KEF indicating that, with the revised TULRAA, the union activities subject to the paid time-off are now determined by collective bargaining agreements. Those activities include consultation and negotiation with employers, grievance settlement, and industrial safety activities prescribed by the TULRAA and other labour laws, as well as affairs of maintaining and managing a trade union to develop healthy labour management relations.

The Committee further notes the observations from the FKTU and the KCTU raising some concerns in relation to the operation of the time-off system despite the recent amendment of the TULRAA enabling trade union officers to perform trade union duties during a pre-determined maximum working hours without loss of wage. The trade unions regret in particular the imposition of a maximum time-off limit, and the fact that paying wages exceeding this maximum time-off limit may be punished as an unfair labour practice according to the law. In the trade unions' view, as such, the system still goes against the principle of autonomous decision and self-regulation by labour and management. In addition, the KCTU points out that recent changes on legislation, notably on safety in the workplace or on the prohibition against harassment at the workplace, has widened the scope of activities of workers' representatives. Consequently, the time-off system should be redesigned to take into account activities that should be performed during working hours by workers' representatives. In conclusion, in the trade unions' view, the system needs to be improved to let labour and management freely and voluntarily determine the maximum time-off limit.

***While noting the positive developments in this regard, the Committee invites the Government to continue to consult with the most representative workers' and employers' organizations on ways to improve the time-off limit system, including on the concerns raised by the FKTU and the KCTU, so that: (i) the facilities afforded to workers' representatives enable them to carry out their functions promptly and efficiently; and (ii) the capacity of the social partners to freely determine through collective bargaining the facilities granted to workers' representatives is fully recognized. The Committee requests the Government to provide information on any developments in this respect. In the meantime,***

***the Committee requests the Government to provide practical information on the manner in which the maximum time-off limits are applied under the new system, on the number of complaints of unfair labour practices for payment of wage exceeding the maximum time-off limit, and the sanctions imposed.***

Furthermore, the Committee notes that, according to the FKTU, the workers' representative system is characterized by the absence of regulations and sanctions concerning the method and procedure for the election of workers' representatives, the legal status and authority of workers' representatives, or concerning employers' interference in elections and activities of workers' representatives. The FKTU indicates that the Government and the social partners have agreed to improve the related laws and institutions under the Committee for the Improvement of Laws, Measures, and Practices for Labour Relations Development under the Economy, Society, and Labour Council. The Committee notes, from the Government's report, that it is committed to sustain its efforts to strengthen the protection of the rights and protection of workers' representatives, including through the Tripartite Agreement on Improving the Workers' Representative System (19 February 2021). The Government asserts in particular that a bill reflecting the results of discussion has been submitted and that the new legislation will include matters regarding the election of workers' representatives via direct, secret, and unsigned voting, the recognition of hours dedicated to union activity as working hours, and establishing a three-year term for workers' representatives. ***Welcoming the indication that a new legislation will specify the facilities and protection afforded to workers' representatives and hoping that such legislation will enable them to carry out their functions promptly and efficiently, the Committee requests the Government to continue providing information on any developments in this regard.***

Lastly, the Committee notes with ***interest*** the ratification 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), registered in April 2021. The Committee is hopeful that the ratification of these fundamental Conventions will contribute positively to the implementation of the present Convention.

## Republic of Moldova

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

The Committee notes the observations of the National Trade Union Confederation of Moldova (CNSM) received on 21 December 2017 referring to the issues dealt with by the Committee below.

*Articles 1 and 2 of the Convention. Sanctions against acts of anti-union discrimination and interference.* For a number of years, the Committee had been requesting the Government to take measures aimed at strengthening the existing sanctions so as to ensure effective protection against acts of anti-union discrimination and interference. In its previous comment, the Committee noted the Government's indication that the Contravention Code was amended in 2016 so as to increase the value of the conventional unit used to calculate the amount of fines from 20 to 50 Moldovan Leu (MDL) (section 34(1) of the Code). The Committee further noted that: section 54(2) of the Code, dealing with various forms of discrimination in employment and occupation, provides for fines ranging from 60 to 240 conventional units (US\$170–685); section 55(1) dealing with violation of labour legislation, provided for fines ranging between 60 and 270 conventional units (up to US\$770); and section 61 dealing with obstruction of workers' right to establish and join trade unions, provided for fines ranging from 24 to 42 conventional units (up to US\$120). While welcoming the increase of the value of the conventional unit, the Committee noted that the CNSM considered that the fines provided for obstruction of workers' right to establish and join trade unions were not sufficiently deterrent. The Committee therefore requested the Government to review the above fines and other types of sanctions in consultation with the social partners, in order to ensure effective protection against acts of anti-union discrimination and

interference. **Regretting that the Government's report does not address this issue, the Committee reiterates its previous request and asks the Government to indicate all progress made in this regard.**

*Article 4. Compulsory arbitration.* The Committee had previously requested the Government to take the necessary measures to amend section 360(1) of the Labour Code so as to ensure that referral of a collective bargaining dispute to the courts is possible only upon request by both parties to the dispute, or 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 crisis. The Committee recalls in this respect that it had noted the Government's indication that a tripartite working group was working on a draft law for amicable settlement of collective labour disputes, which would address this issue. While noting the CNSM indication that the tripartite working group has not yet achieved any results and that the draft has not been finalized, the Committee noted the Government's indication that the process of adoption of the draft law was stopped altogether with the adoption, in July 2015, of the Law on Mediation. The Committee noted, however, that the Law on Mediation did not deal with the issue at hand. **In the absence of any new information, the Committee reiterates its previous request to amend section 360(1) of the Labour Code, in consultation with the social partners, so as to bring it into conformity with the Convention and promote free and voluntary collective bargaining. The Committee requests the Government to provide information on the progress made in this regard.**

*Collective bargaining in practice.* **The Committee requests the Government to provide information on the number of collective agreements signed and in force in the country and to indicate the sectors and levels concerned, as well as the number of workers covered.**

## Romania

### Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1958)

The Committee notes the observations of the European Transport Workers' Federation and the International Transport Workers' Federation received on 29 July 2021 alleging violations of a collective labour agreement. **The Committee requests the Government to provide its comments thereon.**

The Committee also notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2021 concerning matters examined by the Committee in the present comment. It further notes the observations of the International Organisation of Employers (IOE) received on 8 September 2021 concerning the discussions that took place at the Conference Committee on the Application of Standards with respect to the application of the Convention.

### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the discussion which took place in June 2021 in the Conference Committee on the Application of Standards (the Conference Committee) concerning the application of the Convention by Romania. The Committee observes that the Conference Committee, after noting that there were significant compliance issues regarding the Convention in law and practice with respect to the protection against anti-union discrimination and the promotion of collective bargaining, requested the Government to: (i) ensure adequate protection against acts of anti-union discrimination in law and practice in compliance with the Convention; (ii) collect detailed information on the number of cases of anti-union discrimination and employer interference brought to the various competent authorities; the average duration of the relevant proceedings and their outcome; how the burden of proof is applied in such cases affecting trade union officers as well as the sanctions and remedies applied in such cases; (iii) ensure, in law and practice, that collective bargaining with the representatives of non-unionized workers only takes place where there are no trade unions in place at the respective level; and (iv) amend

the law so as to enable collective bargaining for public servants not engaged in the administration of the State in line with the Convention. The Conference Committee also requested the Government to: (i) provide information on all of the above points to the Committee of Experts before its next session in 2021; and (ii) accept an ILO technical advisory mission before the next International Labour Conference.

The Committee observes that in its report the Government essentially reiterates the information already provided to the Conference Committee.

*Articles 1, 2 and 3 of the Convention. Effective protection against acts of anti-union discrimination and interference.* In its previous comments, the Committee requested the Government to: (i) take measures to amend the legislation in order to guarantee that acts of anti-union discrimination are subject to specific and dissuasive sanctions; (ii) indicate how the burden of proof is placed in cases of allegations of anti-union discrimination affecting trade union officers; (iii) provide detailed statistical information on the number of cases of anti-union discrimination and employer interference brought to the various competent authorities, the average duration of the relevant proceedings and their outcome, as well as the sanctions and remedies applied in such cases; and (iv) ensure that anti-union practices, and in particular preventive measures, would be subject to tripartite discussions. The Committee notes that the Government indicates that, following consultations with the social partners, the Labour Code was amended in 2020 by Law 151/2020 to ensure a proper recognition of harassment, intimidation and victimization of employees and their representatives, including in the exercise of legitimate trade union rights and activities, with dissuasive sanctions applied effectively. It indicates that: (i) section 5, paragraph 2 of the Labour Code, as amended, explicitly prohibits direct or indirect discrimination based on membership or trade union activity; (ii) section 59(a) of the Labour Code was amended to explicitly prohibit dismissal based on trade union affiliation or activity; and (iii) section 260(1)(r) of the Labour Code, as amended, provides that non-compliance with the provisions of section 5, paragraphs (2)–(9), and of section 59(a) is sanctioned with fines between 1000 LEI and 20,000 LEI (equivalent to US\$229 and 4,575 respectively). Regarding the burden of proof in cases of union discrimination against union leaders, the Government indicates that, as provided for in section 272 of the Labour Code, the burden of proof with regard to labour disputes rests with the employer. The Committee notes that in the ITUC's view, section 260 of the Labour Code does not permit verification of the extent to which the legislation is effective and sufficiently dissuasive. The Committee also takes note of the Government's indication that no fines were applied for violations of the law related to union membership or activity between January 2020 and April 2021. The Committee finally notes that, at the discussion held at the Conference Committee, the Government indicated that the Ministry of Justice manages the courts databases and that data is collected with a particular nomenclature that did not allow the Government to identify the type of statistical information requested by the Committee.

The Committee takes note of the information provided by the Government. As regards sanctions, the Committee recalls the importance of legislation prohibiting acts of anti-union discrimination to be accompanied by dissuasive sanctions and rapid and effective procedures. In this respect, the Committee considers that the amount of the fines established in the Labour Code might not be sufficiently dissuasive, particularly for large enterprises. The Committee also recalls that, with respect to anti-union dismissals the reinstatement with retroactive compensation constitutes, in the absence of preventive measures, the most effective remedy. The Committee finally recalls the importance of statistical information for the Government to fulfil its obligation to prevent, monitor and sanction acts of anti-union discrimination. **Based on the above, the Committee requests the Government to: (i) take measures, after consultation with the representative social partners, to strengthen the existing sanctions in cases of anti-union discrimination in order to ensure their effectiveness and dissuasiveness, particularly for large enterprises; (ii) indicate whether reinstatement is an available remedy in cases of dismissal based on trade union affiliation or activity; and (iii) gather and communicate information on the number of cases of anti-union discrimination and employer interference brought to the various competent authorities, the average duration of the relevant**

***proceedings and their outcome, as well as the sanctions and remedies applied in such cases. As mentioned in its previous comments, the Committee further requests the Government to ensure that anti-union practices, and in particular preventive measures in this respect, will be subject to tripartite discussions.***

*Article 4. Promotion of collective bargaining.* The Committee notes that Case No. 3323 concerning, inter alia, allegations of shortcomings and gaps in the national legislation with respect to collective bargaining was examined by the Committee on Freedom of Association (CFA) (see 393rd Report, March 2021). The Committee notes that the CFA referred to it the legislative aspects of the case, related to issues that have been the subject of comments by this Committee since the adoption of the Social Dialogue Act (SDA) in 2011.

*Collective bargaining at the company level.* In its previous comments, against the background of a sharp decline in collective bargaining coverage in the country following the adoption of the SDA, the Committee noted that a number of aspects of the SDA and its implementation raised issues of compatibility with the Convention. The Committee noted in particular the high representativeness threshold required to negotiate at company level (50 per cent plus one of the workers of the company) and the fact that the SDA allowed elected workers' representatives to bargain collectively for the totality of workers of the company. In its last comment, while noting the Government's indication that, following a 2016 amendment to section 134.2 of the law, negotiation with elected workers' representatives was now only possible in the absence of a trade union, the Committee had noted with concern the statistical data provided by the ITUC according to which 86 per cent of all collective agreements signed were by elected workers' representatives and only 14 per cent by trade unions. On that basis, the Committee had requested the Government to amend the threshold applicable to negotiations at the company level so as to effectively promote collective bargaining, to clarify whether the negotiating powers granted to the elected workers' representatives existed only when there is no trade union and to provide its comments on the statistics provided by the ITUC.

As regards the representativeness thresholds established by the legislation with respect to collective bargaining at the company level, the Committee notes that, in its replies to the CFA, the Government clarified that voluntary bargaining is not conditioned by the representativity of the organizations since minority unions have the right to bargain collectively based on mutual recognition and can conclude collective agreements applicable to members of the signatory parties. The Committee notes the ITUC observations in this respect, according to which, while the Government states that nothing prevents trade unions from negotiating for their members at the company level, given their lack of representativeness, the agreements reached have no erga omnes effect. With regard to the impact of negotiations conducted by elected workers' representatives on the right to collective bargaining recognized by the Convention to trade unions, the Committee notes that the Government refers to a draft revision of the SDA currently being adopted but does not comment on the ITUC's observations that the vast majority of company collective agreements were still signed by elected workers' representatives to the detriment of trade unions. The Committee notes in this respect that, in its 2021 observations, the ITUC adds that: (i) while the Government states that collective bargaining through elected representatives is only possible in companies that do not have a representative union, the fact that the required representativeness threshold is 50 per cent plus one means in practice that in the majority of companies it is the elected representatives who negotiate instead of the unions who do not reach that threshold; (ii) elected representatives have concluded over 92 per cent of collective agreements in the private sector; and (iii) the procedure for electing representatives does not allow trade unions to present lists when they are affiliated to a federation at the branch level.

The Committee recalls that, under the terms of the Convention, collective bargaining with non-union actors should only be possible when there are no trade unions at the respective level. The Committee also recalls that, by virtue of *Article 4* of the Convention, the Government has the obligation to effectively promote free and voluntary collective bargaining in a manner appropriate to national

conditions. **Expressing its concern at the persistent indications of a very low level of bargaining coverage and noting the recommendations of the Committee on Freedom of Association in Case No. 3323, the Committee requests the Government to take the necessary measures to promote collective bargaining between workers' and employers' organizations and to ensure that the existence of elected workers' representatives is not used to undermine the position of the workers' organizations concerned. In this regard, the Committee specifically requests the Government to: (i) specify how the mutual recognition between an employer and a minority trade union mentioned by the Government takes place in practice; (ii) provide information on the number of collective agreements concluded at the enterprise level, indicating those concluded by minority trade unions on behalf of their own members; (iii) clarify whether, under section 134(2) of the SDA, the negotiating powers granted to the elected workers' representatives exist only when there is no trade union at the respective level; and (iv) take the necessary measures to ensure that agreements concluded with elected representatives prior to the 2016 amendment to the SDA do not have the effect of continuing to undermine the position of trade unions.**

*Collective bargaining at the sectoral and national levels.* The Committee recalls that in its previous comments, it had taken note of the information from both the Government and the trade unions concerning the drastic decrease in the number of sectoral collective agreements following the changes introduced by the SDA. The Committee had therefore requested the Government to take the necessary measures to amend the representativeness thresholds so as to effectively promote collective bargaining at all levels. The Committee notes the absence of specific information from the Government in this respect. Taking due note of the conclusions and recommendations of the CFA in Case No. 3323, the Committee recalls once again that collective bargaining should be possible at all levels and that the Government has an obligation to ensure effective promotion of collective bargaining in a manner appropriate to national conditions. **The Committee therefore reiterates its request to the Government to revise, in consultation with the representative social partners, the relevant thresholds and conditions in order to ensure that collective bargaining is effectively possible at all levels, including the sectoral and national levels. The Committee further requests the Government to provide information on the evolution of the number of collective agreements signed at the different levels above the enterprise level, as well as on the overall coverage of collective bargaining in the country.**

The Committee notes that the Government indicates that the Parliament is in the process of adopting a draft law revising the SDA with proposals and amendments made by trade unions and employers in relation to representativeness and collective bargaining and recalls in that regard that the ITUC had previously indicated that trade unions had not been consulted on the proposed amendments. **The Committee requests the Government to ensure that the mentioned reform has been duly consulted with the representative social partners and that its content will take on board the present comments in order to give full effect to the Convention. The Committee further trusts that the ILO technical advisory mission requested by the Conference Committee will take place before the next International Labour Conference and that it will be able to take note of the progress achieved 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, 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 Government is asked to reply in full to the present comments in 2022.]*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1980)

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.***

## **Sao Tome and Principe**

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

*Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference.* In its previous comments, the Committee requested the Government to take the necessary measures so as to ensure that its legislation imposes sufficiently effective and dissuasive sanctions against acts of anti-union discrimination and interference. The Committee notes the Government's indication that the new Labour Code adopted in 2019 has not introduced any changes in this respect but that it continues to contain a number of specific provisions that give application to *Articles 1 and 2* of the Convention. The Committee notes in this respect that the legislation in force: (i) comprehensively prohibits acts of anti-union discrimination and interference; (ii) contains rules for adjusting the burden of proof to facilitate the determination of the existence of anti-union discrimination; (iii) establishes enhanced protection for trade union representatives and candidates for the post of representatives against acts of anti-union discrimination; (iv) provides for the reinstatement of workers in the event of unlawful dismissal; and (v) establishes fines and a sanction of imprisonment in the event of acts of anti-union interference.

The Committee takes due note of these elements. It continues however to observe that the provisions of the Labour Code do not provide for specific sanctions for acts of anti-union discrimination affecting workers who are not trade union representatives or candidates for the post of representatives. ***The Committee therefore requests the Government to take the necessary measures to ensure that the legislation provides for effective and dissuasive sanctions against acts of anti-union discrimination that apply to all workers covered by the Convention. The Committee requests the Government to provide information on any progress made in this regard in its next report.***

*Article 4. Promotion of collective bargaining. Absence of a legal framework for the exercise of the right to collective bargaining and absence of collective bargaining in practice.* The Committee previously expressed concern at the absence of collective agreements in the country, highlighting that the absence of a legal framework could hamper the exercise of the right to collective bargaining. The Committee notes that while the Government states that its legislation still does not provide a legal framework for

collective bargaining, it acknowledges the need to facilitate the collective bargaining process in the country in order to reverse the current situation and indicates that meetings of the National Council of Social Concertation have taken place. ***The Committee once again requests the Government to take all the necessary measures, both in law and practice, to encourage and promote the development and utilization of collective bargaining, and requests it to provide information on the concrete steps taken in this regard.***

***The Committee reiterates that the technical assistance of the Office is available to the Government in relation to the various matters raised in this observation.***

## Sri Lanka

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

The Committee had noted the observations of the ITUC received on 1 September 2019 alleging anti-union dismissals in a company and denouncing that anti-union discrimination and union-busting remain a major problem in the country, and had requested the Government to send its reply thereon. ***In the absence of information from the Government in this regard, the Committee reiterates its request.***

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Effective and expeditious procedures.* For many years, the Committee has referred to the fact that, in practice, only the Department of Labour can bring cases concerning anti-union discrimination before the Magistrate's Court and that there are no mandatory time limits for bringing cases before the Court. Recalling the importance of efficient and rapid proceedings to redress anti-union discrimination acts, the Committee had urged the Government to take the necessary measures to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts and had expressed the hope that the Industrial Disputes Act would be amended accordingly. The Committee notes that the Government once again indicates that the possibility for workers and trade unions to lodge complaints before the courts have been discussed for years at the National Labour Advisory Council (NLAC). Nevertheless, no consensus has been reached on this matter. The Government adds, on the other hand, that during the NLAC meeting held on 24 August 2021, the trade unions were requested by the Government to submit an alternate proposal in this regard and that once they submit a proposal, the Government will initiate a discussion on how to build consensus among stakeholders. The Committee takes due note of these elements. However, while highlighting that legislative reforms on labour issues should be done in consultation with the social partners and, as far as possible, be based on a tripartite consensus, the Committee underlines that it is ultimately the Government's responsibility to take the decisions necessary for the fulfilment of the State's international commitments undertaken through the ratification of international labour Conventions. ***The Committee therefore urges the Government to take the necessary measures to amend the Industrial Disputes Act to grant trade unions the right to bring anti-union discrimination cases directly before the courts. The Committee additionally requests the Government to provide information on the number of cases of anti-union discrimination examined by the courts as well as to indicate the duration of proceedings and the sanctions or remedies imposed.***

*Article 4. Promotion of collective bargaining. Export processing zones (EPZs).* The Committee had previously requested the Government to indicate the respective number of trade unions and employees' councils established in the EPZs and to continue informing on the number of collective agreements concluded by trade unions in the EPZs and on the number of workers covered by them in comparison with the total number of workers employed in the sectors covered. Recalling previous ITUC observations regarding the refusal to recognise the right of unions to bargain collectively in the EPZs, the Committee had also encouraged the Government to continue to take measures to promote collective bargaining in

the EPZs and requested it to provide information in this regard. The Committee notes the Government's indication that with the start of the COVID-19 pandemic, the Government established a tripartite Task Force to find amicable solutions to the issues faced by workers and employers. The Government states that major trade unions representing workers in the EPZs were included in the Task Force that contributed to sort out many labour issues. The Committee had also noted the Government's indication that the fact that only trade unions can engage in collective bargaining discourages the establishment of employee councils in the EPZs. In this regard, the Committee notes the Government's indication that there are 35 trade unions and 123 employees' councils in the EPZs. The Committee notes that the Government also indicates that since 2019 five collective agreements were concluded in the EPZs in the sectors of printing, rubber tires and tubes, personal care products and toiletries, and glassware products. These collective agreements cover respectively, 646 workers out of 2,577 workers employed in the sector of printing (25 per cent), 100 workers out of 1,663 workers in the sector of rubber tires and tubes (6 per cent), 515 out of 983 workers in the sector of personal care products and toiletries (52.3 per cent), and 480 out of 842 workers in the sector of glassware products (57 per cent). While taking due note of this information, the Committee observes that the number of employees' councils is significantly higher than that of trade unions and that there is a limited number of collective agreements in force in EPZs. ***The Committee therefore requests the Government to intensify the measures taken to promote collective bargaining in the EPZs and to inform about the measures taken to ensure that employees' councils do not undermine the position of trade unions. The Committee additionally requests the Government to continue to inform on the number of collective agreements concluded by trade unions in the EPZs, particularly in the clothing and textile sectors, and the number of workers covered by them in comparison with the total number of workers employed in this sector.***

*Representativeness requirements for collective bargaining.* In its previous comments, the Committee had requested the Government to review section 32(A)(g) of the Industrial Disputes Act, according to which no employer shall refuse to bargain with a trade union that has in its membership not less than 40 per cent of the workers on whose behalf the trade union seeks to bargain. The Committee notes that the Government reiterates that this matter was discussed within the NLAC and that both the employers and major trade unions do not agree to reduce the threshold, as it would create more divisions in the workplace and dilute the trade union representation and bargaining power. The Government also reiterates that the 40 per cent threshold does not prohibit any unions from participating in collective bargaining as it is possible for trade unions to enter into collective agreements by federating with other minority trade unions. On the other hand, the Committee notes the Government's indication that it is willing to consider the matter, but it cannot proceed due to the lack of consensus among stakeholders. Recalling that the ITUC had previously referred to cases where companies had refused to bargain collectively with unions that did not reach the 40 per cent threshold, the Committee emphasizes that the representativeness requirements set by legislation to be designated as a bargaining agent may bear a substantial influence on the number of collective agreements concluded and that the mentioned requirements should be designed in such a manner that they effectively promote the development of free and voluntary collective bargaining. ***Highlighting again that it is ultimately the Government's responsibility to take the decisions necessary for the fulfilment of the State's international commitments undertaken through the ratification of international labour Conventions, the Committee reiterates that it expects that the Government will take the necessary measures to review section 32(A)(g) of the Industrial Disputes Act in accordance with Article 4 of the Convention, in order to ensure that, if there is no union representing the required percentage to be designated as the collective bargaining agent, the existing unions are given the possibility, jointly or separately, to bargain collectively, at least on behalf of their own members. The Committee requests the Government to provide information in this respect and reminds the Government that it may avail itself of the technical assistance of the Office.***

*Article 6. Right to collective bargaining for public service workers other than those engaged in the administration of the State.* For many years, the Committee has referred to the fact that the procedures regarding the right to collective bargaining of public sector workers do not provide for genuine collective bargaining but rather establish a consultative mechanism. In this respect, the Committee notes that the Government reiterates that: (i) existing government structures do not require a collective bargaining system for public sector unions as trade unions have many venues to get their request fulfilled; (ii) there have been no requests from public sector trade unions to bargain collectively; and (iii) public sector workers are covered by a different set of laws which are more protective and they enjoy more benefits when compared to workers in the private sector. In this regard, the Committee recalls that to give effect to *Article 6* of the Convention a distinction should be drawn between, on the one hand, public servants engaged in the administration of the State, who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the Government, by public enterprises or autonomous public institutions, who should benefit from the guarantees provided for in the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 172). The Committee notes the Government's indication that it welcomes any ILO technical study on this matter as proposed by the Office to determine the necessity of such a proposal. ***Given the above and considering that section 49 of the Industrial Disputes Act excludes state and government employees from the Act's scope of application, the Committee reiterates its previous request to the Government to take the necessary measures to guarantee the right to collective bargaining of the public servants not engaged in the administration of the State so they can negotiate their conditions of work and employment. The Committee also trusts that the Government will avail itself of the technical assistance of the Office for this purpose.***

## Turkey

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

The Committee notes the observations of the Confederation of Public Employees Trade Unions (KESK), received on 1 September 2021 and the Government's reply thereon. The Committee further notes the observations of the Confederation of Turkish Trade Unions (TÜRK-IS), communicated with the Government's report. The Committee finally notes the observations of the Turkish Confederation of Employer Associations (TİSK), received on 7 September 2021, referring to the issues raised by the Committee below.

*Scope of the Convention.* In its previous comments, the Committee had noted that while the prison staff, like all other public servants were covered by the collective agreements concluded in the public service, this category of workers did not enjoy the right to organize (section 15 of the Act on Public Servants' Trade Unions and Collective Agreement (Act No. 4688)). Recalling that all public servants not engaged in the administration of the State or those who are not members of the armed forces or the police, defined in a restrictive manner, must enjoy the rights afforded by the Convention, the Committee requested the Government to take the necessary measures, including legislative review of section 15 of Act No. 4688, with a view to guaranteeing that the prison staff could be effectively represented by the organizations of their own choosing in negotiations which affect them. The Committee notes the Government's indication section 15 of the Act was drafted taking into account the provisions of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Labour Relations (Public Service) Convention, 1978 (No. 151). While reminding its comments under Convention No. 87 concerning the right of prison staff to organize, the Committee recalls once again that under the terms of Convention No. 98, the right of collective bargaining can be denied only to members of the armed forces, the police and to public servants directly engaged in the administration of the State; the simple fact of being employed by the Government does not automatically exclude such workers from the rights

enshrined in the Convention. **The Committee therefore once again requests the Government to take the necessary measures, including legislative review of section 15 of Act No. 4688, with a view to guaranteeing that the prison staff can be effectively represented by the organizations of their own choosing in negotiations which affect their rights and interests. The Committee requests the Government to indicate all progress made in this regard.**

The Committee had previously requested the Government to provide its comments with regard to the observation made by the Confederation of Public Servants Trade Unions (MEMUR-SEN) on the need to ensure freedom of association and collective bargaining rights to locum workers (teachers, nurses, midwives, etc.) as well as public servants who work without a written contract of employment. The Committee notes the Government's indication that Act No. 4688 applies to public servants, whereas locum workers do not fall with the scope of that law as they are not considered to be public servants. **Recalling that locum workers as well as those employed in the public service without a written contract of employment should enjoy the rights enshrined in the Convention, the Committee requests the Government to provide detailed information on freedom of association and collective bargaining rights afforded to these categories of workers.**

*Articles 1, 2 and 3 of the Convention. Massive dismissals in the public sector under the state of emergency decrees.* The Committee recalls that in its previous comments, it had noted the information on the high number of suspensions and dismissals of trade union members and officials under the state of emergency and reiterated its firm hope that the Inquiry Commission and the administrative courts that review its decisions would carefully examine the grounds for the dismissal of trade union members and officials in the public sector and order reinstatement of the trade unionists dismissed for anti-union grounds. The Committee requested the Government to provide specific information on the number of applications received from trade union members and officials, the outcome of their examination by the Inquiry Commission and on the number and outcome of appeals against the negative decisions of the Commission concerning trade union members and officials. The Committee notes that according to the information provided by the Government, as of 28 May 2021, there were 126,674 applications submitted to the Inquiry Commission. Since 22 December 2017, the Commission delivered its decisions in respect of 115,130 applications, out of which, 14,072 were accepted for reinstatement and 101,058 were rejected while 11,544 applications are still pending. While taking note of the general statistics provided by the Government, the Committee **regrets** once again the absence of specific information on the number of trade union members and officials involved. The Committee notes with **concern** the high number of rejection cases (currently almost 88 per cent) and further **regrets** the absence of information regarding the number and outcome of appeals against the negative decisions of the Inquiry Commission concerning trade union members and officials. **Reiterating that in line with Article 1 of the Convention, the Inquiry Commission and the administrative courts that review its decisions shall carefully examine the grounds for the dismissal of trade union members and officials in the public sector and order reinstatement of the trade unionists dismissed for anti-union grounds, the Committee once again urges the Government to provide detailed and specific information regarding the number and outcome of appeals against the negative decisions of the Inquiry Commission concerning trade union members and officials.** Further in this respect, the Committee recalls that it had expressed its concern at the allegation of Education International (EI) that close to 75 per cent of the members of the Education and Science Workers Union of Turkey (EĞİTİM SEN) dismissed from the public service were still without employment. **The Committee regrets that no information has been provided by the Government on this serious allegation and once again requests the Government to provide its comments thereon.**

*Article 1. Anti-union discrimination in practice.* The Committee recalls that in its previous comments it had noted numerous allegations of anti-union discrimination in practice despite the existence of a legislative framework aimed at protecting against anti-union discrimination. The Committee requested the Government to continue engaging with the social partners regarding

complaints of anti-union discrimination practices in both the private and public sectors. The Committee **regrets** that no new information has been provided by the Government in this respect and that, rather, the Government once again refers to the existing legislative framework, which, in its opinion, adequately protects against anti-union discrimination. The Committee notes that in its observations, the KESK alleges new cases of transfers and relocations of its members. The Committee notes the Government's indication that all transfers referred to by the KESK were necessitated by the requirements of the service and that any anti-union discrimination would be in breach of the national legislation. The Government points out that judicial remedies are available to all those concerned. **Emphasizing that the guarantees enunciated in the Convention would remain a dead letter if the national legislation is not complied with in practice, the Committee therefore reiterates its previous request and asks the Government to provide information on the concrete steps taken to engage with the social partners on the issue of anti-union discrimination in practice.**

In addition, the Committee recalls that following up on the recommendations of the June 2013 Committee on the Application of Standards of the International Labour Conference, which requested the Government to establish a system for collecting data on anti-union discrimination in both private and public sectors, it has been requesting the Government to provide information on the measures taken to that end. The Committee notes that the Government reiterates that it is currently not possible to obtain reliable data on the cases of anti-union discrimination and points out the difficulties with carrying out data collection, which include the length of judicial processes and the need to make considerable arrangements in the records and databases of various institutions. While being fully cognisant of the difficulties referred to above, the Committee once again underlines the importance of statistical information for the Government to fulfil its obligation to prevent, monitor and sanction acts of anti-union discrimination. **The Committee stresses the need to take concrete steps towards establishing the system for collecting such information and expects the Government to provide in its next report information on all measures taken to that end.**

*Article 4. Promotion of collective bargaining. Cross-sector bargaining.* In its previous comments, the Committee had noted that while cross-sector bargaining resulting in "public collective labour agreement framework protocols" was possible in the public sector, this was not the case in the private sector. It noted in this respect that pursuant to section 34 of Act No. 6356, collective work agreement may cover one or more than one workplace in the same branch of activity, thereby making cross-sector bargaining in the private sector impossible. The Committee had requested the Government to consider, in consultation with the social partners, the amendment of section 34 of Act No. 6356 to ensure that it did not restrict the possibility of the parties in the private sector to engage in cross-sector regional or national agreements should they so desire. The Committee notes that the Government reiterates that Act No. 6356 was drafted taking into account the views of the social partners and that it does not restrict collective bargaining to the level of workplace or one employer. The Government indicates in this respect that any change to the current arrangements can only result from the joint will of and demands from the social partners. The Committee notes the TISK indication that collective agreements can cover a large number of work places at local, regional and national levels at the same branches and that in the TISK opinion, the current regulation is appropriate and strengthens the industrial peace.

While taking note of these explanations, the Committee once again recalls that in accordance with *Article 4* of the Convention, collective bargaining should remain possible at all levels and that the legislation should not impose restrictions in this regard. The Committee recognizes that while the search for a consensus with regard to collective bargaining is important, it cannot constitute an obstacle to the Government's obligation to bring the law and practice into conformity with the Convention. **The Committee therefore once again requests the Government to consider, in consultation with the social partners, the amendment of 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 without impairment. It requests the Government to provide information on the steps taken in this regard.**

*Requirements for becoming a bargaining agent.* The Committee recalls that in its previous comments, it had noted that section 41(1) of Act No. 6356 set out the following requirement for becoming a collective bargaining agent: the union should represent at least 1 per cent of the workers engaged in a given branch of activities and more than 50 per cent of workers employed in the workplace and 40 per cent of workers of the enterprise to be covered by the collective agreement. Furthermore, the Committee recalls that legal exemptions from the branch threshold requirement were granted until 12 June 2020 to the previously authorized trade unions to prevent the loss of their authorization for collective bargaining purposes. Noting that the provisional exemption has expired on 12 June 2020, the Committee had requested the Government to indicate if further extension had been decided and if not, to provide information on the impact of the non-extension on the capacity of previously authorized organizations to bargain collectively and to indicate the status of the collective agreements concluded by them. It also requested the Government to continue monitoring the impact of the perpetuation of the branch 1 per cent threshold requirement on the trade union movement and the national collective bargaining machinery as a whole in full consultation with the social partners and to provide information in this regard.

The Committee notes the Government's indication that among the unions benefiting from the exemption until mid-2020, only one union exceeded the threshold. The Government points out, however, that workers were not left without a union when the exemption was not extended as there is more than one union in every branch of activity with a membership that exceeds the thresholds and that it is possible for workers to become members of these trade unions in the branch they work in. The Committee notes the statistical information on the number of collective agreements to which unions which were under the exemption are parties. The Committee notes that the TISK considers that granting unauthorized unions the right to collective bargaining will impair Turkish industrial relations system and will disrupt the competitiveness and existing industrial peace. ***Recalling the concerns that had been expressed by several workers' organizations in relation to the perpetuation of the double threshold, the Government requests the Government to continue monitoring the impact of the branch 1 per cent threshold requirement on the trade union movement and the national collective bargaining machinery as a whole in full consultation with the social partners and to provide information in this regard.***

With regard to the workplace and enterprise representativeness thresholds, the Committee had noted section 42(3) of Act No. 6356, which provided that if it was determined that there exists no trade union which meets the conditions for authorization to bargain collectively, such information was notified to the party which made the application for the determination of competence. It had further noted section 45(1), which stipulated that an agreement concluded without an authorization document was null and void. While noting the "one agreement for one workplace or business" principle adopted by the Turkish legislation, the Committee had recalled that under a system of designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, all unions in the unit, jointly or separately, should be able to engage in collective bargaining, at least on behalf of their own members. The Committee highlighted that by allowing for the joint bargaining of minority unions, the law could adopt an approach more favourable to the development of collective bargaining without compromising the "one agreement for one workplace or business" principle. The Committee had requested the Government to take the necessary measures to amend the legislation, in consultation with the social partners, so as to ensure that if no union represented the required percentage of workers to be declared the exclusive bargaining agent, all unions in the unit, jointly or separately, should be able to engage in collective bargaining, at least on behalf of their own members. The Committee notes that the Government reiterates that it would consider the proposal for the amendment to the legislation if put forward by the social partners and if such a proposal represented a broad agreement. ***Recalling once again that while the search for a consensus with regard to collective bargaining is important, it cannot constitute an obstacle to the Government's obligation to bring the law and practice into conformity with the Convention, the***

**Committee once again requests the Government to amend the legislation and to provide information on all measures taken or envisaged in this regard.**

*Articles 4 and 6. Collective bargaining rights of public servants not engaged in the administration of the State. Material scope of collective bargaining.* The Committee had previously noted that section 28 of Act No. 4688, as amended in 2012, 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. The Committee notes that the Government’s indication that issues that concern public servants in general, but which are not covered by the collective agreements, are placed on the agenda of the Public Personnel Advisory Board. The Committee is therefore bound to once again recall that while the Convention is compatible with systems requiring competent authorities’ approval of certain labour conditions or financial clauses of collective agreements concerning the public sector, public servants who are not engaged in the administration of the State should enjoy the guarantees of the Convention and therefore be able to negotiate collectively their conditions of employment and that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention. ***Bearing in mind the compatibility with the Convention of the special bargaining modalities in the public sector as mentioned above, the Committee again requests the Government to take the necessary measures to ensure the removal of restrictions on matters subject to collective bargaining so that the material scope of collective bargaining rights of public servants not engaged in the administration of the State is in full conformity with the Convention.***

*Collective bargaining in the public sector. Participation of most representative branch unions.* In its previous comment, the Committee had noted that pursuant to section 29 of Act No. 4688, the Public Employers’ Delegation (PED) and Public Servants’ Unions Delegation (PSUD) are parties to the collective agreements concluded in the public service. In this respect, the proposals for the general section of the collective agreement were prepared by the confederation members of PSUD and the proposals for collective agreements in each service branch were made by the relevant branch trade union representative member of PSUD. The Committee had also noted the observation of the Turkish Confederation of Public Workers Associations (Türkiye KAMU-SEN) indicating that many of the proposals of authorized unions in the branch were accepted as proposals relating to the general section of the agreement meaning that they should be presented by a confederation pursuant to the provisions of section 29 and that this mechanism deprived the branch unions of the capacity to directly exercise their right to make proposals. Having noted that although the most representative unions in the branch were represented in PSUD and took part in bargaining within branch-specific technical committees, their role within PSUD was restricted in that they were not entitled to make proposals for collective agreements, in particular where their demands were qualified as general or related to more than one service branch, the Committee had requested the Government to ensure that these unions can make general proposals. ***While noting the Government’s detailed explanation regarding the PSUD membership, the Committee again requests the Government to ensure that Act No. 4688 and its application in practice enable the most representative unions in each branch to make proposals for collective agreements including on issues that may concern more than one service branch, as regards public servants not engaged in the administration of the State. The Committee requests the Government to indicate all developments in in this respect.***

*Public Employee Arbitration Board.* In its previous comment, the Committee had noted that pursuant to sections 29, 33 and 34 of Act No. 4688, in case of failure of negotiations in the public sector, the chair of PED (the Minister of Labour) on behalf of public administration and the chair of PSUD on behalf of public employees, can apply to the Public Employee Arbitration Board. The Board decisions were final and had the same effect and force as the collective agreement. The Committee had noted that 7 of the 11 members of the Board including the chair were designated by the President of the Republic and considered that this selection process could create doubts as to the independence and impartiality of the Board. The Committee had therefore requested the Government to take the

necessary measures for restructuring the membership of the Public Employee Arbitration Board or the method of appointment of its members so as to more clearly show its independence and impartiality and to win the confidence of the parties. The Committee notes that the Government limits itself to referring to section 34 of Act No. 4688, which determines the composition and working procedures of the Board. ***The Committee therefore once again requests the Government to consider reviewing, in consultation with the social partners, the method of appointment of the Board members so as to more clearly show its independence and impartiality and to win the confidence of the parties.***

***The Committee recalls that the Government can avail itself of the technical assistance of the ILO with regard to the issues raised above.***

## Bolivarian Republic of Venezuela

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)

The Committee notes the observations, relating to the application of the Convention in law and practice, made by the following organizations: the Federation of University Teachers' Associations of Venezuela (FAPUV), dated 12 March and 3 June 2021; MOV7 The Voice of Alcasa, dated 6 April 2021; the Confederation of Workers of Venezuela (CTV), the Independent Trade Union Alliance Confederation of Workers (ASI) and FAPUV, dated 22 July and 30 August 2021; ASI, dated 31 August 2021; and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), supported by the International Organisation of Employers (IOE), dated 1 September 2021; and also the Bolivarian Socialist Confederation of Urban, Rural and Fishery Workers of Venezuela (CBST-CCP), dated 8 September 2021. ***The Committee requests the Government to send its comments in this regard.***

#### Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

In its previous observation, the Committee noted the conclusions and recommendations of the report of the Commission of Inquiry regarding the application of the Convention. The Committee notes the discussion which took place during the 343rd Session (November 2021) of the Governing Body on the consideration of all possible measures, including those provided in the ILO Constitution, required to ensure the Bolivarian Republic of Venezuela's compliance with the recommendations of the Commission of Inquiry, and also the decision adopted in this respect. The Committee observes that the Governing Body, at its 344th Session (March 2022), will once again assess progress made by the Government to ensure compliance with the recommendations of the Commission of Inquiry and will pursue its consideration of possible measures to achieve this objective.

*Civil liberties and trade union rights. Climate free from violence, threats, persecution, stigmatization, intimidation or any other form of aggression, in which the social partners are able to exercise their legitimate activities, including participation in social dialogue with full guarantees.* The Committee recalls that the Commission of Inquiry recommended: (i) the immediate cessation of all acts of violence, threats, persecution, stigmatization, intimidation or other forms of aggression against persons or organizations in relation to the exercise of legitimate employers' or trade union activities, and the adoption of measures to ensure that such acts do not recur in future; (ii) cessation of the use of judicial proceedings and preventive and non-custodial measures, including the subjection of civilians to military jurisdiction, for the purpose of undermining freedom of association; (iii) the immediate release of any employer or trade unionist who is imprisoned in relation to the exercise of the legitimate activities of their organizations, as is the case for Rodney Álvarez; (iv) the independent investigation without delay of all allegations of violence, threats, persecution, stigmatization, intimidation and any other forms of aggression that have not been duly elucidated, with a view to clarifying responsibilities and identifying the perpetrators and instigators, while ensuring the adoption of appropriate protection, penalization

and compensation measures; (v) the adoption of the necessary measures to ensure the rule of law, and particularly the independence from the executive authorities of the other branches of State authority; and (vi) the organization of training programmes with the ILO to promote freedom of association, tripartite consultation and social dialogue in general, including on full respect for its essential conditions and basic rules, in accordance with international labour standards. In light of the information provided by the Government and the social partners in the Committee's previous observation, and expressing deep concern at the almost total absence of progress, the Committee firmly urged the Government to take the necessary measures to investigate and take action promptly with regard to all the pending allegations of violation of the Convention relating to civil liberties and trade union rights.

With regard to the situation of the trade unionist Rodney Álvarez, the Committee notes the Government's indication that on 11 June 2011 he was sentenced to 15 years' imprisonment for the common crime of homicide and not for the exercise of trade union activities. The Government explains that the convicted person enjoys guarantees to submit the corresponding appeals to the higher courts and that once the sentence is executed the guarantee applies whereby the time spent by the person in custody during the trial will be deducted from the sentence to be served. The Government also once again denies in general terms the alleged use of judicial proceedings as an anti-union practice. The Committee also notes the observations of various social partners (the CTV, ASI and FAPUV) condemning the fact, as was ascertained by the Commission of Inquiry, that the proceedings brought against Mr Álvarez reflect the lack of separation of powers in the country and implied a clear denial of justice, with eight interruptions and up to 25 preliminary hearings, and with Mr Álvarez having been the victim of three serious knife and gun attacks perpetrated with total impunity during the more than ten years in which he was held in pretrial custody. As regards the trial, these organizations condemn the fact that nothing in the judicial file confirms that Mr Álvarez was armed, let alone that he fired the shots; that the judge dismissed all the defence witnesses who were present at the scene and who saw that another person perpetrated the killing; and that the statement by the National Guard officer on security duty at the enterprise at the time, who declared that he had detained that other person for firing shots, was disregarded. **Noting with deep concern the serious additional allegations of violation of due process in this case, the Committee urges the Government to implement immediately the recommendations of the Commission of Inquiry in this regard.**

With regard to the other pending issues, the Committee notes that the Government denies the suggestion of alleged deficiencies in the rule of law or the separation of powers in the country and asserts that the allegations and observations made by the social partners have been addressed, evaluated and referred to the corresponding public authorities. The Government also asserts that it has made progress in improving observance of the Convention, as shown by the broad and inclusive social dialogue, with full guarantees and without exclusion, maintained with the workers' and employers' organizations who voluntarily requested it. In this regard, the Government reiterates the information given to the Governing Body, indicating that: (i) since February 2020, bipartite dialogue round tables have been set up to discuss matters related to the Convention and other subjects of national interest raised by the social partners. The invitation to participate was accepted by FEDECAMARAS, the Federation of Craft, Micro, Small and Medium-Sized Industries and Enterprises of Venezuela (FEDEINDUSTRIA), the CBST-CCP, ASI, the General Confederation of Labour (CGT), the National Union of Workers of Venezuela (UNETE), the Confederation of Autonomous Trade Unions (CODESA), (which deposited a document and then withdrew), as well as the CTV (which sent a communication indicating that it would not attend the dialogue proposed as a dispute settlement mechanism); (ii) meetings continued to be held subsequently according to the requests made by the social partners, with progress made on some matters referred to in this Committee's observations; (iii) from 21 May to 23 June 2021, the "Great National Dialogue on the world of work" (*Gran encuentro de diálogo nacional del mundo del trabajo*) was held as a virtual forum, with six work sessions, one of which with part of another were devoted to the review of legislative and practical matters related to observance of the Convention; (iv) at

these sessions the participants were able to express their views and make lengthy presentations on subjects related to the application of the Convention, in an atmosphere of respect and good will, with extensive participation from the social partners – FEDECAMARAS, FEDEINDUSTRIA, the CBST-CCP, ASI, UNETE, the CTV (all of which participated in the first two sessions), CODESA (which only attended the first session), and the CGT (which expressed interest but had connection problems); (v) with regard to the employers' sector, a public statement was forwarded, issued by the National Authority for the Defence of Socio-Economic Rights (SUNDDE), making a general appeal to any parties who had a pending measure of temporary control imposed under the Act on fair prices to reach out to the SUNDDE; (vi) at this dialogue meeting, the Government gave an undertaking to set up a face-to-face technical working group on the Convention, including with regard to particular cases on the subject of land. This working group started its work on 30 July 2021, which was continued on 17 August 2021 with the drawing up of its agenda; and (vii) other dialogue forums have been opened at the highest level between the executive authorities and the social partners, for example the appeal to FEDECAMARAS by the Executive Vice-President of the Republic to attend the Higher Council on the Productive Economy. The Government concludes by stating that, contrary to the alleged policy of violence, threats, persecution or other forms of aggression directed at the social partners, efforts have been made to continue reinforcing dialogue forums. As regards the allegations concerning land, the Committee duly notes the information forwarded by the Government to the Governing Body on measures to address the requests made by FEDECAMARAS, in particular: the establishment of round tables for meetings at the National Land Institute (INTI) to seek solutions to the cases raised by the National Federation of Stockbreeders of Venezuela (FEDENAGA), with the list presented by FEDECAMARAS being included on the agenda; and the setting up of a technical committee to discuss matters of interest to FEDENAGA and INTI, including the list of cases of estates involved in disputes (the Government stated that so far FEDENAGA had prioritized 12 cases, and the administrative procedures implemented were being reviewed to determine possible solutions to the cases raised, as well as stating that progress had been made in the certification of estates that could be improved or are productive).

The Committee also notes the CBST-CCP's assertion that the State has been promoting correct observance of the Convention and emphasizes that this year invitations were issued to take part in a social dialogue which was guaranteed to be wide-ranging and to include the workers' and employers' organizations, with the voluntary presence of the latter. The CBST-CCP categorically rejects the observations of the social partners who allege that the State is fomenting a policy of violence, persecution and aggression, and asserts that in reality it has been the guarantor of free trade union activity for all organizations without distinction.

The Committee also notes that the observations received from the other social partners allege a lack of progress in implementing this group of recommendations, as well as further violations of the Convention, which are listed below.

FEDECAMARAS: (a) refers to hostile or intimidatory messages against the organization and its president – in particular, derogatory statements against the latter by the President of the Republic in a broadcast by the state television channel, as well as disparaging messages in a programme directed by a member of parliament on the same TV channel; (b) denounces the fact that measures restricting freedom of association for leaders of FEDECAMARAS remain in place, consisting of a court summons and a ban on disposing of or levying charges on its property (the Government was consequently presented with a list of cases evaluated by the Commission of Inquiry and a list of illegally invaded or seized land); (c) indicates that the recommendation to organize training programmes to promote freedom of association has not been implemented; and (d) while FEDECAMARAS recognizes the initiative launched by the Government to hold several cycles of meetings with it and with other employers' and workers' organizations, and the fact that government representatives have undertaken some bridge-building with FEDECAMARAS, the federation points out that to date the recommendations of the Commission of Inquiry have not been accepted by the Government and the meetings have been held

without the conditions recommended by the Commission being met (despite multiple requests being made by FEDECAMARAS to implement them with the necessary guarantees so that the talks can have a real impact) and without any concrete solutions being reached; for this reason, FEDECAMARAS considers that these are exploratory, bridge-building meetings but they do not constitute the structured dialogue round tables recommended by the Commission of Inquiry, and it asks that the ILO establish the mechanisms that it considers the most appropriate for formalizing the Office's participation or presence in the dialogue process.

The CTV, ASI and FAPUV: (a) report numerous cases of arbitrary detention of trade unionists and trade union leaders, as well as members of non-governmental organizations which defend human rights, in connection with the exercise of the right to peaceful protest and freedom of expression. In this regard, they denounce the fact that action in defence of labour rights, and of human rights, is being criminalized and liable to prosecution. These organizations claim that prosecution charges are accepted almost automatically by the courts – with the detained person being deprived of freedom and subjected to preventive measures that carry restrictions, some of them verbal so as not to leave any trace – with the detainees often being obliged to accept a public defender who assists the Public Prosecutor's Office with the prosecution, with evident bias on the part of judges operating on behalf of the executive authorities, as a result of which the trade union movement is left completely defenceless; and (b) in particular they condemn the detention and imprisonment of the following trade union leaders: (i) Mr Guillermo Zárraga, secretary of the Union of Petroleum, Gas and Energy Workers of the State of Falcón (SUTPGEF), arrested on 11 November 2020 by the Bolivarian National Intelligence Service (SEBIN), remaining in detention at the headquarters of the Directorate-General for Military Counterintelligence (DGCIM), and subjected to criminal proceedings tainted with irregularities, on charges of terrorism, criminal conspiracy and treason; (ii) Mr Eudis Girot, a trade union leader in the petroleum industry, arrested by the DGCIM on 18 November 2020 in Puerto La Cruz, also accused of terrorism, among other charges, and remaining in custody in Rodeo III prison; (iii) and Mr Mario Bellorín and Mr Robert Franco, president and general secretary, respectively, of the Union of Education Professionals–Association of Teachers of Venezuela (SINPRODO–CPV), Carúpano, State of Sucre, arrested on 26 December 2020 while on a visit to a private residence there which was raided. Mr Bellorín was released a few hours after his arrest, but this was not the case for Mr Franco, who was transferred to SEBIN headquarters in Caracas (Helicoide), where he remains in custody. In addition, MOV7 The Voice of Alcasa denounces harassment and assaults of workers who participated in trade union activities or protests.

While welcoming the efforts at bridge-building and the meetings held, open to all social partners, and the commitments made by the Government to continue the dialogue on observance of the Convention through technical round tables, the Committee notes with **regret** the lack of specific results highlighted by most of the social partners, and also the absence of concrete replies and information on the occurrences reported by the social partners in previous observations (even though the Government asserts that the allegations and observations made by the social partners have been addressed, evaluated and referred to the relevant authorities, it does not provide any specific information in this regard). The Committee also notes with **deep concern** that various employers' and workers' organizations make new, serious additional allegations of violations of civil liberties and trade union rights. These organizations claim that at the dialogue round tables – at which the Government indicates that the pending issues are being addressed – general statements have been made but concrete solutions have still not been reached, and the procedures for dialogue recommended by the Commission of Inquiry have not been respected (no minutes were produced, no consensus was reached regarding agendas and timelines, no independent chairperson or secretariat were appointed, nor were the meetings held with the presence of the ILO despite requests to this effect).

***In light of the above, the Committee reiterates the recommendations of the Commission of Inquiry and firmly urges the Government, in dialogue with the organizations concerned through the relevant bipartite or tripartite round tables, to take the necessary measures quickly to ensure***

**implementation of the above-mentioned recommendations. In this regard, the Committee firmly urges the Government to investigate and take appropriate action with respect to the pending allegations of violations of the Convention regarding civil liberties and trade union rights – contained in the Commission of Inquiry's report or subsequently brought before this Committee – in order to ensure a climate free of violence, threats, persecution, stigmatization, intimidation or any other form of aggression in which the social partners can exercise their legitimate activities, including participation in social dialogue with full guarantees. The Committee requests the Government to provide detailed information on the follow-up action taken.**

Articles 2 and 3 of the Convention. Respect for the autonomy of employers' and workers' organizations, particularly in relation to the Government or political parties, and suppression of all interference and favouritism by the state authorities. The Committee recalls that the Commission of Inquiry recommended: (1) the adoption of the necessary measures to ensure in law and practice that registration is a mere administrative formality and that in no event can it imply previous authorization; (2) the elimination of "electoral abeyance" and the reform of the rules and procedures governing trade union elections, so that the intervention of the National Electoral Council (CNE) is really optional and does not constitute a mechanism for interference in the life of organizations, and that the pre-eminence of trade union independence is guaranteed in election processes and delays are avoided in the exercise of the rights and activities of employers' and workers' organizations; (3) the elimination of any other use of institutional machinery or types of action that interferes in the independence of employers' and workers' organizations and their mutual relations. In particular, the Commission recommended the adoption of any necessary measures to eliminate the imposition of control institutions or mechanisms, such as Workers' Production Boards (WPBs), which may in law or in practice restrict the exercise of freedom of association; (4) the establishment, with ILO assistance, of criteria that are objective, verifiable and fully in accordance with freedom of association to determine the representativeness of both employers' and workers' organizations; and (5) in general, the elimination in law and practice of any provisions or institutions that are incompatible with freedom of association, including the requirement to provide detailed information on members, taking into account the conclusions of the Commission and the comments of the ILO supervisory bodies.

The Committee notes that the Government denies the allegations of interference and failure to respect the independence of employers' and workers' organizations, as well as favouritism on the part of the authorities towards organizations supposedly linked to them, indicating that it has demonstrated its strict observance of freedom of association and its policy to take account of all representative organizations.

With regard to the issues concerning trade union registration, the Committee notes that, in the information provided to the Governing Body, the Government indicates that the technical working group on the Convention discussed whether to establish an agenda item dealing with the National Trade Union Registry (RNOS). **The Committee requests the Government to keep it informed of any developments in this respect.**

With regard to the creation of the WPBs, the Committee notes that the Government reiterates what it indicated previously to the supervisory bodies, including the Commission of Inquiry, emphasizing that far from excluding or affecting freedom of association, the WPBs promote the organization of the working class and foster its participation in the management of productive activity, and in no case do they replace the trade unions or are contrary to them, as established by section 17 of the WPB Constitutional Act. The Government adds that the Ministry of People's Power for the Social Process of Labour has not received any formal complaints of specific cases in which the organization of WPBs in workplaces had interfered with the smooth functioning of the latter. The Committee notes the observations of the CBST-CCP, reiterating that WPBs are not trade unions by nature and do not have competencies that prevent the exercise of freedom of association, and emphasizing that work is being done within the CBST-CCP on activating the organization of the working class as a source of leadership

and change through the WPBs, aimed at efficient production. The Committee also notes, however, the observations of the other social partners (FEDECAMARAS, ASI, CTV and FAPUV) warning that instead of implementing the recommendations of the Commission of Inquiry – such as that of subjecting the WPB Act to tripartite consultation – the Government continues to promote the formation and action of the WPBs. The social partners denounce the fact that, in practice and together with the workers' militias, the WPBs are being used to attack or replace the independent trade union movement.

With regard to trade union elections, the Government indicates that, in the context of the "Great National Dialogue on the World of Work", the subject of the election of trade union committees was discussed and explanations were provided on this matter. The Government reiterated what it had indicated previously: that the National Electoral Council (CNE) carries out support activities only where requested by the trade union organizations and that organizations can conduct their elections with or without CNE assistance, according to the terms of the union constitutions and any future amendments, and in line with the free wishes of each organization. In this regard, the Committee notes that although the Government reiterates that intervention by the CNE is optional, the Commission of Inquiry had already established that this affirmation or clarification had not been sufficient to resolve the problems identified and to address the numerous allegations of interference in electoral procedures. In this regard, the Committee notes that: although, on the one hand, the observations of the CBST-CCP indicate that various organizations affiliated to the confederation reportedly started or completed processes of reform to their constitutions to permit the holding of fully independent elections and affirm that the organizations affiliated to the Bolivarian confederation have made free use of the right to hold trade union elections without any kind of interference from the electoral authorities; on the other hand, the observations of the other workers' organizations (in particular ASI, CTV and FAPUV) emphasize that no changes have been made in either law or practice regarding government policy on the registration of trade union organizations and "electoral abeyance". These organizations assert that the problems identified by the Commission of Inquiry are still restricting the possibility of trade union organizations being authorized by the executive authorities to perform essential functions such as collective bargaining. In this regard, these workers' organizations emphasize that there is no progress as regards intervention by the CNE in trade union elections, and claim that this will continue to delay the holding of elections and the renewal of their executive committees. For example: (i) they denounce the persistence of interference and obstacles in the electoral process by the CNE in the case of organizations such as the National Union of Men and Women Public Officials in the Legislative Career Stream, and Men and Women Workers at the National Assembly (SINFUCAN) and the Union of Petroleum, Gas and Energy Workers of the State of Falcón (SUTPGEF); (ii) they warn of long delays that can be ascribed to the authorities regarding the approval of reforms to union constitutions (for example, 28 months to approve the reform of the constitution of the National Union of Workers of the National Institute for Socialist Training and Education (SINTRAINCES)); and (iii) they claim that the Ministry for University Education, apart from obstructing the participation of organizations affiliated to FAPUV in collective bargaining (alleging that these organizations are in "electoral abeyance", which they assert is the result of interference by the CNE), treats the organizations unequally since it is negotiating with a minority organization that has never held elections.

In light of the above, with regard to these two headings of the recommendations relating to the independence of employers' and workers' organizations, the Committee **deplores** the fact that the Government does not provide information on specific progress made with respect to the specific allegations made in the previous observations of multiple social partners and only reiterates statements already made to the Commission of Inquiry. The Committee also notes with **concern** that the social partners' denunciations continue in the most recent observations of FEDECAMARAS, ASI, CTV and FAPUV, with regard to the action of the WPBs and interference and obstacles regarding electoral procedures and the registration of trade unions.

***In view of these circumstances, the Committee once again refers to the conclusions of the Commission of Inquiry and reiterates the specific recommendations set forth above on the need to ensure respect for the independence of employers' and workers' organizations, and also to eliminate all interference and favouritism on the part of the government authorities. Also in this respect, the Committee urges the Government to refer all the pending allegations to the respective dialogue round tables with the organizations concerned – including the allegations of interference and obstacles regarding electoral procedures and also the use of WPBs as mechanisms that restrict the exercise of freedom of association – in order to make tangible progress as quickly as possible.***

*Articles 2 and 3. Legislative issues.* The Committee recalls that it has been asking the Government for several years to take the necessary steps, in consultation with the most representative workers' and employers' organizations, to revise various provisions of the Basic Labour Act (LOTTT), in particular sections 367, 368, 387, 388, 395, 402, 403, 410, 484 and 494. The Committee also recalls that the Commission of Inquiry recommended in general the submission to tripartite consultation of the revision of laws and standards, such as the LOTTT, which revisions raise problems of compatibility with the Convention in light of the conclusions of the Commission of Inquiry and the comments of the ILO supervisory bodies.

The Committee notes the Government's indication that: (i) in the context of the dialogue round tables held in February and March 2021 the Committee's comments on the revision of laws and standards that give effect to ILO Conventions were referred to the National Assembly; and that (ii) in the context of the "Great National Dialogue on the World of Work", stakeholders in the world of work were invited to make contributions towards the updating of the LOTTT regulations. Furthermore, the Committee welcomes the undertaking given by the Government to the Governing Body to hold consultations with the social partners on draft laws or their respective amendments, instigated by the National Assembly, which are connected with international labour standards.

However, the Committee notes with **concern** the observations of the CTV, ASI and FAPUV, warning of the use of the Constitutional Act against hatred and promoting peaceful coexistence and tolerance, and also of accusations of terrorism, as a pretext for criminalizing trade union activity, carrying out arbitrary detentions of trade union leaders and sentencing them to imprisonment for exercising their freedom of expression.

***The Committee reiterates the above-mentioned recommendations relating to legislative issues and urges the Government, in the context of the dialogue round tables, to submit to tripartite consultation without further delay the revision of the laws and standards, such as the LOTTT, which raise problems of compatibility with the Convention in light of the conclusions of the Commission of Inquiry (such as those regarding trade union registration, "electoral abeyance" or the WPBs) and the comments of the other ILO supervisory bodies. The Committee also requests the Government, in view of the social partners' allegations, to include in the above-mentioned tripartite dialogue the discussion of the impact on the exercise of freedom of association of the Constitutional Act against hatred and promoting peaceful coexistence and tolerance, and also of any measures needed to ensure that the application of this Act cannot restrict or suppress the exercise of freedom of association.***

The Committee welcomes the gatherings, meetings and dialogue forums, open to all the social partners, which have been held, as well as the setting up of a face-to-face technical round table for addressing issues regarding the application of the Convention, and duly notes that the Government reiterates its willingness to strengthen these dialogue forums to improve the observance of the Convention. However, the Committee notes with **deep concern** that: (i) the Government does not provide specific replies to the multiple serious allegations made in the Committee's previous comment; (ii) as highlighted by the observations of a number of social partners, the dialogue held so far still does not meet the necessary conditions to be effective, nor has it yielded concrete solutions to the pending issues, and so, regrettably, no significant further progress can be observed in the application of the

recommendations of the Commission of Inquiry; and (iii) allegations of serious violations of the Convention continue to be made, referring to the persistence of systemic patterns or problems to which attention was drawn by the Commission of Inquiry.

The Committee notes that the Government once again refers to its request for ILO assistance in order to determine the representativeness of employers' and workers' organizations, considering that this will be fundamental for determining representativeness according to objective verifiable criteria which fully respect freedom of association. The Government points out that pending this important technical assistance it continues to follow the policy of taking account of all representative organizations without giving privileges to one or the other. Moreover, the Committee notes the assertion by FEDECAMARAS that assistance should not be limited to the subject of representativeness, but should also fully encompass the recommendations and the dialogue process in themselves, emphasizing that ILO backing for social dialogue will constitute valuable support. In this regard, the Committee reiterates that, since the recommendations are interrelated and need to be considered together, they should be implemented in a holistic manner and in a climate in which the social partners can exercise their legitimate activities, including participation in social dialogue with full guarantees, and with full respect for the independence of employers' and workers' organizations. ***The Committee once again recommends that technical assistance should be defined on a tripartite basis in the context of dialogue round tables and in light of these considerations.***

***The Committee firmly urges the Government to, with ILO technical assistance, take the necessary steps, through the above-mentioned dialogue round tables and in the manner indicated in the Commission of Inquiry's report, to ensure that the recommendations are fully implemented, so that tangible progress can be noted in the near future. The Committee also reiterates that it is vital that the issues raised above receive the full and ongoing attention of the ILO and its supervisory system so that firm and effective measures are adopted to ensure full observance of the Convention in law and practice.***

## Zimbabwe

### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)

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

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC), received on 1 September 2021, which refer to the issues addressed by the Committee below.

*Civil liberties and trade union rights.* The Committee recalls that in its previous comments it expressed concern at the allegations submitted by the ITUC and the Zimbabwe Congress of Trade Unions (ZCTU) that, since the January 2019 crackdown on the ZCTU-organized general strike, the ZCTU President and General Secretary remained charged with subversion and were under strict release conditions, banned from traveling and forced to check in regularly at the police station. Both organizations further alleged retaliatory acts and violence against leaders of the Amalgamated Rural Teachers Union (ARTUZ) following protests organized by the ZCTU in 2020, and repression against workers' protests in the health sector and several other instances of violation of civil liberties in the country that took place in 2020.

The Committee notes the Government's indication that the case of the ZCTU President and General Secretary is still pending before the High Court. The matter was however removed from the court roll to enable the State to finalize its investigations, after which it will proceed by way of summons. The Government indicates that the social partners discussed this case in the tripartite meeting held on

5 and 6 October 2021 and agreed that the Government will engage the Prosecutor General's Office to find a way forward with a view to bringing the matter to finality. The Government further indicates that the social partners discussed the case of the ARTUZ, which has been reported to the police. However, more information is needed about the ARTUZ Secretary for Gender who is said to have been arrested and tortured to enable Government to investigate the matter further, to engage with Zimbabwe Republic Police and to provide updates accordingly. At the meeting, the members of the ZCTU agreed to submit more information and details to enable the Ministry of Public Service, Labour and Social Welfare to pursue the matter. With regard to the ITUC and the ZCTU 2020 allegations, the Government indicates that it has requested specific details on some of the cases to enable proper follow up and responses on issues raised. **The Committee requests the Government to provide information on all progress made on the above-mentioned cases. It further requests the Government to provide its comments on the conviction and sentencing of a primary school teacher for public violence after being arrested while protesting against poor salaries, as alleged by the ITUC in its latest communication.**

The Committee recalls that it had previously noted that a commission of inquiry established to investigate the disturbances of 31 August 2018 found that six people were killed and 35 injured as a result of the military and police action, and recommended a payment of compensation for losses and damages caused. Noting with concern that the ZCTU personnel suffered injuries during these events, the Committee requested the Government to provide information on all progress made in giving effect to the commission's recommendations. The Committee notes the Government's indication that the consultations on compensation modalities are still ongoing. The Committee **regrets** that more than three years after the events, the issue of compensation has not been resolved. **The Committee urges the Government to take the necessary steps to ensure that the compensation for damages suffered is paid without further delay and requests the Government to inform it of all progress made in this regard.**

The Committee recalls that it had previously noted the Government's indication that the training curriculum on freedom of association has been mainstreamed in the Police training manuals, that the Training Centres have been conducting the trainings and that the issue of alleged clashes between police and trade unions and alleged harassment by the police at roadblocks/checkpoints was an ongoing subject of discussion under the auspices of the Tripartite Negotiating Forum (TNF). The Committee further recalls that according to the Government, the TNF Social Cluster was tasked to engage the Police and develop a standard checklist for use by security forces at checkpoints. The Committee requested the Government to provide detailed information on the work carried out by the TNF Social Cluster and on the progress in its engagement with the police forces.

The Committee notes the Government's indication that it prioritizes and will keep prioritizing continuous training and engagement of law enforcement agencies on fundamental principles and rights at work. The Government informs that a tripartite meeting to strengthen the observance of international labour standards and social dialogue in Zimbabwe was held on 30 July and 26 August 2021. The objective of the meeting was to discuss joint priorities as well as to come up with a road map to that end. The Government points out that one of the priorities is to improve engagement between trade unions and law enforcement agents. The Government indicates that to that end, consensus engagement workshops will be held between trade unions and law enforcement bodies in 2022 to review the implementation of the two instruments developed for use by the law enforcement bodies (the handbook on international labour standards and the code of conduct), to unpack the Maintenance of Peace and Order Act (MOPA) and to address the concerns of all parties.

The Committee notes a copy of the road map provided by the Government and the detailed information on the work of the TNF Social Cluster, in particular as regards various measures to contain the spread of COVID-19, including the issue of the need to have a standardized checklist to be used by security agents at roadblocks/checkpoints during lockdowns, so as to facilitate ease of passage of essential workers. The Committee further notes the Government's indication that the guidelines and

checklist for checkpoints were agreed to but are yet to be considered by the main TNF. **The Committee requests the Government to provide information on the outcome of engagement between trade unions and the law enforcement bodies, which it expects will include a thorough examination of the allegations by the ZCTU and the ITUC of cases of violation of civil liberties. The Committee urges the Government to take the necessary measures for the adoption without further delay of the above-mentioned guidelines and checklists by the main TNF.**

*Maintenance of Peace and Order Act (MOPA).* The Committee had noted the enactment of the MOPA in November 2019 and observed in this respect that it did not apply to public gatherings held by a registered trade union for bona fide trade union purposes for the conduct of business in accordance with the Labour Act. In this respect, noting its similarity to the repealed Public Order and Security Act (POSA), the Committee recalled the concerns previously raised by the ILO supervisory bodies regarding POSA's de facto application to trade union activities and expected that the consultative meeting with the social partners to unpack the new legislation, which had been suspended due to the COVID-19 pandemic, would be held as soon as possible.

The Committee notes the Government's indication that one of the activities agreed to at the tripartite meeting mentioned above is a tripartite consultative workshop to unpack the MOPA and that this unpacking and the general interface between the trade unions and the police should be with the view to addressing the concerns of all parties and in the main strengthening observance of international labour standards in Zimbabwe. **The Committee expects that such a workshop will take place as soon as possible and requests the Government to provide information on all developments in this regard.**

*Labour law reform and harmonization.* The Committee recalls that for a number of years it has been requesting the Government to bring the Labour Act, Public Service Act and Health Services Act into conformity with the Convention in full consultation with the social partners. The Committee expected that the operationalization of the TNF would allow for labour law reform and public service legislation harmonization to be concluded without further delay.

The Committee notes the Government's indication that the Labour Amendment Bill is a product of extensive consultations with social partners and relevant stakeholders to bring the Labour Act into conformity with the comments made by the ILO supervisory bodies. The Government informs that, together with the Attorney General's Office, it convened a peer review on the Labour Amendment Bill in April 2021 to ensure that all principles of the Convention and issues raised by social partners are incorporated into the Bill. The Bill was submitted to the Cabinet Committee on Legislation in May 2021, approved by Cabinet on 28 September 2021 and is now pending in Parliament. The Government explains that it was the agreement of the social partners that any outstanding issues regarding the international labour standards will be dealt with through the public consultations of the Parliament, which is open to all, including the social partners. To enable the social partners to do extensive consultations before the public hearings of the Parliamentary Portfolio Committee on Labour, they were provided with a copy of the Bill during the tripartite Consensus Building meeting held from 5 to 6 October 2021. The Government expects that the Parliamentary Legal Committee and the Parliamentary Portfolio Committee will be sensitized through a workshop to be arranged in conjunction with the Office on the comments made by the supervisory bodies with a view to ensuring that the Parliamentary Committees are empowered to play an oversight role on the development of a labour legislation responsive to deficiencies noted by the supervisory bodies. The Government indicates that it will provide the Committee with the new legislation once it is enacted into law.

The Government further informs that once the Constitutional Amendment Bill passed Parliament in April 2021, the Attorney General's Office began working on the Public Service Amendment Bill. The Public Service Commission (PSC) has since received the third draft from the Attorney General's Office for consideration. After consideration by the PSC, a stakeholder consultation will be held with all public service stakeholders. The Bill will be tabled before the TNF prior to its submission to Cabinet.

The Government further indicates that bilateral consultations within the Health Services Board are still ongoing on the principles of amending the Health Services Act. The parties are desirous of embarking on a holistic revamping of the Health Services in view of the shortcomings identified during the COVID-19 response period. It is envisaged that once these are finalized, they will be submitted to the TNF for consideration.

The Committee notes the detailed information provided by the Government on the work carried out by the TNF and its various clusters. The Government considers that the operationalization of the TNF will indeed expedite legislative reform in the world of work. The Government further considers that to this end, the enactment of the Standard Operating Procedures of the TNF, the appointment of its Executive Director, and the establishment of an independent secretariat are matters of priority and are currently under way within the Labour Cluster of the TNF.

***The Committee welcomes the information provided by the Government on the legislative developments and the involvement of the social partners in the process in and outside the TNF. The Committee requests the Government to provide information on all further progress made in in this regard.***

The Committee notes the Government's request for technical assistance of the Office with regard to the issues raised above and trusts that all necessary assistance will continue to be provided to the Government and its social partners.

The Committee welcomes the Government's indication that it will be engaging with the Office for mutually suitable dates in 2022 to receive the direct contacts mission requested by the Conference Committee.

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 87** (*Antigua and Barbuda, Bahamas, Barbados, Belgium, Cambodia, Chad, Comoros, Djibouti, Ecuador, Eritrea, Gabon, Gambia, Greece, Grenada, Guatemala, Guyana, Iraq, Jamaica, Kiribati, Kuwait, Kyrgyzstan, Latvia, Lesotho, Libya, Lithuania, Luxembourg, Malawi, Mali, Mauritius, Mexico, Mongolia, Mozambique, Netherlands, Netherlands: Caribbean Part of the Netherlands, Niger, Republic of Moldova, Sao Tome and Principe, Tajikistan*); **Convention No. 98** (*Brazil, Colombia, Comoros, Congo, Djibouti, Eritrea, France, Gabon, Guinea, Guinea-Bissau, Ireland, Kenya, Kiribati, Kyrgyzstan, Latvia, Libya, Lithuania, Malawi, Malaysia, Mauritania, Mexico, Mongolia, Montenegro, Morocco, Mozambique, South Sudan, Tajikistan, Viet Nam*); **Convention No. 135** (*Antigua and Barbuda, Dominica, Germany, Iraq*); **Convention No. 141** (*Afghanistan, India*); **Convention No. 151** (*Belize, Gabon, Italy, Montenegro*); **Convention No. 154** (*Belize, Guatemala, Hungary, Rwanda, Saint Lucia*).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 87** (*Israel, Netherlands: Aruba*).

## Forced labour

### Algeria

#### Forced Labour Convention, 1930 (No. 29) (ratification: 1962)

*Article 2(1) of the Convention. Civic service.* For several years, the Committee has been noting the incompatibility with the Convention of sections 32, 33, 34 and 38 of Act No. 84-10 of 11 February 1984 concerning civic service, as amended in 1986 and 2006. Under the aforementioned provisions, it is possible to require persons who have completed a course of higher education or training in branches or specializations considered a priority for the economic and social development of the country to perform a period of civic service ranging from one to four years before being able to exercise an occupation or obtain employment. The Committee noted that currently the only category concerned is that of doctors specializing in public health. Civic service may also be performed in private sector health establishments (section 2 of Ordinance No. 06-06 of 15 July 2006).

The Committee noted the Government's indication that civic service is a national and moral duty of specialized doctors vis-à-vis the population groups living in the regions of the far south, the south and the High Plateau. The Government also stated that the medical specialists concerned enjoyed an attractive system of compensation ranging from 100 to 150 per cent of their principal remuneration along with other advantages. Under Act No. 84-10 of 11 February 1984, any refusal to perform civic service and the resignation of the person concerned without a valid reason results in that person being banned from self-employment, from setting up business as a trader, artisan or promoter of private economic investment, any offence being punishable under section 243 of the Criminal Code (imprisonment of between three months and two years and/or a fine). In addition, private employers are required to ensure, prior to engaging any workers, that applicants are not subject to civic service or that they can produce documentation proving that they have completed it, and are liable to imprisonment and a fine if they knowingly employ a citizen who has evaded civic service. The Committee therefore urged the Government to take the necessary steps to repeal or amend Act No. 84-10 of 11 February 1984 in order to bring it into conformity with the Convention.

The Committee notes with **regret** that, once again, the Government has not provided any information on this matter in its report. The Committee recalls that *Article 2(1)* of the Convention defines "forced or compulsory labour" as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". Referring to the 2007 General Survey concerning the elimination of forced labour, the Committee specifies that the penalty in question might take the form of a loss of a right, such as access to new employment (paragraph 37). The Committee notes that the provisions contained in Act No. 84-10 of 11 February 1984 concerning civic service, require specialized doctors to perform their activity within a period of one to four years in remote regions, and punish any refusal with a penalty consisting of a ban against self-employment and private sector employment. Furthermore, as regards obligations of service in relation to training received, which sometimes apply to a narrow range of professions, in particular young doctors, dentists and pharmacists, who may be required to exercise their profession for a certain period in a post assigned to them by the authorities, the Committee has pointed out in this connection that, where such service obligations are enforced by the menace of any penalty, they may have a bearing on the observance of the forced labour Conventions (paragraphs 94 and 95). **The Committee therefore urges the Government to take the necessary steps without delay to bring the legislation into conformity with the Convention by repealing or amending sections 32, 33, 34 and 38 of Act No. 84-10 of 11 February 1984 concerning civic service in order to remove the requirement of civic service and the penalties that correspond with a refusal to perform this service.**

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

## Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)

*Article 1(a) of the Convention. Imprisonment involving compulsory labour as a penalty for expressing political views or opposition to the established political, social or economic system. Associations Act.* In its previous comments, the Committee noted that under the legislation in force prison labour may be imposed as part of a prison sentence (section 2 of the Inter-Ministerial Order of 26 June 1983 establishing arrangements for the use of prison labour by the National Office of Educational Works and section 96 of Act No. 05-04 of 6 February 2005 issuing the Prison Code and regulations on the social reintegration of prisoners). The Committee noted that section 39 of the Associations Act (No. 12-06 of 12 January 2012) provides that an association may be suspended or dissolved “in the event of interference in the internal affairs of the country or an attack on national sovereignty” and that section 46 provides that “any member or leader who continues to act on behalf of an association which is neither registered nor approved, or is suspended or dissolved” shall be liable to a fine and imprisonment of three to six months. The Committee also noted the indications of the United Nations Office of the High Commissioner for Human Rights (OHCHR) in 2017 that civil society organizations faced severe restrictions following the adoption of the Associations Act (Act No. 12-06). The Committee asked the Government to take steps to ensure that Act No. 12-06 cannot be used to impose prison sentences (including compulsory labour) on persons who, through exercising their right of association, express political views or opposition to the established political, social or economic system.

The Government indicates in its report that section 39 of the Associations Act (Act No. 12-06) provides for a non-penal administrative penalty in the event of interference in the internal affairs of the country and that punishable acts have no connection with political orientation or views. Similarly, the penalties set forth in section 46 are imposed when the persons concerned continue to be active in an association that has not been registered or has been dissolved or suspended, and this also has no connection with the expression of political views or political orientation. Moreover, the Government emphasizes that what is imposed on offenders is imprisonment (in addition to a fine) and not compulsory or forced labour. It adds that forced or compulsory labour is not on the list of penalties provided for by Algerian legislation as a penalty for offences in general. The Government also indicates that work done by prisoners is subject to their prior consent and that any prisoner wishing to work must submit a request to the judge responsible for the enforcement of sentences.

The Committee notes this information. However, it notes that under the provisions of section 2 of the Inter-Ministerial Order of 26 June 1983, in the context of the rehabilitation, training and social promotion of prisoners, “prisoners *are required* to do useful work”, compatible with their health, order, discipline and security. Furthermore, section 96 of Act No. 05-04 of 6 February 2005 issuing the Prison Code and regulations on the social reintegration of prisoners, provides that “prisoners *may be assigned* useful work by the prison director”. As it indicated previously, the Committee considers that the voluntary nature of prison work is not apparent in the wording of these provisions, which, on the contrary, allow work to be imposed on persons who have been sentenced to imprisonment. The Committee also considers that even if prison work is voluntary in practice, amendments should be made accordingly in the legislation in order to avoid any legal ambiguity.

The Committee further notes that the United Nations Human Rights Committee, in its concluding observations of 2018, expresses concern at numerous reports of the Government rejecting the by-laws of existing organizations that had been brought into line with the legislation, as that practice limits the freedoms of associations and exposes their members to heavy penalties for unauthorized activity (CCPR/C/DZA/CO/4, paragraph 47). The Committee points out that section 46 of Act No. 12-06 of 12 January 2012 provides that if a member of an organization which has not yet been registered or approved or has been suspended or dissolved (for example, under section 39 of the Act) continues to be active, that person shall be liable to imprisonment of three to six months. The Committee recalls that, under *Article 1(a)* of the Convention, the range of activities which must be protected from punishment

involving compulsory labour includes those performed as part of the freedom to express political or ideological views, as well as various other generally recognized rights. These include the rights of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views (see 2012 General Survey on the fundamental Conventions, paragraph 302).

***The Committee therefore once again requests the Government to take the necessary steps to ensure that persons who, through exercising their right of association, express political views or peaceful opposition to the established political, social or economic system cannot be subjected to imprisonment on the basis of section 46 of the Associations Act (No. 12-06). The Committee requests the Government to provide information on the application in practice of section 46 of Act No. 12-06, indicating the number of prosecutions initiated under this provision, the nature of the offences recorded and the type of penalties imposed.***

*Article 1(d). Penalties for participating in strikes.* In its previous comments, the Committee referred to Act No. 90-02 of 6 February 1990, as amended and supplemented, concerning the prevention and settlement of collective labour disputes and the exercise of the right to strike, which imposes restrictions on the exercise of the right to strike. It noted that sections 37 and 38 of this Act establish the list of essential services in which a compulsory minimum service must be maintained, and that section 55(1) of this Act provides that anyone who causes or seeks to cause, or maintains or seeks to maintain, a strike contrary to the provisions of the Act, even without violence or assault against persons or property, shall be liable to imprisonment (involving the possibility of compulsory labour) ranging from eight days to two months and/or a fine. The Committee asked the Government to take the necessary steps to ensure that no worker may be sentenced to imprisonment for participating peacefully in a strike, and also to supply information on the application in practice of section 55(1) of Act No. 90-02.

The Government indicates that workers who participate peacefully in a strike while observing legal procedures are not the target of section 55(1) of Act No. 90-02. It explains that the aim of section 55(1) is to ensure collective consultation between the employer and the workers' representatives. Consultation is compulsory when a collective labour dispute arises between the employer and the workers' representatives. The Committee notes this information. In this regard, the Committee emphasizes that, regardless of the legal status of the strike, any penalty imposed should be proportionate to the seriousness of the offence committed, and the authorities should avoid recourse to imprisonment involving compulsory labour for those who organize a strike or participate in it peacefully. ***The Committee therefore urges the Government to take the necessary measures in law and in practice to ensure that no worker who participates peacefully in a strike can be sentenced to imprisonment involving compulsory labour. The Committee requests the Government to provide information on any progress made in this respect.***

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

## Angola

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1976)

*Article 1(a) of the Convention. Imposition of penal sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted that the draft Penal Code under discussion still provided for prison sentences for the offences of slander and defamation. It drew the Government's attention to the fact that the Convention prohibits the imposition of forced labour, including compulsory prison labour, for the expression of political views or opposition to the established political, social or economic system. It emphasized that the imposition of prison sentences that involve compulsory labour, which is the case in Angola by virtue of sections 13 and 50(c) of the Regulations of the progressive regime of 9 July 1981, can have an impact on compliance with *Article 1(a)* of the Convention

when they punish the expression of political views or opposition to the established system. The Committee requested the Government to take these considerations into account and to ensure the conformity of the provisions of the future Penal Code with the Convention, particularly with regard to the penalties applicable in the event of defamation.

In its report, the Government indicates that the national legal system does not contain any provision envisaging compulsory prison labour as a sanction or punishment for the expression of political views. The obligation to perform work in prison is an indirect result of conviction by the courts as it is only from the moment of conviction that the convict becomes a detainee and is accordingly subject to the requirement to work. Such work is intended to facilitate the reintegration of the detainee into society and applies to all detainees irrespective of the nature of the crime or offence. The Government considers that there is no lack of conformity between the Convention and the provisions establishing penalties for the offences of defamation and other offences arising out of violations of the limits on the exercise of freedom of expression, also considering that the prison labour performed by convicted persons must not be considered forced labour, in accordance with *Article 2(2)(c)* of the Forced Labour Convention, 1930 (No. 29).

The Committee notes the Government's position. It recalls that, although Convention No. 29 and Convention No. 105 are complementary, the exceptions envisaged in *Article 2(2)* of Convention No. 29 do not automatically apply to Convention No. 105. With regard to the exemption of prison labour or other forms of compulsory labour exacted as a consequence of a conviction in a court of law, in the majority of cases, such compulsory labour will have no relevance to the application of Convention No. 105, such as in the case of the exaction of compulsory labour from common offenders. However, in the case of persons required to work in prison following a conviction to a prison sentence for participation in political activities or expressing certain views, breaches of labour discipline or participation in a strike, this situation is covered by Convention No. 105. The Committee stresses that the purpose of the Convention is to ensure that no form of compulsory labour, including compulsory prison labour exacted from convicted persons, is imposed in the circumstances specified in the Convention, which are closely interlinked with the exercise of civil liberties (see also 2012 General Survey on the fundamental Conventions, paragraph 300).

In this regard, the Committee notes with **regret** that the new Penal Code maintains penal sanctions in the form of prison sentences for the offences of defamation (section 313) and slander (section 312). It also notes that section 333 provides that any person who publicly and with the intention of causing offence and insults through the use of words, images, writings, drawings or sounds against the Republic, the President of the Republic or any other sovereign body shall be liable to a sentence of imprisonment of between 6 months and three years and a fine. The Committee recalls in this regard that persons convicted to sentences of imprisonment are required to work (sections 13 and 50(c) of the Regulations of the progressive regime of 9 July 1981 and 60 of the Prisons Act No. 8/08 of 29 August 2008).

***The Committee requests the Government to take the necessary measures to review the above provisions of the Penal Code and to ensure that, in accordance with the Convention, no one is compelled to perform labour, particularly compulsory prison labour, as a result of a conviction for having expressed certain political views or views opposed to the established political, social or economic system. It once again requests the Government to provide information on any prosecutions or court decisions under the provisions of the Penal Code establishing the offences of slander, defamation and insults against the Republic or the President of the Republic (sections 312, 313 and 333), with an indication of the facts leading to the prosecutions and the penalties imposed.***

*Article 1(d). Imposition of prison sentences involving an obligation to work as a punishment for having participated in strikes.* The Committee previously drew the Government's attention to the need to amend the provisions of section 27(1) of the Act on Strikes (Act No. 23/91 of 15 June 1991), under which

the organizers of a strike that is prohibited or illegal or has been suspended by law were liable to prison sentences or fines. Accordingly, the organizer of a prohibited, illegal or suspended strike who has been convicted to a sentence of imprisonment could be compelled to perform compulsory prison labour. The Committee notes with **satisfaction** that section 27 of Act No. 23/91 on Strikes has been repealed following the adoption of the new Penal Code (section 6(2)(g) of Act No. 38/20 of 11 November 2020).

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

## Austria

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

*Articles 1(1), 2(1) and 2(2)(c) of the Convention. Work of prisoners for private companies.* For a number of years, the Committee has been examining the situation of prisoners who are obliged to work, without their formal consent, in workshops run by private enterprises within state prisons, pursuant to section 46(3) of the Law on the execution of sentences. The Committee noted the indication of the Government that the prisoners working in privately-run workshops are supervised only by prison staff and paid by the prison. The Committee repeatedly pointed out that the practice followed in this regard corresponds in all aspects to what is expressly prohibited by *Article 2(2)(c)*, namely, that a person is “hired to” private contractors. It noted, in particular, that the term hired to covers not only situations where prisoners are “employed” by the private company, but also situations where prisoners are hired to private enterprises but remain under the authority and control of the prison administration.

The Committee further noted the Government’s repeated indication that prisoners working for private contractors benefit from rights and conditions of work that are similar to those guaranteed in a free labour relationship. Although the Government indicated that it has stipulated that inmates working in privately run workplaces inside the prison must also provide freely given and informed consent, the Committee noted that section 46(3) of the Law on the execution of sentences was not amended to this effect. Moreover, it noted that according to a document named “Correctional services in Austria” issued by the Ministry of Justice in August 2016, convicts and prisoners subject to precautionary measures of placement, who are fit to work, are obligated by law to take over work. Prisoners who are required to work have to do the work that has been allocated to them, except for work which might endanger their life or subject them to serious health hazards. Moreover, 75 per cent of work remuneration is withheld as contribution to prison costs indicating that on average, prisoners receive €5 per day, after deduction of their contribution to prison costs and of their contribution towards unemployment insurance. The Committee requested the Government to take the necessary measures to ensure that section 46(3) of the Law on the execution of sentences is revised, in order to bring it into conformity with the requirements of the Convention as well as the indicated practice by the Government.

The Committee notes the Government’s information in its report that there have not been any legislative amendments regarding the implementation of the Convention. However, there has been an increase in the rate of pay for those serving custodial sentences in line with the 61.31 per cent increase in the negotiated standard wage index. The Committee also notes the Government’s reference to section 49(3) of the Law on the execution of sentences which guarantees the protection of life, health and safety of the workers as well as other social security benefits, rights and employment conditions that are applicable to prisoners working for private enterprises. Moreover, the Government states that although, the institutions involved in the implementation of custodial sentences may enter into agreements with commercial enterprises on the employment of prisoners, such enterprises have no disciplinary authority over the prisoners and are not permitted to exercise any kind of direct or indirect coercion or issue any orders to the prisoners. The Government further provides examples of private enterprises that offer special professional training and excellent working conditions with additional payments which is on high demand among inmates.

The Government considers that the work prisoners do for private enterprises is given legal status with rights and employment conditions attached which are similar to those of employment outside prisons. It reiterates that, *in practice*, the free and well-informed consent is obtained from the inmates to work in privately run workshops within the prison premises. It therefore considers that no revision of section 46(3) of the Law on the execution of sentences is required.

The Committee notes ***with regret*** that the Government does not envisage taking any measures to *legislate* and give legal recognition to this point nor has it taken any measures to revise section 46(3) of the the Law on the execution of sentences according to which prisoners are *obliged* to work, in workshops run by private enterprises without any reference to their consent. The Committee recalls that, by virtue of *Article 2(2)* of the Convention, the compulsory labour of convicted persons is excluded from the scope of the Convention, provided that it is “carried out under the supervision and control of a public authority” and that such persons are not “hired to or placed at the disposal of private individuals, companies or associations”. These two conditions are equally important and apply cumulatively: the fact that the prisoner remains at all times under the supervision and control of a public authority does not itself dispense the Government from fulfilling the second condition, namely that the person is not hired to or placed at the disposal of private undertakings. If either of the two conditions is not observed, compulsory labour exacted from convicted persons under these circumstances is prohibited by virtue of *Article 1(1)* of the Convention. The Committee has nevertheless considered that work by prisoners for private enterprises can be held compatible with the requirement of the Convention, if such work is performed by prisoners under a “free employment relationship”, as referred to by the Government. In such circumstances, the prisoners concerned must offer themselves *voluntarily*, without being subjected to pressure or the menace of any penalty, by giving their free, formal and informed consent to work for private enterprises in law and in practice. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that section 46(3) of the Law on the execution of sentences is revised, in order to bring it into conformity with the requirements of the Convention and the indicated practice. The Committee also requests the Government to provide information on the number of prisoners working in privately run workplaces inside prison premises. Noting that institutions involved in the implementation of custodial sentences may enter into agreements with commercial enterprises on the employment of prisoners and that such enterprises have no disciplinary authority over the prisoners, the Committee requests the Government to provide information on the manner in which the prison authorities exercise control and, if appropriate, discipline on prisoners engaged in work benefiting commercial enterprises. The Committee further requests the Government to indicate the circumstances in practice of what is characterized as free and well-informed consent of the prisoners and to indicate whether their refusal to carry out such work is subject to disciplinary sanctions.***

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

## Azerbaijan

### Forced Labour Convention, 1930 (No. 29) (ratification: 1992)

*Articles 1(1), 2(1) and 25 of the Convention.* 1. *Trafficking in persons.* (a) *Plan of action.* Further to its previous request on the implementation and renewal of the National Plan of Action (NAP) against Trafficking 2014–18, the Committee notes the Government’s information in its report on the adoption of the NAP 2020–2024 by the Presidential Decree No. 2173 of 22 July 2020. The Committee observes that the NAP 2020–2024 aims, among others, at: (i) improving the legislative and institutional framework; (ii) ensuring effective prosecution of the offence of trafficking in persons; (iii) strengthening the protection of victims; (iv) strengthening international cooperation; and (v) raising awareness on trafficking in persons. The Committee further observes that, pursuant to section 7 of the Act on trafficking in persons of 2005, the National coordinator on Combating Trafficking in Human Beings is in

charge of the implementation of the national action plans. **The Committee requests the Government to provide information on the concrete measures taken to implement the various components of the NAP 2020–2024, as well as information on the activities of the National coordinator on Combating Trafficking in Human Beings and on any assessment of the results achieved or difficulties encountered in combatting trafficking in persons.**

(b) *Penalties and law enforcement.* The Committee previously requested the Government to provide information on the application in practice of section 144-1 of the Criminal Code which punishes trafficking in persons with imprisonment of from five to 15 years. In its reply, the Government indicates that, under section 144-1 of the Criminal Code, in 2018, the police investigated 144 cases of trafficking in persons, 26 of which were referred to public prosecution, which resulted in 21 convictions; in 2019, the police investigated 146 cases of trafficking in persons, 23 of which were referred to public prosecution, which resulted in 41 convictions; in 2020, the police investigated 155 cases of trafficking in persons, 16 of which were referred to public prosecution, which resulted in 11 convictions. The Committee observes that, in its 2018 report, 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 Azerbaijan noted that a large proportion of the prison sentences had been suspended (paragraph 174). **The Committee requests the Government to continue to take measures to ensure that sufficiently effective and dissuasive penalties of imprisonment are imposed and enforced against perpetrators, in conformity with Article 25 of the Convention. Please continue to provide information on the number of prosecutions, convictions as well as on the specific penalties applied, pursuant to section 144-1 of the Criminal Code.**

(c) *Identification and protection of victims.* The Committee previously noted that the Centre of assistance to victims of trafficking (Centre) provides social, legal, medical, psychological and other assistance. The Committee requested the Government to provide information on the number of victims of trafficking identified, as well as the number of those who received the services provided by the Centre.

The Committee notes the Government's indication that, in 2020, the Centre provided assistance to 90 victims of trafficking. In particular, 5 victims received legal assistance; 5 victims were provided with psychological support; two received medical care, and three received assistance in employment. The Committee observes that the NAP 2020–2024, in its section 4.4, provides for a number of measures aimed at social rehabilitation and protection of victims of trafficking. **The Committee encourages the Government to continue its efforts with a view to ensure that appropriate protection and assistance is provided to victims of trafficking for both sexual and labour exploitation. The Committee requests the Government to provide information on the measures taken in this regard, particularly within the framework of the NAP 2020–2024. It further requests the Government to continue to provide information on the number of victims who have been identified and who have received the services provided by the Centre.**

2. *Vulnerable situation of migrant workers.* The Committee previously noted the vulnerable situation of migrant workers, particularly in the construction sector, agriculture and domestic work, to abusive employment practices. The Committee requested the Government to provide information on the measures taken to ensure that migrant workers are fully protected from abusive practices and conditions that could amount to forced labour.

The Committee notes the Government's indication that, during the reporting period, there were no registered cases of forced labour exacted from migrant workers. The Committee further notes that the European Court of Human Rights, in its judgement of 7 October 2021, has held that Azerbaijan failed to institute and conduct an effective investigation of the migrant workers' allegations of forced labour and trafficking in persons (*Zoletic and others v. Azerbaijan*). The Committee also observes that the United Nations Committee on Economic, Social and Cultural Rights, in its 2021 concluding observations, expressed concern about the pervasive labour rights violations, especially of migrant workers, including

the non-payment or underpayment of salaries, salary discrimination, and workplace deaths and injuries (E/C.12/AZE/CO/4, paragraph 28). The Committee underlines that the system governing the employment of migrant workers should be designed to prevent such workers from being placed in a situation of increased vulnerability, particularly where they are subjected to abusive practices by employers, such as retention of passports or non-payment or underpayment of wages. **The Committee requests the Government to strengthen its efforts to prevent migrant workers from falling victims of abusive practices and conditions of work that would amount to forced labour and to ensure that they can assert their rights and have access to justice and remedies regardless of their status. 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 construction sector, agriculture and domestic work, and the results of such inspections.**

*Article 2(2)(a). Work exacted under compulsory military service laws for non-military purposes.* In its previous comments, the Committee noted that, according to section 3.2 of the Act on Military Duty and Military Service of 2011, the military service is compulsory for all male citizens who have reached 18 years of age. The Committee further noted that, under section 9(1) of the Act on the Status of Military Personnel of 1991, military servicemen, during the period of their service, may be made to perform work or other tasks not related to military service, in accordance with the procedure laid down by the President of the Republic of Azerbaijan. The Government however indicated that the above-mentioned provision had not been applied in practice. The Committee recalled that *Article 2(2)(a)* of the Convention excludes work or service exacted by virtue of compulsory military service laws from the prohibition of forced labour only if such work or service is of a purely military character. It also recalled that the provisions of the Convention relating to compulsory military service do not apply to career military personnel, and the Convention consequently is not opposed to the performance of non-military work by military personnel serving in the armed forces on a voluntary basis. **Noting with regret the absence of information from the Government on this point, the Committee reiterates its request and urges the Government to take the necessary measures to amend section 9(1) of the Act on the Status of Military Personnel in order to ensure that any work or task exacted by virtue of compulsory military service laws are limited to work of a purely military nature. It once again requests the Government to provide information on the cases in which persons performing compulsory military service can be requested to perform duties which are not specific to military service, including the number of persons concerned and the types of work carried out.**

*Article 2(2)(c). (a) Work of prisoners for private enterprises.* The Committee previously noted that, according to section 95.1 of the Code on the Execution of Penal Sentences, every convicted person is under an obligation to work, such work being exacted from convicts either at enterprises and workshops of the penitentiary institutions or at other enterprises, outside the penitentiary institution, including private enterprises. While noting that, under the Code on the Execution of Penal Sentences, prisoners' conditions of work may be considered as approximating those of a free labour relationship, the Committee observed that, under the legislation in force, the formal consent of prisoners to work for private enterprises is not required. The Committee recalled that work by prisoners for private entities can be held compatible with the Convention only where the necessary safeguards exist to ensure that the prisoners concerned accept such work voluntarily, without being subjected to pressure or the menace of any penalty, and that the conditions of such work approximate those of a free labour relationship. The Committee notes with **regret** the absence of information from the Government on this point. **It once again requests the Government to take the necessary measures to ensure, both in legislation and in practice, that work may only be performed by prisoners in private enterprises with their free, formal and informed consent. The Committee also requests the Government to supply sample copies of contracts concluded between a private enterprise and a penitentiary institution, as well as any contracts between prisoners and a private company.**

(b) *Sentences of public work.* The Committee observes that sections 42(0)(4) and 47 of the Criminal Code provide, among the penal sanctions that can be imposed by courts, the penalty of public work, which consists of an obligation to perform socially useful work during a period from 240 to 480 hours. **The Committee requests the Government to indicate the nature of institutions for which offenders may perform socially useful work, and to provide examples of the types of work that may be required under this penalty. Please also indicate if the courts have handed down such penalty.**

(c) *Sentences of correctional work.* The Committee observes that, pursuant to sections 42(0)(6) and 49(1) of the Criminal Code, courts can impose on offenders a penal sanction of correctional work for the period from two months to two years. According to section 40 of the Code on the Execution of Penal Sentences and section 49(2) of the Criminal Code, correctional work is performed at the offender's main place of work and up to 20 per cent of his/her earnings is collected for the State. In case an offender does not have a job, he/she shall register within the employment agency and cannot refuse a job offered to him/her (section 43 of the Code on the Execution of Penal Sentences). **The Committee requests the Government to provide the examples of work that may be offered by the employment agency and to indicate the nature of institutions for which offenders may perform correctional work. Please also indicate if the courts have handed down such penalty.**

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

*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. In its previous comments, the Committee noted that several provisions of the Criminal Code, which provide for sanctions of correctional work or imprisonment (involving compulsory labour), are worded in terms broad enough to lend themselves to application as a means of punishment for the expression of views opposed to the established political, social or economic system. These provisions include:

- section 147 regarding defamation, defined as "dissemination, in a public statement ... or through the mass media, or a publicly displayed Internet information resource of false information discrediting the honour and dignity of a person";
- sections 169.1 and 233, read together with sections 7 and 8 of the Act on freedom of assembly, regarding "organization or participation in a prohibited public assembly" and "organization of group actions violating public order"; and
- section 283.1 regarding "inflaming the national, racial or religious enmity".

The Committee further noted the indication by an important number of United Nations and European institutions and bodies of a growing tendency to apply various provisions of the Criminal Code as a basis for the prosecution of journalists, bloggers, human rights defenders and other persons who expressed critical opinions. In particular, the following provisions of the Criminal Code were often used for that purpose: insult (section 148); embezzlement (section 179.3.2); illegal business (section 192); tax evasion (section 213); hooliganism (section 221); state treason (section 274); and abuse of office (section 308). The Committee also observed the introduction in the Criminal Code of section 148(1) on the offence of posting slander or insult on an Internet information resource by using fake user names, profiles or accounts, punishable by imprisonment for up to one year, and the extension of section 323(1) (smearing or humiliating the honour and dignity of the President in public statements, publicly shown products or the mass media) to online activities through the use of fake user names, profiles or accounts, punishable by up to three years' imprisonment. In addition, according to the UN Human Rights Committee, the maximum term of imprisonment under the Code of Administrative Offences for misdemeanours, with which human rights defenders were often charged (for example, hooliganism, resisting police and traffic violations), had been increased from 15 to 90 days.

The Committee notes with **regret** the absence of information on this point in the Government's report. The Committee observes from the report of the Commissioner for Human Rights of the Council

of Europe following her visit to Azerbaijan in July 2019 that no progress has been made with regard to protecting freedom of expression in Azerbaijan and that journalists and social media activists, who expressed dissent or criticism of the authorities, are continuously detained or imprisoned on a variety of charges, such as disobeying the police, hooliganism, extortion, tax evasion, incitement to ethnic and religious hatred or treason, as well as drug possession or illegal possession of weapons. The Committee also notes that, in its Opinion No. 12/2018, the UN Working Group on Arbitrary Detention concluded that deprivation of liberty of the journalist, who had been accused of drug crimes under section 234.4.3 of the Criminal Code and sentenced to nine years in prison, was as a result of his exercise of the right to freedom of expression (A/HRC/WGAD/2018/12, paragraph 59). The Committee further observes that the European Court of Human Rights (ECHR) has continued to hear a number of cases from Azerbaijan concerning the detentions and convictions of opposition political activists, particularly in the following cases: *Hasanov and Majidli v. Azerbaijan*, applications Nos 9626/14 and 9717/14, judgement of 7 October 2021; *Azizov and Novruzlu v. Azerbaijan*, applications Nos 65583/13 and 70106/13, judgement of 18 February 2021; *Khadija Ismayilova v. Azerbaijan*, application No. 30778/15, judgment of 27 February 2020, among others.

The Committee once again **deplores** the continued use of the provisions of the Criminal Code to prosecute and convict persons who express their political views or views ideologically opposed to the established political, social or economic system, leading to penalties of correctional work or imprisonment, both involving compulsory labour. ***The Committee therefore once again strongly urges the Government to take immediate and effective measures to ensure that, both in law and practice, no one who, in a peaceful manner, expresses political views or opposes the established political, social or economic system can be sentenced to sanctions under which compulsory labour is imposed. The Committee once again requests the Government to review the above-mentioned sections of the Criminal Code by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour.***

***In light of the situation described above, the Committee is bound to observe that there has been no progress with regard to protecting freedom of expression in Azerbaijan and that journalists, social media activists and opposition political activists who express dissent or criticism of the authorities are convicted and imprisoned under various provisions of the Criminal Code. The Committee once again deplores the continued use of the provisions of the Criminal Code to prosecute and convict persons who express their political views or views ideologically opposed to the established political, social or economic system, leading to penalties of correctional work or imprisonment, both involving compulsory labour. The Committee considers that this case meets the criteria set out in paragraph 96 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 110th Session and to reply in full to the present comments in 2022.]***

## Bahrain

### Forced Labour Convention, 1930 (No. 29) (ratification: 1981)

The Committee notes the observations of the General Federation of Bahrain Trade Unions (GFBTU) received on 31 August 2021.

*Articles 1(1), 2(1) and 25 of the Convention. Vulnerable situation of migrant workers to conditions of forced labour. 1. Migrant workers.* In its previous comments, the Committee noted the observations made by the International Trade Union Confederation (ITUC) that the migrant workers' right to change their employment continued to depend on the approval of the Labour Market Regulatory Authority (LMRA), and that pursuant to the Ministerial Order No. 79 of 16 April 2009 employers shall include in the

employment contract a requirement limiting the approval of a transfer to another employer for a specified period. The Committee also noted the Government's information regarding the introduction of the FLEXI working permit in 2017, which is a renewable two-year permit that allows migrant workers, with either a terminated or expired work permit and who possess a valid passport, to live and work in the country without an employer (sponsor) where he or she can work in any job with any number of employers on a full or part-time basis. It noted that, as a pilot scheme, the FLEXI working permit was a first step that could facilitate the transfer of migrant workers' services to a new employer, thereby enabling them to freely terminate their employment. The Committee urged the Government to pursue its efforts to ensure that, in practice, migrant workers are not exposed to practices that might increase their vulnerability, in particular, in matters related to passport confiscation as well as to provide information on the application in practice of the FLEXI Working Permit.

The Committee notes the Government's information in its report that since 2017, more than 27,000 migrant workers have benefited from the FLEXI Work Permit System and are working in authorized occupations under fixed-term employment contracts. It also takes due note that a Wage Protection System to protect all workers in the private sector, including migrant workers, was introduced through Decree Law No. 59 of 2018 which obligates employers to transfer wages to authenticated bank accounts of the employees on the dates prescribed by law. This system allows the Government's regulatory and supervisory bodies to monitor remittances via banks and financial establishments. The Government indicates that between 2018 and 2020, the Ministry of Labour and Social Development (MLSD) settled a number of cases and complaints concerning the non-payment of wages to employees. The cases of about 3,000 workers in a major construction company in the country were settled by overseeing the workers' receipt of wages and dues; by facilitating the return of more than 2,400 workers to their countries; and by transferring the others to jobs in other enterprises. Furthermore, in the context of addressing the adverse effects of the spread of the COVID-19 pandemic of 2020, several significant decisions on the protection of migrant workers were issued, namely: (i) the suspension of monthly employment dues and fees for issuing and renewing work permits; (ii) the extension of the period for irregular migrant labour to regularize their status until the end of 2020; and (iii) the provision of health care services and vaccines free of cost to migrant workers. The Committee also notes that according to the data from the LMRA, around 551,000 work permits were issued for migrant workers between 2018 and 2020, while 407,000 work permits were cancelled as a result of expiration or cancellation by the employer, in addition to procedures for renewing more than one million work permits during the same period. Furthermore, the LMRA carried out more than 199,000 job transfers of migrant workers from one employer to another. Concerning the confiscation of passports by the employer, the Government states that the legislation regulating the employment relationship has no reference to this matter. However, the possession of a passport by any person other than its owner is prohibited under the Criminal Code. Any individual – be that a national or a migrant worker – whose passport is confiscated by any party for whatever reason, has the right to file a complaint at the police station and the courts. In this regard, the relevant courts receive about 150 complaints every year which are settled through enforcement orders requiring the person who has confiscated the passport to return it to its owner. Moreover, the Government indicates that it has made several arrangements with the embassies of labour-sending countries to remove any obstacles in issuing a new passport to the migrant worker and enabling them to benefit from the Flexi Work Permit system. ***While taking due note of this information, the Committee encourages the Government to continue its efforts to ensure that, in practice, migrant workers are not exposed to practices that might increase their vulnerability, in particular, in matters related to passport confiscation and the non-payment of wages. It further requests the Government to provide statistical information on the number of violations of the working conditions of migrant workers that have been detected and registered by the competent authority, and to indicate the penalties applied for such violations, including those applied for confiscation of***

**passports. Lastly, the Committee requests the Government to continue to provide data on the number of employment transfers that have taken place within the framework of the FLEXI Work Permit System.**

2. *Migrant domestic workers.* The Committee previously noted the statement by the ITUC that there were more than 105,200 domestic workers in Bahrain who were subjected to exclusion from the coverage of a number of labour law provisions, including from weekly rest days or from a limit on working hours. Many of them worked up to 19 hours per day with minimal breaks, and no days off with very little pay and food. Many had reported that they were prevented from leaving their employers' homes and that the physical abuse and sexual assault of female domestic workers were significant problems in Bahrain. There was also an absence of labour inspection into the working conditions of domestic workers. According to the ITUC, domestic workers were also explicitly excluded from the FLEXI scheme. The Committee also noted an absence of information concerning the cases reported of forced labour of domestic workers.

The Committee notes the Government's information that the provisions under the Labour Law for the Private Sector No. 36 of 2012, including those concerning the application of the principles of the labour contract, protection of wages, annual leave, working hours, rest periods, end-of-service indemnity and exemption from litigation fees for labour cases, apply to domestic workers. Likewise, Order No. 4 of 2014 on Regulating work permits for domestic workers, stipulates that prior to the granting of a work permit for employing a domestic worker, the employer has to prove that there has not been any record of mistreatment of a domestic worker or failure to fulfil the rights of a domestic worker; or that they have not been found guilty of committing any offence against a domestic worker. In addition, the LMRA has adopted the Tripartite Domestic Contract, a document regulating the relationship between the head of the household, the recruitment office and the domestic worker that stipulates the parties' obligations and the rights established for the domestic worker in the Labour Law for the Private Sector and which is also available in the languages spoken by the migrant domestic workers. Furthermore, according to the Law for Regulating the Labour Market No. 19 of 2006, the migrant worker shall not be charged with any fees by the LMRA or by the recruiting agencies for the issuance of a work permit. Such fees are levied on the employer. In this regard, the Government indicates that no complaints have been received by the LMRA concerning the exaction of recruitment fees from migrant domestic workers. The Committee, however, notes that the United Nations Human Rights Committee, in its concluding observations of November 2018, expressed concern about reports that migrant domestic workers are subjected to abuse and exploitation, including excessive working hours and delayed or non-payment of wages and about the lack of effective remedies for such abuses (CCPR/C/BHR/CO/1, paragraph 47). **The Committee requests the Government to continue to take the necessary measures to ensure, in law and in practice, that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. In this regard, the Committee requests the Government to take measures to ensure the full and effective application of the Labour law for the Private Sector so that migrant domestic workers fully enjoy their labour rights. The Committee requests the Government to provide information on the number and nature of complaints filed by migrant domestic workers and the outcome of such complaints, including the penalties applied. The Committee also requests the Government to take the necessary measures to enable migrant domestic workers to approach the competent authorities and seek redress in the event of a violation of their rights, without fear of retaliation.**

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

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1998)**

*Article 1(a) of the Convention.* *Penal sanctions involving compulsory labour as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system.* In its previous comments, the Committee noted that penalties of imprisonment (involving compulsory prison labour pursuant to section 55 of the Penal Code) may be imposed under

the following provisions of national legislation in circumstances falling within the scope of the Convention:

- Legislative Decree No. 47 of 2002: section 22 – governing the press, printing and publishing: publishing or circulating publications which have not been authorized for circulation; section 68 – harming or criticizing the official religion of the State, its foundations and principles; and criticizing the King or blaming him for any act of the Government.
- Act No. 26 of 23 July 2005 on political associations: section 25 – violating any provision of the Act for which no specific penalty is provided for.
- Legislative Decree No. 18 of 5 September 1973 governing public assemblies, meetings and processions as amended by Act No. 32 of 2006: section 13 – organization of, or participation in, public meetings, processions, demonstrations and gatherings without notification, or in violation of an order issued against their convening; violating any other provision of the Act.
- The Penal Code: section 168 – the dissemination of false reports and statements, as well as the production of publicity seeking to damage public security or cause damage to the public interest; and section 169 – the publication of false reports or forged documents that could undermine the public peace or cause damage to the country's supreme interest.

The Committee noted with regret that despite the amendments made to the Penal Code in 2015, sections 168 and 169 remained the same. The Government indicated that the above-mentioned provisions aim to protect the public order as well as the sovereignty of the State.

The Committee notes the Government's information in its report that all the above-mentioned provisions provide for imprisonment as one of the penalties for their violation, however there is no reference to the performance of compulsory labour. The provisions under section 168 of the Penal Code refer to damaging the national security and threatening public peace as a criterion for punishment which is excluded from the principles of the Convention. The Government states that according to section 55 of the Penal Code "Every person sentenced to a punishment involving deprivation of liberty, shall perform the labour to which he/she is *assigned* in prison, in accordance with the Law and with due regard to his/her circumstances, and with the intent of reforming and qualifying him/her for integration into the community." The Government stresses that the work assigned to prisoners is preliminary to post-prison rehabilitation and training programmes and that it has never been a form of hard labour, revenge, or a means for gain or economic benefit. The Government further refers to the Reform and Rehabilitation Institution Law No. 18 of 2014 which regulates the employment of inmates. The Government therefore considers that the provisions under the above-mentioned legislation do not fall within the scope of the Convention. It further states that the court rulings regarding the above-mentioned laws do not include references to forcing the convict to perform a particular job, instead they refer to the type and duration of the penalty and the amount of the fine.

The Committee points out that even though the penalties prescribed for the violation of the above-mentioned provisions do not specifically refer to compulsory labour, they include the sanction of imprisonment which, if imposed, involve an obligation for the prisoner to perform work as per section 55 of the Penal Code. The Committee recalls that the Convention protects persons who hold or express political views or views ideologically opposed to the established political, social or economic system by prohibiting the imposition on them of sanctions of imprisonment, which may involve compulsory labour. The Committee stresses that the purpose of the Convention is to ensure that no form of compulsory labour, including compulsory prison labour exacted from convicted persons, is imposed in the circumstances specified in the Convention, which are closely interlinked with the exercise of civil liberties. The Committee has already stressed that the range of activities which must be protected from punishment involving compulsory labour comprises the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through

which citizens seek to secure the dissemination and acceptance of their views. While recognizing that certain limitations may be imposed on these rights and freedoms as normal safeguards for public order to protect society, such limitations must be strictly within the framework of the law (paragraph 302 and 303 of the 2012 General Survey on the fundamental Conventions). The Committee considers that it is not necessary to use prison sentences involving compulsory labour to maintain public order. Nevertheless, the protection provided for by the Convention does not extend to persons who use violence, incite to violence or engage in preparatory acts aimed at violence. In this regard, the Committee notes that the UN Human Rights Committee in its concluding observations of 2018, expressed concern about the serious restrictions imposed on freedom of expression and the large number of arrests and prosecutions of individuals criticizing State authorities or political figures, including through social media (CCPR/C/BHR/CO/1, paragraph 53). ***The Committee therefore strongly urges the Government to take the necessary measures to amend the above-mentioned provisions, by limiting their scope to acts of violence or incitement to violence, or by replacing sanctions of imprisonment involving compulsory labour with other kinds of sanctions (e.g. fines), in order to ensure that no form of compulsory labour (including compulsory work assigned to a prisoner pursuant to section 55 of the Penal Code, be it for reforming or rehabilitative purposes) may be imposed on persons who, without using or advocating violence, express certain political views or oppositions to the established political, social or economic system. Pending the adoption of such measures, the Committee requests the Government to provide information on the application in practice of the above-mentioned provisions, including copies of the court decisions, and indicating the prosecutions carried out, the penalties imposed and the grounds for such decision.***

*Article 1(c) and (d). Punishment for breaches of labour discipline and participation in strikes in the public services.* The Committee previously noted that section 293(1) of the Penal Code provides for penalties of imprisonment (which involve compulsory prison labour pursuant to section 55 of the Penal Code) in a situation “when three or more civil servants abandon their work, even in the form of resignation, if they do so by common accord with a view to achieving a common objective”. This provision is also applicable to persons who are not civil servants, but who perform work related to the public service (section 297). According to section 294(1), a punishment of imprisonment may be also inflicted upon a civil servant who relinquishes his office or refuses to discharge any of his official duties with the intent of obstructing the pursuit of business or causes any disruption to the pursuit thereof. The Committee requested the Government to take the necessary measures to bring sections 293(1), 294(1) and 297 of the Penal Code into conformity with the Convention.

The Committee notes the Government’s indication that the penalties under sections 293(1), 294(1) and 297 of the Penal Code were intended to ensure the compliance and smooth functioning of government institutions. The work relationship between the public servant and the government entity is regulated by the Civil Service Law No. 48 of 2010. Any matter concerning the employee’s resignation and the determination of whether such resignation has caused any harm to the institution shall be referred to the judiciary for adjudication. An employee who leaves or is absent from their workplace shall be punished in accordance with the aforementioned rules in the Civil Service Law and its Implementing Regulation, neither of which state that the employee is liable to imprisonment for leaving his/her workplace. The Government further states that no judicial rulings have been issued in accordance with the above-mentioned provisions against a group of public servants for agreeing together to abandon their workplace or refusing to perform their duties, whether by resigning or abstaining from performing their duties.

The Committee recalls that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having peacefully participated in strikes is incompatible with the Convention. It also points out that, sanctions involving compulsory labour for breaches of labour discipline may only be applied if such breaches impair or are likely to endanger the operation of essential services, or in cases of wilful acts which would endanger the safety, health or life

of individuals. The Committee observes in this connection that the above-mentioned sections of the Penal Code are worded in terms broad enough to lead to the imposition of sanctions of imprisonment, which involve an obligation to perform labour, in situations covered by *Article 1(c) and (d)* of the Convention. ***The Committee therefore once again requests the Government to take the necessary measures to bring sections 293(1), 294(1) and 297 of the Penal Code into conformity with the Convention by ensuring that no sanctions involving compulsory labour may be imposed as a punishment for breaches of labour discipline or for peaceful participation in strikes. The Committee requests the Government to provide information on the progress made in this regard.***

## Bangladesh

### Forced Labour Convention, 1930 (No. 29) (ratification: 1972)

*Articles 1(1), 2(1) and 25 of the Convention.* 1. *Trafficking in persons.* (i) *Legal framework and law enforcement.* The Committee previously noted the adoption of the three implementing rules to the Prevention and Suppression of Human Trafficking Act, 2012, as well as the adoption and implementation of the National Plan of Action for Combating Human Trafficking (NPA). The Committee, however, referring to the statistical information contained in the Government's replies to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), observed that while there was an increase in the number of trafficking investigations and prosecutions and the measures undertaken for the protection of victims, the number of convictions were low.

The Committee notes the Government's information in its report that from January to December 2020, 7,248 cases of trafficking in persons were filed. Out of the cases filed, 527 cases are under investigation with 411 persons being charged for the offences of trafficking and a conviction with a sanction of life imprisonment was secured in one case. In this regard, the Committee notes that according to the information from a news release of 2019 by the International Organization for Migration (IOM) entitled "*Human trafficking in the coastal belt*", human trafficking is a major challenge in Bangladesh, with the coastal belt and the borders along India being some of the most vulnerable locations. Furthermore, the same report indicates that 50,000 women and children are trafficked to India each year. The Committee also notes from a report of March 2020 from the United Nations Office on Drugs and Crime that Cox's Bazar (refugee settlement) is considered as one of the hotspots for human trafficking in Bangladesh, and the Bay of Bengal is a major trafficking route by sea. The Committee notes that, in its concluding observation of August 2019, the UN Committee against Torture (CAT), expressed concern that a vast majority of trafficking victims choose not to pursue cases against their traffickers, often because of fear of retaliation and intimidation, as many do not believe that they will receive effective protection from the police. The CAT also expressed concern at the reported cases in which Bangladeshi border guards and military and police officials have been involved in facilitating the trafficking of Rohingya women and children. Moreover, to date the Bangladesh High Court has refused to entertain anti-trafficking cases filed by Rohingya and the authorities have failed to open investigations (CAT/C/BGD/CO/1, paragraph 40). ***Noting with concern the low number of investigations and convictions for cases of trafficking in persons, the Committee urges the Government to take the necessary measures to ensure that all persons who engage in trafficking and related offences, including complicit officials, are subject to thorough investigations and prosecutions, and that sufficiently effective and dissuasive penalties are imposed in practice. In this regard, it requests the Government to take the necessary measures to strengthen the capacities of the law enforcement officials, including labour inspectors, prosecutors and judges, particularly by providing appropriate training. The Committee also requests the Government to continue to provide information on the application in practice of the Prevention and Suppression of Human Trafficking Act, supplying information on the number of investigations carried out, and convictions and penalties imposed.***

(ii) *National plan of action and awareness-raising measures.* The Committee notes the Government's information that two National Plan of Actions for Combating Human Trafficking from 2012 to 2014 and 2015 to 2017 have been successfully implemented and a new National Plan of Action (NPA) for Suppression and Prevention of Human Trafficking 2018–2022 has been adopted. According to the Government's report, the NPA 2018–22, has integrated the strategies and actions provided for in the 7th Five-Year Plan, which is aligned with the implementation of the sustainable development goals. This NPA focuses on five areas of action, namely (1) prevention of human trafficking; (2) holistic protection of trafficking victims; (3) prosecution of traffickers; (4) partnership and cross-country legal assistance and (5) monitoring and evaluation. The National Committee against Human Trafficking under the Ministry of Home Affairs is the authority responsible for coordinating, monitoring and evaluating the implementation of the NPA, and several Counter Trafficking Committees are established at the district and subdistricts for its implementation.

The Committee also notes the Government's indication that in 2020, the Bangladesh Police conducted 235 training programmes on trafficking in persons which were attended by a total of 38,793 officials and conducted awareness-raising programmes for 892,051 persons. Moreover, the Border Guards of Bangladesh (BGB) conducted 46,872 awareness-raising programmes in the border areas in 2020. ***The Committee requests the Government to continue providing information on the activities undertaken by the Police and the Border Guards in combating trafficking in persons, including the training and awareness-raising activities relating to trafficking. It further requests the Government to provide information on the concrete measures taken within the framework of the NPA 2018–22 to prevent trafficking in persons and the results achieved.***

(iii) *Identification and protection of victims.* The Committee notes the Government's information that the Bangladesh Police has set up a two-tier monitoring cell, one at the Police headquarters in each district which closely monitors all cases related to trafficking in persons; and one headed by the Additional Superintendent of Police which oversees the functions of the 64 district monitoring cells. It also notes the Government's information that the Rescue, Recovery, Repatriation and Integration (RRRI) Task Force coordinates the initiatives to stop the cross-border trafficking of persons and a Standard Operating Procedure (SOP) was developed in this regard. The Committee further notes that in 2020, the Border Guards rescued 452 women, 191 children and 1045 men who were being trafficked abroad through different borders and the Coast Guard Force rescued 10 women, 10 men and 9 children from traffickers who were illegally travelling to Malaysia by sea route on 8 December 2020. The Government further indicates that victims rescued from trafficking are taken to shelter homes and are provided with medical assistance and psychosocial counselling. ***The Committee requests the Government to continue providing information on the measures taken by the RRRI, the Bangladesh Police, the Border and the Coast Guards of Bangladesh for the identification and protection of victims of trafficking, as well as the number of victims identified and rehabilitated.***

2. *Forced labour practices.* The Committee previously noted that pursuant to section 9 of the Prevention and Suppression of Human Trafficking Act, 2012, the act of unlawfully forcing an individual to work against their will, or compelling them to provide labour or services, or holding a person in debt bondage by threat or use of force in order to perform any work or service is punishable with 5 to 12 years' imprisonment. It noted that the CMW, in its concluding observations of 2017, expressed concern at undocumented nationals of Myanmar working in Bangladesh, including children, who are frequently subject to sexual and labour exploitation, including forced labour, and Indian migrant workers who are subject to debt bondage in the brick kiln sector (CMW/C/BGD/CO/1, paragraph 31). In this regard, noting the Government's information that no cases of forced or compulsory labour had been detected, the Committee requested the Government to take the necessary measures to strengthen the capacity of law enforcement agencies to detect and investigate forced labour cases, and to provide information on any results achieved or progress made in this regard.

The Committee notes with **regret** that the Government has not provided any relevant information in this regard. It notes, however, that the CAT, in its concluding observations of 2019, expressed concern at the reports of more than 100 cases in which the Rohingya have been subjected to forced labour within Bangladesh (CAT/C/BGD/CO/1, paragraph 40). Moreover, the UN Committee on Economic, Social and Cultural Rights, in its concluding observations of 2018, expressed concern at the repeated reports of continuing abuse and exploitation, and poor conditions, in workplaces, particularly in the garment industry (E/C.12/BGD/CO/1, paragraph 33(c)). ***The Committee urges the Government to take the necessary measures to ensure that all workers, including refugees, are fully protected from abusive practices and working conditions that amount to forced labour. It requests the Government to strengthen the capacity of law enforcement agencies to detect and investigate forced labour cases, and to provide information on any results achieved or progress made in this regard. The Committee also requests the Government to provide information on the application in practice of section 9 of the Prevention and Suppression of Human Trafficking Act, 2012, including the number of investigations and prosecutions carried out, convictions handed down and the specific penalties applied for the offences related to forced labour and debt bondage.***

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

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1972)**

*Article 1(a) of the Convention. Sanctions involving an obligation to work as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. Penal Code.* The Committee previously noted section 124A of the Penal Code, which provides that whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law shall be punished with imprisonment for life or any shorter term, to which a fine may be added, or with imprisonment which may extend to three years, to which a fine may be added, or with a fine. The Committee observed that according to section 53 of the Penal Code, rigorous imprisonment and imprisonment for life involve compulsory hard labour, while simple imprisonment does not involve an obligation to work. Observing that section 124A provides for sanctions involving compulsory labour, the Committee requested the Government to take the necessary measures to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views, or views opposed to the established system.

The Committee notes that the Government, in its report, reiterates its statement that the Penal Code does not interfere in the employer–worker relations and is applied to impose penalties on acts of violence or incitement to violence or engagement in acts aimed at violence which goes beyond the scope of application of the Convention. It also states that there are no cases where penalties involving compulsory labour are imposed for the peaceful expression of political views, or views opposed to the established political system.

The Committee recalls that the Convention protects persons who hold or express political views or views ideologically opposed to the established political, social or economic system by prohibiting the imposition of penalties which may involve compulsory labour. The Committee stresses that the purpose of the Convention is to ensure that no form of compulsory labour, including compulsory prison labour exacted from convicted persons, is imposed in the circumstances specified in the Convention, which are closely interlinked with civil liberties, and not limited to employer–worker relations. The range of activities which must be protected from punishment involving compulsory labour thus comprises the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views. However, the protection provided for by the Convention does not extend to persons who use violence, incite to violence or engage in preparatory acts aimed at violence

(paragraphs 302 and 303 of the 2012 General Survey on the fundamental Conventions). In this connection, the Committee observes that, by referring to “incitement to contempt or disaffection towards the Government”, section 124A of the Penal Code is worded in terms broad enough to lend itself to application as a means of punishment for the expression of views, and in so far as it is enforceable with sanctions involving compulsory labour, it falls within the scope of the Convention. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views, or views opposed to the established system, by clearly restricting the scope of section 124A of the Penal Code to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee requests the Government to provide information on the application of this section in practice, including on prosecutions conducted, court decisions handed down, penalties imposed and the facts that led to convictions.***

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

## Belize

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1983)

*Article 1(c) of the Convention. Disciplinary measures applicable to seafarers.* In its previous comments, the Committee noted that section 60(1) and (3) of the Harbours and Merchant Shipping Act, Chapter 234 (revised edition, 2000) provided for penalties of imprisonment for breaches of discipline such as desertion or absence without leave and disobedience, and that deserted seafarers may be forcibly returned on board ship. The Committee noted that by virtue of section 66 of the Prison Rules, Chapter 110, every convicted prisoner has the obligation to perform labour. The Committee recalled that the imposition of sanctions involving compulsory labour in relation to disciplinary offences should be limited to acts tending to endanger the ship or the life or health of persons. The Committee also pointed out that provisions under which seafarers may be forcibly returned on board ship to perform their duties are incompatible with this Convention. Therefore, it requested the Government to take measures to bring the Harbours and Merchant Shipping Act, into conformity with the Convention. The Committee notes with **satisfaction** that section 60 of the Harbours and Merchant Shipping Act (Chapter 234) was repealed by the Act No. 11 of 2007.

*Article 1(c) and (d). Penalties involving compulsory labour as a punishment for having participated in strikes.* For a number of years, the Committee has referred to section 35(2) of the Trade Unions Act, Chapter 300, according to which a person employed for the provision of a public service (electricity, water, railway, health, sanitary or medical service, communication or any other services declared by the Minister to be a public service), who wilfully or maliciously breaks his/her contractual obligations knowing or having reasonable cause to believe that the probable consequences of his/her so doing, either alone or in combination with others, will be to cause injury or danger or grave inconvenience to the community, commits an offence and is liable to imprisonment.

The Committee observed that section 35(2) of the Trade Unions Act provides for prison sanctions involving compulsory labour in relation to acts that will not only cause injury or danger to the community but, alternatively, will cause grave inconvenience to the community, and applies to a large range of public services that are not limited to services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee recalled in this respect that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes is incompatible with the Convention.

The Committee notes the Government’s indication in its report that the Labour Advisory Board was reactivated to revise national legislation in order to bring it into conformity with international labour Conventions. ***Thus, the Committee once again requests the Government to take the necessary measures to review section 35(2) of the Trade Unions Act in order to bring the legislation into***

**conformity with the Convention and ensure that no sanctions involving compulsory labour could be imposed as a punishment for breaches of labour discipline that do not endanger the life, personal safety or health of the whole or part of the population, or for peaceful participation in strikes. The Committee requests the Government to provide information on any progress made in this respect and encourages the Government to avail itself of ILO technical assistance in this regard.**

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

## Plurinational State of Bolivia

### Forced Labour Convention, 1930 (No. 29) (ratification: 2005)

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

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons.* The Committee previously noted the adoption of the Organic Law against trafficking and smuggling of persons (Act No. 263 of 31 July 2012) and the implementing regulations (Decree No. 1486 of 6 February 2013) which define the fundamental components of trafficking in persons and provide for penalties.

The Committee notes the adoption of the Plurinational Policy against trafficking and smuggling of persons for 2013–17 and the National Action Plan for 2015–19. The Committee also notes the Government's general indication, in its report, that, in the framework of the Multisectoral Plan for the integral development of the fight against trafficking and smuggling of persons for 2016–20, several actions are being implemented to prevent, control and sanction trafficking in persons, while providing support and promoting the reintegration of victims. The Committee notes that, as highlighted in the National Action Plan, Bolivia is principally a source country for trafficking for purposes of both sexual and labour exploitation within the country, mainly in the sugar cane and nut harvesting industries, domestic work, mining and begging. A significant number of Bolivians are also subjected to trafficking for labour exploitation abroad, mainly in Argentina, Brazil and Chile, in sweatshops, agriculture, textile factories and domestic work. The Committee refers, in this regard, to its last observation on the application of the Domestic Workers Convention, 2011 (No. 189), where it noted that, according to studies published by the Organization of American States (OAS), many victims of trafficking are Bolivian women who are taken to other countries as domestic workers and sometimes become victims of labour exploitation. It notes that, in September 2018, the La Paz Departmental Human Rights Ombudsperson (*Defensoría del Pueblo*) indicated that during the last few years the number of trafficking victims increased by 92.2 per cent, with 70 per cent of the victims being girls and young women aged from 12 to 22 years. According to its 2016 Global Report on Trafficking in Persons, the United Nations Office on Drugs and Crime (UNODC) indicated that between 2012 and 2015, 1,038 persons were prosecuted for trafficking but only 15 of them were convicted. The Committee notes that, in its last annual reports, the Public Prosecutor indicated that 701 cases of trafficking were registered in 2016 and 563 cases in 2017, but that no information is available on the number of persons convicted or judicial decisions handed down in that respect. The Committee further notes that, in its last concluding observations, the Committee on the Elimination of Discrimination Against Women (CEDAW) of the United Nations was concerned about the high and growing number of cases of trafficking in human beings, in particular women and children in border areas, as well as of cases of internal trafficking of indigenous women for purposes of forced prostitution, in particular in areas in which major development projects are being implemented. The CEDAW recommended to undertake an assessment of the situation of trafficking in Bolivia as a baseline for measures to address trafficking and to improve the collection of data on trafficking disaggregated by sex, age and ethnicity (CEDAW/C/BOL/5-6, 28 July 2015, paragraphs 20 and 21). The Committee notes with **concern** the low number of convictions regarding trafficking in persons, despite the significant number of cases brought to justice. **It accordingly urges the Government to strengthen its efforts to ensure that all persons who engage in trafficking are subject to prosecutions and that in practice, sufficiently effective and dissuasive penalties are imposed. In this regard, it requests the Government to provide information on the number of criminal proceedings initiated, persons convicted and penalties imposed on the basis of Act No. 263 against trafficking and smuggling of persons. The Committee also requests the Government to provide information on the concrete measures taken to effectively combat trafficking in persons, including through awareness-raising activities and enhanced access to justice, in the framework of the National Action Plan for 2015–20**

**and the Multisectoral Plan for 2016–20. Lastly, noting the Government’s statement that several actions are being implemented to support victims of trafficking, the Committee requests the Government to provide information on the concrete measures taken to protect victims of trafficking and to facilitate their access to immediate assistance and remedies, as well as the number of victims who have been identified and have benefited from such assistance.**

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

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

## Botswana

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

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 the obligation to work as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted that sentences of imprisonment, involving compulsory prison labour pursuant to section 92 of the Prisons Act, Cap 21:03 of 1979, may be imposed under sections 47 and 48 of the Penal Code on any person who prints, makes, imports, publishes, sells, distributes or reproduces any publication prohibited by the President “in his absolute discretion” as being “contrary to the public interest”. Similar sentences may be imposed under section 51(1)(c), (d) and (2) concerning seditious publications. Sentences of imprisonment may also be imposed under sections 66–68 of the Penal Code on any person who manages, or is a member, or in any way takes part in the activity of an unlawful society, particularly of a society declared unlawful as being “dangerous to peace and order”. In this connection, the Committee observed that the above provisions are worded in terms broad enough to lend themselves to application as a means of punishment for the expression of views and, in so far as they are enforceable with sanctions involving compulsory labour, they are incompatible with the Convention. The Committee therefore requested the Government to take appropriate measures, on the occasion of the revision of the Penal Code, to bring the above provisions into conformity with the Convention.

The Committee notes with **regret** the Government’s statement, in its report, that no amendment to the Penal Code is planned. It wishes to recall once again that *Article 1(a)* of the Convention prohibits punishment by penalties involving compulsory labour, including compulsory prison labour, of persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. **The Committee expresses the firm hope that appropriate measures will be taken without delay, in both law and practice, to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views opposed to the established system, either by restricting the scope of application of these provisions to situations of violence, or by repealing sanctions involving compulsory prison labour. The Committee requests the Government to provide information on the developments made in this regard.**

*Article 1(c). Punishment for breaches of labour discipline.* The Committee previously noted that section 43(1)(a) of the Trade Disputes Act (No. 15 of 2004) punishes with imprisonment involving compulsory prison labour any wilful breach of a contract of employment by an employee who is acting either alone or in combination with others, if such breach affects the operation of essential services. The Committee observed that the list of essential services specified in the Schedule to the Trade Disputes Act includes services such as the Bank of Botswana, railway services, and transport and telecommunications services necessary to the operation of all these services, which did not seem to meet the criteria of essential services in the strict sense of the term.

The Committee notes the Government’s indication that the list of essential services is going to be reviewed by a task force which has been established for this purpose, within the framework of the ongoing labour law review process. The Committee also notes, referring to its comments made in 2017 under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), that the Trade Disputes Act has been amended in 2016, in response to new developments and the specific circumstances in the country. It notes that the list of essential services was thus expanded to include teaching services,

veterinary services and diamond sorting, cutting and selling services. Referring to its General Survey of 2012 on the fundamental Conventions (paragraph 311), the Committee points out that essential services should be understood in the strict sense of the term, that is services, the interruption of which may endanger the life, personal safety and health of the whole or part of the population, and observes that the aforementioned essential services do not seem to meet the criteria of essential services in the strict sense of the term. **The Committee therefore expresses the firm hope that the Government will take the necessary measures, in the framework of the current labour law review process, to ensure that no prison sentences involving compulsory labour are imposed as a punishment for breaches of labour discipline affecting the operation of essential services that do not meet the criteria of essential services in the strict sense of the term. It requests the Government to provide information on the progress made in this regard.**

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

## Burkina Faso

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

*Articles 1(1) and 2(1) of the Convention. Punishment of vagrancy. Legislative developments.* For a number of years, the Committee has been requesting the Government to provide information on the progress achieved in the revision of section 246 of the Penal Code, which may act as indirect compulsion to work, through the punishment of vagrancy with a sentence of imprisonment. The Committee notes with **satisfaction** that the new Penal Code does not contain provisions criminalizing vagrancy.

*Articles 1(1), 2(1) and 25. Trafficking in persons.* In its previous comments, the Committee noted that Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices (Anti-Trafficking Act) defined and criminalized trafficking in persons with penalties of imprisonment ranging from five to ten years, and up to 21 years in case of aggravating circumstances. It requested the Government to take the necessary measures to combat trafficking in persons, in particular through the adoption of an appropriate national action plan that would enable the application in practice of the Anti-Trafficking Act.

The Committee notes the Government's statement, in its report, that the Anti-Trafficking Act was abrogated and that its provisions have been incorporated in the new Penal Code, adopted by Act No. 025-2018/AN of 31 May 2018 (sections 511-1 to 511-28). The Government indicates that, pursuant to section 511-28 of the new Penal Code, an Anti-Trafficking Committee composed of representatives from ministerial departments, civil society actors and non-governmental organizations was established, as well as Regional Committees in order to bring together, at local level, all the actors involved in the fight against trafficking in persons, such as law enforcement officials, customary and religious authorities and civil society organizations. The Government adds that these committees have been very active and have already carried out 6,411 awareness-raising and capacity building activities benefiting 69,889 persons in 2019. Furthermore, in August 2021, a practical guide on the National Referral System was published, in collaboration with the International Organization for Migration (IOM), in order to raise awareness of the relevant stakeholders. The Government also indicates that the elaboration of a national action plan to combat trafficking in persons will be examined in due time. According to the statistical information provided by the Government, in 2019, five prosecutions were initiated for trafficking in persons and three convictions handed down. The Committee takes notes of this information and observes that the Government has not informed on the measures taken to identify potential victims of trafficking and provide them with adequate protection. **While welcoming the efforts made by the Government to raise awareness of trafficking in persons both at the national and local levels, the Committee urges the Government to step up its efforts to combat trafficking in persons. It hopes that the establishment of the National Anti-trafficking Committee will contribute to the effective implementation of sections 511-1 to 511-28 of the Penal Code, and to the elaboration and adoption of a national action plan. The Committee further requests the Government to provide**

**information on the measures taken to: (i) prevent the trafficking of persons for sexual and labour exploitation; (ii) strengthen the capacities of law enforcement bodies (police, labour inspectorate, Public Prosecutor's Office) and the judiciary; and (iii) identify victims and provide them with adequate protection. The Committee requests the Government to continue to provide information on the number of prosecutions initiated, convictions handed down and specific penalties applied under the Penal Code.**

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

## Burundi

### Forced Labour Convention, 1930 (No. 29) (ratification: 1963)

The Committee takes note of the observation of the Trade Union Confederation of Burundi (COSYBU), received on 28 August 2021.

*Article 1(1) and Article 2(1) of the Convention. Compulsory community development work.* For more than ten years, the Committee has referred to the question of community work in which the population participates under Act No. 1/016 of 20 April 2005 organizing municipal administration. With the objective of promoting the economic and social development of municipalities at both the individual level and on a collective and unified basis, municipalities may cooperate through a system of inter-municipality, and it is up to the municipal council to establish the community development programme, monitor its implementation and carry out the evaluation thereof. While noting the Government's indication that the law does not provide for penalties against persons who do not engage in community work, the Committee observes that this work is undertaken by the population without a text regulating the nature of the work, the terms under which the work may be required of the population, nor the manner in which the work is organized. The Committee also noted that the COSYBU referred to the fact that the population is not consulted on the nature of the work, which is decided upon unilaterally, and that the police prevent the population from moving during such work, by closing the streets. The Committee drew the Government's attention to the need to adopt regulations to Act No. 1/016 of 20 April 2005 organizing municipal administration, to provide a framework for participation in community work and its organization, and enshrine the voluntary nature of the work.

In its report, the Government reiterates that participation in community work is voluntary, and that it takes due note of the need to regulate Act No. 1/016. The Committee notes however that Basic Act No. 1/04 of 19 February 2020 amending certain provisions of Act No. 1/33 of 28 November 2014 organizing municipal administration, does not enshrine the voluntary character of the work. This Act reprises certain provisions of Act No. 1/016 of 20 April 2005, and specifies that municipalities must promote their economic and social development at both the individual level and on a collective and unified basis, and that it is up to the municipal council to monitor the implementation and carry out the evaluation of the municipal development programme. The Committee notes the new observations from the COSYBU according to which during the performance of community works circulation in the streets is free, although no information regarding the lifting of the street closures has been provided.

The Committee observes, from the information available on the Government's website, that certain community work consists of renewing bridges and roads. Furthermore, according to information available on the National Assembly website, community work that helps install municipal, regional and national infrastructure, boosts the national budget allocated to the country's socio-economic policies by the equivalent of more than 10 per cent each year, and appears to implicate the entire population. The Committee also notes that, in its annual report for 2020, the Independent National Human Rights Commission (CNIDH) refers to labour supplied by the population, which had been used for the construction of new classrooms. ***In light of the nature of the work undertaken, its scale and the importance that it holds for the country, the Committee again requests the Government to take the appropriate measures to regulate the ways in which the population participates in community work,***

**and to enshrine the voluntary nature of this participation. 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.

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)**

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 28 August 2021.

*Article 1(a) of the Convention. Imprisonment involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* The Committee previously expressed its concern at the continued existence of the provisions of the laws (the Penal Code and the Press Act) which can be used to restrict the exercise of the freedom to express political or ideological views (orally, through the press or via other communication media) and which result in the imposition of penalties involving compulsory prison labour, inasmuch as section 25 of Act No. 1/026 of 22 September 2003 issuing the prison regulations provides that work remains compulsory for all prisoners. The Committee referred to sections 600 (distribution, circulation or display of documents that are damaging to the national interest, for propaganda purposes) and 601 of the Penal Code (receipt of advantages from abroad intended to conduct an activity or propaganda such as to undermine the loyalty of citizens towards the State). The Committee urged the Government to ensure that no penalty involving compulsory labour may be imposed for the peaceful expression of political views or views ideologically opposed to the established system.

The Committee notes the Government's indication in its report that the Penal Code was revised following the adoption of Act No. 1/27 of 29 December 2017, revising the Penal Code. The Government indicates that freedom of expression is guaranteed by the Constitution and also refers to provisions guaranteeing respect for the right to a fair trial which protect journalists and human rights defenders. The Committee notes that, in its observations, COSYBU states that the organization of public demonstrations and opposition movements is viewed negatively by the public authorities and that some labour movements exerting pressure with regard to legitimate demands have been stopped by the police and certain union leaders punished.

The Committee notes that section 25 of Act No. 1/24 of 14 December 2017 on the revision of the prison system reproduces the same provisions as in section 25 of Act No. 1/026 of 22 September 2003 on the prison system. Work therefore remains compulsory for all prisoners with a prison sentence. It further notes that the revised Penal Code of 2017 provides for imprisonment (consequently involving prison labour) for certain activities that may fall within the scope of *Article 1(a)* of the Convention, namely activities through which persons express ideas or views opposed to the established political, economic or social system:

- injurious allegations, likely to be prejudicial to the honour or reputation of a person or expose him or her to public scorn (section 264);
- insults (sections 265 and 268);
- acts against the decency of the head of State or an agent exercising public authority (sections 394 and 396);
- withdrawal, destruction, damage, replacement or insult of the flag or official insignia (section 398);
- distribution, circulation or public display of pamphlets, bulletins or flyers from abroad or inspired by foreign sources intended to harm the national interest, for propaganda purposes, as well as the possession of such documents with a view to such acts (section 623);
- the receipt, by a foreign person or organization, of donations, presents, loans or other advantages, intended or used to conduct or remunerate in Burundi an activity or propaganda

such as to undermine the loyalty that the citizens owe to the State and institutions of Burundi (section 624);

- the contribution to the publication, dissemination or reproduction of fake news with a view to causing a breach of the peace, as well as the exhibition in public places or places open to the public of any objects or images likely to breach the peace (section 625).

Furthermore, the Committee notes that Act No. 1/19 of 14 September 2018, amending Act No. 1/15 of 9 May 2015, governing the press in Burundi, provides that failure to comply with its provisions is subject to criminal penalties. The Committee notes in this regard that, under section 52 of the Act, journalists must only publish information considered “balanced”. Section 62 provides that the press shall treat information in a “balanced” manner and shall refrain from broadcasting or publishing content that is harmful to good moral standards and public order.

The Committee notes that, in its report of 13 August 2020, the United Nations Commission of Inquiry on Burundi indicates that political opponents were victims of serious human rights violations, in the context of the 2020 electoral process, which included arbitrary detentions, convictions with sentences of several years in prison and murders in reprisal for their political activities (A/HRC/45/32, paras 31, 32, 34, 35 and 58). The press is also monitored, and journalists and human rights defenders have been sentenced to imprisonment because of their work (paras 41 to 43). At its oral presentation on 11 March 2021 to the 46th session of the Human Rights Council, the Commission of Inquiry on Burundi noted that several human rights defenders, political opponents and journalists were sentenced to imprisonment for endangering the internal security of the State, rebellion and false accusations owing to their activities and criticism.

The Committee notes with **regret** that the 2017 Penal Code still contains provisions permitting punishment by imprisonment involving compulsory prison labour for activities associated with the expression of political views or views opposed to the established system. It also notes with **deep concern** the information relating to the judicial punishment of journalists and political opponents. The Committee once again recalls that under *Article 1(a)* of the Convention, persons, without recourse to violence, holding or expressing political views or views ideologically opposed to the established political, social or economic system must not be subject to punishments that would require them to work, including compulsory prison labour. ***The Committee therefore urges the Government to take the necessary measures to ensure that, in law and practice, no person expressing political views or views ideologically opposed to the established political, social or economic system, including journalists, human rights defenders and political opponents, may not be liable or sentenced to imprisonment, which, under national legislation, involves compulsory labour. The Committee requests the Government to indicate the measures taken to revise the above legislation to this end. It meanwhile requests the Government to provide information on the application in practice of the above sections of the Penal Code, particularly the number of prosecutions brought and penalties imposed, as well as any court decisions recognizing criminal responsibility and criminally sanctioning non-compliance with the provisions of Act No. 1/19 governing the press in Burundi.***

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

## Cameroon

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

*Article 1(a) of the Convention. Imposition of penalties of imprisonment involving the obligation to work as punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* For a number of years, the Committee has been drawing the Government’s attention to certain provisions of the national legislation, under which criminal penalties involving compulsory prison labour (pursuant to section 24 of the Penal Code and section 49 of Decree

No. 92-052, of 27 March 1992, issuing the prison regulations) may be imposed in situations covered by *Article 1(a)* of the Convention. The Committee emphasized that where an individual is, in any manner whatsoever, compelled to perform prison labour as punishment for expressing certain political views or opposing the established political, social or economic system, this is not in conformity with the Convention. More particularly, the Committee referred to the following legal provisions:

- section 113 of the Penal Code, under which any person issuing or propagating false information that may be detrimental to the public authorities or national unity shall be liable to imprisonment of three months to three years;
- section 153 of the Penal Code, under which any person who insults the President or a foreign head of State shall be liable to imprisonment of six months to five years;
- section 154(2) of the Penal Code, under which any person guilty of incitement, whether in speech or in writings intended for the public, to revolt against the Government and the institutions of the Republic shall be liable to imprisonment of three months to three years;
- section 157(1)(a) of the Penal Code, under which any person guilty of incitement to obstruct the enforcement of any law, regulation or lawfully issued order of the public authority shall be liable to imprisonment of three months to four years;
- section 33(1) and (3) of Law No. 90-53, of 19 December 1990, concerning freedom of association, under which board members or founders of an association which continues operations or which is re-established unlawfully after a judgment or decision has been issued for its dissolution, and persons who have encouraged the assembly of members of the dissolved association by allowing continued use of the association's premises, shall be liable to imprisonment of three months to one year. Section 4 of the Law provides that associations founded in support of a cause or for a purpose contrary to the Constitution, or associations whose purpose is to undermine, inter alia, security, territorial integrity, national unity, national integration or the republican nature of the State, shall be null and void. Furthermore, section 14 provides that the dissolution of an association does not prevent any legal proceedings from being instituted against the officials of such an association.

The Committee notes the Government's indication that, in practice, prison labour is subject to the consent of the prisoners and focuses on the preparation of their social reintegration. The Committee observes in this regard that section 24 of the Penal Code specifically provides that persons serving a prison sentence are obliged to work. It notes with **deep concern** that, despite the adoption of Law No. 2019/20, of 24 December 2019, to amend and supplement certain provisions of the Penal Code, and Law No. 2020/9 of 20 July 2020, to amend and supplement Law No. 90-53, the Government did not make use of this opportunity to review the above-mentioned legislative provisions, taking into account the explanations provided regarding the scope of the protection afforded by the Convention.

The Committee observes that in its 2020 observation under the Freedom of Association and Protection of the Rights to Organize Convention, 1948 (No. 87), it noted with deep concern that some of the situations covered under the definition of terrorism, as provided for in section 2 of the Law on the suppression of terrorism (Law No. 2014/028 of 23 December 2014), could apply to acts related to the legitimate exercise of activities by trade unions or employers' representatives. The Committee recalls that section 2 of the Law refers to acts committed with the intention of "disrupting the normal operation of public services or the delivery of essential public services, or creating a public crisis" and provides for penalties of imprisonment from 15 to 20 years. The Committee also notes that, in its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights expressed specific concern about reports that human rights defenders, including those working to defend economic, social and cultural rights, operate under restrictive conditions and are often subjected to various forms of harassment or reprisal (E/C.12/CMR/CO/4, 25 March 2019, paragraphs 10 and 38).

The Committee wishes once again to draw the Government's attention to *Article 1(a)* of the Convention which prohibits the use of compulsory labour, including compulsory prison labour, as a punishment for persons who hold or express political views or views ideologically opposed to the established political, social or economic system. The Committee emphasizes that the range of activities which must be protected, under this provision, from punishment involving compulsory labour includes the freedom to express political or ideological views, which may be exercised orally or through the press or other communications media, as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views (see General Survey of 2012 on the fundamental Conventions, paragraph 302). ***The Committee therefore strongly urges the Government to take the necessary steps to review the above mentioned provisions of the Penal Code, the Law No. 90-53 concerning freedom of association, and the Law No. 2014/028 on the suppression of terrorism, in such a way that, both in law and practice, no penalty of imprisonment (which entails 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 requests the Government to provide information on the practical application of the provisions in question, including the number of convictions for violations thereof, and the facts that led to the convictions.***

## Central African Republic

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

*Article 1(1) and Article 2(1) of the Convention.* *Violations committed in the context of hostilities between armed groups.* In its previous comments, the Committee expressed its deep concern at the persistent recourse to forced labour and sexual slavery by armed groups in the context of the conflict between the Government and these groups. The Committee noted the measures aimed at restoring peace and security in the country and the establishment of a truth and reconciliation commission and a special criminal court. It urged the Government to take the necessary measures to end the violence committed against civilians with the aim of subjecting them to forced labour, including sexual slavery, and to combat impunity of the perpetrators of these violations.

The Government indicates in its report that it is continuing its efforts to combat all forms of violence committed against civilians, including practices amounting to forced labour. It states that it has taken a number of security and legislative measures to address violence committed against civilians by armed groups, including the redeployment of the Central African armed forces to towns formerly occupied by armed groups to ensure adequate protection for civilians. The Government also indicates that hearings in the Criminal Court dedicated to rape cases (a punishable offence under section 87 of the Criminal Code) make it possible to criminally sanction, inter alia, perpetrators of rape who belong to armed groups.

The Committee notes this information. It also notes the signing on 6 February 2019 of the Political Agreement for Peace and Reconciliation in the Central African Republic (APPR-RCA) by the Government and 14 armed groups, with a view to a cessation of hostilities between the armed groups, and all abuse and violence against civilians. It also notes that, according to his report of 24 August 2020, covering the period from July 2019 to June 2020, the United Nations Independent Expert on the situation of human rights in the Central African Republic states that the deadline for concluding the disarmament and demobilization process set in this Agreement by the national authorities at the end of January 2020 was not met. The Independent Expert emphasizes that the parties to the conflict, in particular the armed groups, have reportedly been responsible for many cases of conflict-related sexual violence, including rape and sexual slavery. He states that victims are often reluctant to file a complaint for fear of reprisals and stigmatization. In addition, medical, judicial and psychosocial services have very limited capacity. While the Special Criminal Court has concluded investigations into some ten cases, the insecurity

prevents access to the entire territory to conduct investigations, and the fact that hinterland courts are only partially operational remains a concern. In addition, the Independent Expert indicates that the Truth, Justice, Reparation and Reconciliation Commission (CVJRR), whose mandate is to work to promote truth, justice, reparation and guarantees of non-recurrence, in partnership with the Special Criminal Court is not yet fully operational (A/HRC/45/55, paragraphs 24, 47, 77, 78, 81). The Committee also notes that, in its concluding observations of 2020, the UN Human Rights Committee emphasizes that despite the introduction of a victim and witness protection scheme within the Special Criminal Court, the use of which is left to the discretion of judges, no measures have been taken to implement it (CCPR/C/CAF/CO/3, paragraph 9).

The Committee notes the joint public report of the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Multidimensional Integrated Stabilisation Mission in the Central African Republic (MINUSCA) on violations of human rights and international humanitarian law in the Central African Republic during the electoral period, from July 2020 to June 2021, according to which the security situation in the country continues to deteriorate. This report also refers to abductions, rapes and sexual slavery on the part of the armed forces and armed groups (paragraphs 55, 80, 88). On 4 May 2021, a decree was issued establishing a Special Commission of Inquiry with a mandate to investigate allegations of serious violations of human rights and international humanitarian law committed by the national armed forces, internal security forces and other security personnel between December 2020 and April 2021 (paragraph 152). **While recognizing the complexity of the situation in the country, including the political-security context that remains unstable and the presence of armed groups in the territory, the Committee urges the Government to continue its efforts to ensure that no one is subjected to any form of forced labour, including sexual slavery. In addition, the Committee firmly hopes that the Government will continue to take measures to increase the effectiveness of the remedies available to victims, including by operationalizing the above-mentioned mechanisms and bringing the perpetrators of these crimes to justice. It requests the Government to provide information on any progress made in this regard.**

*Article 25. Application of adequate criminal penalties.* The Committee previously noted that while the Labour Code prohibits the use of forced labour in all its forms, neither this Code nor the criminal legislation provide for criminal penalties for the exaction of forced labour (except for trafficking in persons). It requested the Government to take the necessary steps to ensure that the legislation contains provisions that enable the competent authorities to prosecute, judge and punish the perpetrators of all forms of forced labour, not only trafficking in persons.

The Government indicates that sections 8 and 9 of the draft revised Labour Code provide for the prohibition of forced or compulsory labour. The Committee notes this information and recalls that, under *Article 25* of the Convention, really adequate and strictly enforced penalties must be imposed for the illegal exaction of forced labour. **The Committee therefore hopes that the Government will take the Committee's comments into account to ensure that the legislation provides for sufficiently effective and dissuasive criminal penalties against those responsible for all forms of forced labour, whether within the framework of the draft revised Labour Code or the criminal legislation.**

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

## Chad

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

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

*Article 2(2)(a) of the Convention.* *Work in the general interest imposed in the context of compulsory military service.* In its previous comments, the Committee noted that, according to section 14 of Ordinance No. 001/PCE/CEDNACVG/91 of 1991 reorganizing the armed forces within the framework of compulsory

military service, conscripts who are fit for service are classified into two categories, one of which remains at the disposal of the military authorities for two years and may be called upon to perform work in the general interest by order of the Government. The Committee recalled that, to be excluded from the scope of application of the Convention and not considered to be forced labour, any work or service exacted under compulsory military service laws must be of a purely military character. The Committee therefore requested the Government to take measures to amend the provisions of section 14 and noted the Government's indication that those provisions would be brought into conformity with the Convention.

The Government once again indicates in its report that it will take the necessary measures to bring the provisions of section 14 of Ordinance No. 001/PCE/CEDNACVG/91 into conformity with the Convention. The Committee notes that section 14 of the Ordinance of 1991 reorganizing the armed forces was reproduced in section 32 of Act No. 012/PR/2006 of 10 March 2006 reorganizing the armed and security forces.

The Committee notes with **regret** the continued absence of measures bringing the provisions of the legislation on compulsory military service into conformity with the Convention, despite the Committee's requests in this regard over several years. **The Committee urges the Government to amend the legislation setting out the rules applicable to compulsory military service in order to limit the work or services exacted as part of compulsory military service to that of a purely military character, without including work in the general interest, in conformity with Article 2(2)(a) of the Convention. The Committee also requests the Government to provide a copy of the legislation currently in force governing compulsory military service. Lastly, it requests the Government to provide information on the number of persons performing work in the general interest by order of the Government and on the nature of such work.**

*Article 2(2)(c). Work imposed by an administrative authority.* For many years, the Committee has been drawing the Government's attention to the need to amend or repeal section 2 of Act No. 14 of 13 November 1959 authorizing the Government to take administrative measures for the relocation, internment or expulsion of persons whose activities constitute a danger for public order and security, under which the administrative authorities may impose work on persons subject to a prohibition of residence once they have completed their sentence. This section provides that a person with a criminal conviction involving the prohibition of residence may be used for work in the public interest for a period the duration of which is determined by order of the Prime Minister.

The Committee notes with **regret** that the Government reiterates in its report that it will take the necessary measures to amend or repeal section 2 of Act No. 14 of 1959, without reporting any progress in this regard. The Commission recalls that, under *Article 2(2)(c)* of the Convention, mandatory work exacted from convicts is not considered forced labour only when it is exacted as a consequence of a conviction in a court of law and subject to certain conditions. **Consequently, the Committee strongly urges the Government to take the necessary measures to amend or repeal section 2 of Act No. 14 of 13 November 1959 so that persons subjected to a prohibition of residence who have completed their sentence are not sentenced to work in the public interest by administrative authorities. In the meantime, the Committee requests the Government to provide information on the application in practice of section 2 of Act No. 14 of 1959, particularly on the number of sentences imposed under this section.**

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

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

## China

### Hong Kong Special Administrative Region

#### Abolition of Forced Labour Convention, 1957 (No. 105) (notification: 1997)

*Article 1(a) of the Convention. Imposition of prison sentences involving the obligation to work as a punishment for expressing certain political views or views ideologically opposed to the established political, social or economic system.* The Committee previously noted the following legislative provisions, under which penalties of imprisonment (involving compulsory prison labour, pursuant to section 38 of the Prison Rules) may be imposed in situations covered by *Article 1(a)* of the Convention:

- printing, publishing, selling, distributing, importing, etc., of seditious publications or uttering seditious words (section 10 of the Crimes Ordinance, Cap. 200);
- various violations of the prohibition on printing and publication (sections 18(i) and 20 of the Registration of Local Newspapers Ordinance, Cap. 268; regulations 9 and 15 of the News Agencies Registration Regulations, Cap. 268A; regulations 8 and 19 of the Newspaper Registration and Distribution Regulations, Cap. 268B; regulations 7 and 13 of the Printed Documents (Control) Regulations, Cap. 268C);
- various contraventions of regulations of public meetings, processions and gatherings (sections 17A, 17B, 17E and 18 of the Public Order Ordinance, Cap. 245).

The Committee noted that the UN Human Rights Committee expressed concern about the application in practice of certain terms contained in the Public Order Ordinance, such as “disorder in public places” (as provided for by section 17B) and “unlawful assembly” (as provided for by section 18), which may facilitate excessive restriction on civil and political rights. It also expressed concern about the increasing number of arrests of, and prosecutions against, demonstrators. The Committee also noted the Government’s indication that in August 2017 the Court of Appeal sentenced three persons to six–eight months’ imprisonment in relation to the mass demonstration in 2014 for inciting others to take part in an unlawful assembly, or for taking part in an unlawful assembly under section 18 of the Public Order Ordinance. While noting that the Government reiterated that freedom of the press, as well as freedom of opinion and expression are protected under the Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 383), the Committee urged the Government to take the necessary measures to ensure that, both in law and in practice, no sanctions involving compulsory labour can be imposed as a punishment for holding or expressing political views.

In its report, the Government indicates that the application of the Convention remains unchanged and that no modification in law and practice has been made. It also states that from 2017 to 2020, except under the Public Order Ordinance, no convictions were recorded under any other provisions mentioned above. According to the Government’s report, four defendants were convicted under section 17A of the Public Order Ordinance for organizing, participating and inciting others to take part in an unauthorized assembly and sentenced to immediate imprisonment from seven months to one year. In this case, the magistrate pointed out that, over 9,000 protestors besieged the Police Headquarters for more than 15 hours in an unauthorized assembly, posing a threat to the personal safety of those at the scene and at the same time causing serious disruption to the traffic for which penalties with deterrence were necessary. The Government also refers to the statement made by the Chief Justice of the Hong Kong Court of Final Appeal during the Ceremonial Opening of the Legal Year 2020, that “we see clear limits in the law to the exercise of rights. The enjoyment or insistence on one’s rights does not, for example, provide any excuse to harm other people or their property, or to display acts of violence”.

The Committee further notes that on 7 January 2021 the United Nations Office of the High Commissioner for Human Rights (OHCHR) voiced deep concerns over the arrests of over 50 individuals under the new National Security Law of 2020. These latest arrests indicate that the offence of subversion under the National Security Law is indeed being used to detain individuals for exercising legitimate rights to participate in political and public life. The OHCHR and the UN independent human rights experts have repeatedly warned that offences such as subversion under the National Security Law, are vague and overly broad, facilitating abusive or arbitrary implementation (UNOHCHR, communication of 7 January 2021). The Committee also refers to its observation on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in which it raises concerns in relation to the application of the National Security Law.

Referring to its General Survey of 2012 on the fundamental Conventions, the Committee once again recalls that *Article 1(a)* of the Convention prohibits the use of “any form” of forced or compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views

or views ideologically opposed to the established political, social or economic system. The range of activities which must be protected from sanctions involving compulsory labour comprises the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views. However, certain limitations may be imposed by law on these rights and freedoms, which must be accepted as normal safeguards against their abuse (paragraphs 302 and 303). The Committee considers that it is not necessary to use prison sentences involving compulsory labour to maintain public order. Nevertheless, the protection provided for by the Convention does not extend to persons who use violence, incite to violence or engage in preparatory acts aimed at violence.

***The Committee therefore urges the Government to take the necessary measures to ensure that, both in law and in practice, no sanctions involving compulsory labour can be imposed or are imposed as a punishment for peacefully holding or expressing political views, by clearly restricting the scope of the provisions under the Public Order Ordinance, the relevant provisions of the National Security Law as well as the provisions under the Crime Ordinance and other regulations mentioned above, to situations connected with the use of violence, or by repealing penal sanctions involving compulsory labour. The Committee requests the Government to continue to provide information on decisions issued under these provisions in order to assess their application in practice, indicating in particular the facts that gave rise to the conviction, and the penalties applied.***

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

## Colombia

### Forced Labour Convention, 1930 (No. 29) (ratification: 1969)

The Committee notes the observations of the National Employers Association of Colombia (ANDI), received on 31 August 2021. It also notes the joint observations of the Confederation of Workers of Colombia (CTC) and the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Labour (CGT), received on 1 September 2021. The Committee notes that the observations received refer to matters raised previously.

*Article 2(2)(a) of the Convention. Purely military character of work exacted in the context of compulsory military service.* The Committee has previously emphasized that the conception of compulsory military service in Colombia (Act No. 1861 of 2017 regulating the recruitment service and the monitoring and mobilizing of the reserve), which may be exacted in various forms, is broader than the exception allowed by the Convention. Thus, the various activities that the conscripts may undertake as part of the military service are not of a purely military character and are therefore not in conformity with the exception allowed in *Article 2(2)(a)* of the Convention, which excludes from its scope of application only work or service exacted in virtue of compulsory military service laws for work of a purely military character. The Committee highlighted in particular the situation of persons who have completed secondary education who carry out their military service in the National Penitentiary and Prison Institute (INPEC), and conscripts who carry out activities relating to the conservation of the environment and of natural resources in the “environmental” service.

The Committee recalls that compulsory military service in Colombia is of 18 months’ duration or 12 months for graduates of secondary education and comprises four stages: basic military training, training in productive work, application in practice of the basic military training and a period of rest. Under section 16 of Act No. 1861 of 2017, at least 10 per cent of personnel in each intake shall complete “environmental” service, that is, support activities aimed at protecting the environment and natural resources.

With regard to compulsory military service in the INPEC, the Government indicates in its report that within the framework of the agreements concluded between the Ministries of National Defence and of Justice and the INPEC a certain number of secondary education graduates are divided into four auxiliary contingents in the INPEC prison guard service. After three months' prison-specific training, the auxiliaries assist in the basic penitentiary centre activities of security, custody, surveillance and treatment of prisoners.

With regard to environmental service, the Government refers to Decree No. 977 of 7 June 2018, under which the Ministry of National Defence, in coordination with the Ministry of the Environment and Sustainable Development, sets out guidelines for basic support activities aimed at protecting the environment and renewable natural resources, as an extension of the constitutional mission of the Military Forces and the National Police. The Government indicates that within the framework of its mandate, the National Police has a specialized branch of Environmental and Natural Resource Police, responsible for assisting the competent authorities in the defence and protection of the environment. In accordance with Act 1861 of 2017, the National Police included the protection of the environment and natural resources among the activities to be carried out by the police auxiliaries during their military service in the Institution.

With respect to the training in productive work, the Government indicates that the Ministry of National Defence and the National Apprenticeship Service establish the types of training for productive work available to military service conscripts, giving priority to training that is in line with each institution's mission. The aim is to contribute to the promotion and strengthening of human talent, training, updating, certifying and increasing levels of qualification and developing technical and technological occupational skills.

The Government considers, as a social duty of young people towards the country, that both the services provided by the secondary education graduates in the INPEC, and the experience of the police auxiliaries within the environmental services, offer a useful opportunity to develop skills that will allow them to enter the world of work. The Government adds that with the de-escalation of the armed conflict, military service has evolved from military to social service in urban areas. Nevertheless, it retains its particular character due to the presence of armed groups, which puts the physical integrity of all members of the security forces at constant risk. For this reason, the Government considers that Act 1861 of 2017 has provided benefits and safeguards to the conscripts, it being necessary for military service in its various forms to be maintained, as an effective tool for achieving the goals of the State.

The Committee notes the explanations provided by the Government and recognizes that Governments may have a legitimate need to establish a compulsory military service. The Committee recalls in this regard that military service is outside the scope of the Convention, but conditions have been placed on this exception to prevent it from being diverted from its fundamental purpose and used to mobilize conscripts for public works or other tasks that are not of a purely military character. While recognizing and valuing the social and environmental considerations underlying the diversification of the tasks undertaken as part of compulsory military service, the Committee recalls that these tasks are nonetheless undertaken within a framework of legal obligation of service deriving from compulsory military service.

***Therefore, the Committee trusts that the Government will take the necessary measures to review the legislation regulating obligatory military service in the light of the provisions of Article 2(2)(a) of the Convention, under which any work or service extracted in virtue of compulsory military service laws must be of a purely military character. The Committee requests the Government to provide information on the total number of conscripts who are enlisted in compulsory military service, the number of conscripts who perform their service in the National Penitentiary and Prison Institute (INPEC), the number of conscripts who perform it in the "environmental" service and the number of conscripts who undertake occupational training, together with the duration of the training.***

***The Committee recalls that the Government may avail itself, should it so wish, of the technical assistance of the ILO, with a view to resolving the difficulties raised concerning the application of the Convention.***

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

## Congo

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with **deep concern** that the Government's report, due since 2014, has not been received. In view of its urgent appeal to the Government in 2019, the Committee proceeded with the examination of the application of the Convention on the basis of the information at its disposal.

*Article 2(2)(a) of the Convention.* 1. *Work exacted under compulsory military service laws.* For many years, the Committee has been drawing the Government's attention to the need to amend or repeal Act No. 16 of 27 August 1981 establishing compulsory military service, in order to ensure conformity with the Convention. Under section 1 of this Act, national service, instituted for the purpose of enabling every citizen to participate in the defence and construction of the nation, has two components: military service and civic service. The Committee recalled that the work exacted as part of compulsory national service for the purpose of the construction or development of the nation was not purely military in nature and was therefore contrary to *Article 2(2)(a)* of the Convention, according to which work exacted in virtue of compulsory military service laws is excluded from the scope of the Convention only when imposed for work of a purely military character. ***Noting that the Government has in the past stated its intention to repeal Act No. 16 of 27 August 1981 establishing compulsory military service, the Committee firmly hopes that it will be able to report on the measures taken with a view to repealing or amending the Act in such a manner as to limit the obligation to perform national service to military service only and, thus, to work of a purely military nature.***

2. *Work exacted under laws on guidance for youth.* In its previous comments, the Committee noted that Act No. 31-80 of 16 December 1980 on guidance for youth had fallen into disuse and requested the Government to formally repeal it. Under this Act, the party and mass organizations were supposed to create, over time, all the conditions for establishing youth brigades and organizing youth workshops (determining the types of tasks performed, the number of persons involved, the duration and conditions of their participation etc.).

The Committee notes that Act No. 31-80 of 16 December 1980 on guidance for youth was replaced by Act No. 9-2000 of 31 July 2000 on guidance for youth. The latter Act contains no provisions relating to the training of youth brigades and the organization of youth workshops. The Committee notes, however, with **regret** that according to section 14, the State shall create the conditions for the participation and integration of young people in the socio-economic development of the country, including by the organization of compulsory national civic service. The Committee further notes that section 16 of the Act provides that every young person has an obligation to accomplish their national duty in an exemplary manner and be available for all calls of the Republic.

The Committee recalls that the exceptions to forced labour provided for under *Article 2(2)* of the Convention do not include compulsory national civic service. Furthermore, as indicated above, compulsory military service is excluded from the definition of forced labour only if the work exacted in this context is of a purely military nature. However, as Act No. 9-2000 highlights, national civic service forms part of young people's participation in the socio-economic development of the country. ***The Committee therefore requests the Government to indicate whether compulsory national civic service has been introduced and to take the necessary measures to amend Act No. 9-2000 of 31 July 2000 on guidance for youth, in such a manner as to abolish the compulsory character of civic service. The***

**Committee also requests the Government to indicate the specific nature of the “calls of the Republic” mentioned in section 16 of the aforementioned Act.**

*Article 2(2)(d). Requisitioning of persons to perform community work in instances other than emergencies.* In its previous comments, the Committee highlighted that Act No. 24-60 of 11 May 1960 is not in conformity with the Convention, in that it allows the requisitioning of persons to perform community work in instances other than the emergencies provided for under *Article 2(2)(d)* of the Convention and that persons requisitioned who refuse to work are liable to imprisonment ranging from one month to one year. It noted the Government’s indications that: (i) Act No. 24-60 of 11 May 1960 has fallen into disuse and could be considered as repealed; (ii) community work, including tasks such as weeding and clean-up work, are carried out on a voluntary basis; and (iii) the voluntary nature of such work would be established in a forthcoming revision of the Labour Code. **The Committee once again requests the Government to take the necessary measures to formally repeal Act No. 24-60 and to ensure that collective community work is carried out on a voluntary basis both in law and in practice.**

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

## Democratic Republic of the Congo

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

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. Forced labour and sexual slavery in the context of the armed conflict.* In its previous comments, the Committee noted several reports from, inter alia, the Secretary-General of the United Nations (UN), the UN Security Council and the UN High Commissioner for Human Rights on the situation in the Democratic Republic of the Congo (documents A/HRC/27/42, S/2014/697, S/2014/698 and S/2014/222). The Committee noted that while these reports recognized the efforts made by the Government to prosecute the perpetrators of human rights violations, including public officials, they nevertheless expressed concern at the human rights situation and reports of violence, including sexual violence, committed by armed groups and the national armed forces. The Committee also noted the efforts made by the Government to combat the massive human rights violations.

The Committee notes the Government’s indication in its report that it has taken the following measures to protect victims of sexual violence and facilitate their reintegration. The laws on sexual violence now supplement the Penal Code, which did not contain all the offences criminalized under international law. The Government also indicates that it has set up three local police units to ensure the protection of civilians in the zones of armed conflict.

The Committee notes that, in his April 2017 report on conflict-related sexual violence, the UN Secretary-General stated that in 2016, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) verified 514 cases of conflict-related sexual violence committed against 340 women, 170 girls and one boy. MONUSCO rescued 40 girls, some of whom reported being subjected to sexual slavery. Verdicts were also handed down in cases involving four combatants affiliated with the then *Mouvement du 23 Mars* for rape and three Nyatura combatants for sexual slavery (S/2017/249, paragraphs 32, 33 and 35).

While noting the difficult situation in the country, the Committee is bound to express **concern** at the sexual violence committed against civilians, particularly women who are subjected to sexual exploitation. **The Committee urges the Government to step up its efforts to put an end to such acts of violence against civilians, which constitute a grave violation of the Convention, and to take immediate and effective measures so that appropriate criminal penalties are imposed on the perpetrators of these acts and the practice of sexual slavery and forced labour does not remain unpunished. It also urges the Government to intensify its efforts to ensure that the victims of such violence are fully protected. Lastly, the Committee requests the Government to provide information on the results achieved in this regard.**

*Article 25. Criminal penalties.* For several years, the Committee has been drawing the Government’s attention to the lack of adequate criminal penalties in its legislation for the imposition of forced labour. With

the exception of section 174(c) and (e) regarding forced prostitution and sexual slavery, the Penal Code does not establish appropriate criminal penalties to punish the imposition of other forms of forced labour. Moreover, the penalties established by the Labour Code in this respect are not of the dissuasive nature required by *Article 25* of the Convention (section 323 of the Labour Code establishes a principal penalty of imprisonment of a maximum of six months and/or a fine).

The Committee notes the absence of information from the Government on this matter. The Committee once again expresses the firm hope that the Government will take the necessary measures to ensure the adoption in the very near future of adequate legislative provisions, which allow that, in accordance with *Article 25* of the Convention, effective and dissuasive criminal penalties can be imposed in practice on persons exacting 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: 2001)**

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

*Article 1(a) of the Convention. Prison sentences involving an obligation to work imposed as a penalty for the expression of political views.* Since 2005, the Committee has been drawing the Government's attention to certain provisions of the Penal Code and other legal provisions regulating freedom of expression under which criminal penalties (penal servitude) entailing compulsory labour (section 8 of the Penal Code) may be imposed in the situations covered by Article 1(a) of the Convention, namely:

- Penal Code, sections 74–76: injurious allegations and insults; sections 136–137: contempt towards members of the National Assembly, the Government and depositaries of the public authority or law enforcement officers; section 199bis and ter: dissemination of false rumours liable to alarm the population; section 209: dissemination of tracts, bulletins or leaflets of foreign origin or inspiration liable to harm national interests; section 211(3): display in public places of drawings, posters, engravings, paintings, photographs and all objects or images liable to cause a breach of the peace.
- Sections 73–76 of Act No. 96-002 of 22 June 1996 establishing arrangements for the exercise of freedom of the press, which refer to the Penal Code for the definition and punishment of press-related offences.
- Legislative Ordinance No. 25-557 of 6 November 1959 on penalties to be applied for infringements of general measures.
- Legislative Ordinances Nos 300 and 301 of 16 December 1963 on the punishment of offences against the head of State and foreign heads of State.

The Committee asked the Government to provide information on the application in practice of the abovementioned provisions so that it could examine their scope.

The Committee notes the Government's indication in its report that section 5 of the Penal Code provides for compulsory labour among applicable penalties and section 5bis provides that the period of compulsory labour may range from one to 20 years. The Government also indicates that the penalty of penal servitude cannot be deemed equivalent to the penalty of forced labour. However, the Committee notes that, under section 8 of the Penal Code, any person sentenced to penal servitude shall be employed either inside the prison or outside the prison in one of the types of work authorized by the prison regulations or determined by the President of the Republic. It stresses once again that the Convention protects persons against the imposition of any kind of compulsory labour, including the compulsory labour imposed within the sanction of penal servitude and not only against the imposition of forced labour, in the five instances covered by *Article 1*.

Moreover, the Committee notes that the United Nations (UN) Human Rights Council, at its 35th session (June 2017), expressed deep concern at reports of: restrictions on the freedoms of peaceful assembly, opinion and expression; violations of the right to liberty and security of person; threats against and intimidation of members of political parties, civil society representatives and journalists; and arbitrary detention (A/HRC/35/L.37).

The Committee also notes UN Security Council resolution 2360 (2017), in which the Security Council called for the immediate implementation of the measures specified in the 31 December 2016 agreement to support the legitimacy of the transitional institutions, including by putting an end to restrictions of the political space in the country, in particular arbitrary arrests and detention of members of the political opposition and of civil society, as well as restrictions of fundamental freedoms such as the freedom of opinion and expression, including freedom of the press (S/RES/2360 (2017)).

The Committee expresses its **concern** at the current human rights situation in the country and recalls that restrictions on fundamental rights and freedoms, including the freedom of expression, may affect the application of the Convention if such restrictions can result in the imposition of penalties that involve compulsory labour. In this regard, the Committee recalls that the Convention prohibits the use of compulsory prison labour as a punishment for the expression of certain political views or for opposition to the established political, social or economic system. **The Committee urges the Government to take the necessary measures to bring the abovementioned provisions of the Penal Code, of Act No. 96-002 of 22 June 1996, of Legislative Ordinance No. 25-557 of 6 November 1959, and of Legislative Ordinances Nos 300 and 301 of 16 December 1963 into conformity with the Convention in order to ensure that no penalty entailing compulsory labour (including compulsory prison labour) can be imposed for expressing political views or views ideologically opposed to the established political, social or economic system. The Committee requests the Government to provide information on progress made in this respect.**

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

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

## Dominica

### Forced Labour Convention, 1930 (No. 29) (ratification: 1983)

The Committee notes with **deep concern** that the Government's report, due since 2014, has not been received. In light of its urgent appeal launched to the Government in 2019, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Articles 1(1) and 2(1), (2)(a) and (d) of the Convention. National service obligations.* The Committee had previously noted that under the National Service Act, 1977 persons between the ages of 18 and 21 are required to perform service with the National Service and that such service includes performing such duties as may be prescribed and, where possible, be engaged in development and self-help projects concerning housing, school, construction, agriculture and road building. Section 35(2) of the Act prescribes a penalty of a fine and imprisonment for failing to comply with this obligation. While noting the Government's indication that section 35(2) had not been applied in practice, the Committee observed that this provision was not in conformity with the Convention and for a number of years, has been requesting the Government to formally repeal or amend it.

The Committee notes from the 2020 reply of the Government to the list of issues raised by the United Nations Human Rights Committee that the repeal of section 35(2) of the National Service Act has been included in the legislative agenda of the country (CCPR/C/DMA/RQAR/1 paragraph 59). The Committee recalls that the Convention explicitly provides for a limited number of cases in which ratifying States may exact compulsory labour from the population, particularly in the context of compulsory military service or normal civic obligations. However, the conditions under which compulsory work is exacted are strictly defined and the work or service involved must respond to specific requirements. The Committee observes that the work that could be exacted under the National Service Act does not correspond to any of the exceptions provided for under *Article 2(2)* of the Convention. In particular, it goes beyond the exception authorized under *Article 2(2)(a)* for work imposed under compulsory military service, which should be limited to work of a purely military character. **Therefore, the Committee expresses the firm hope that the Government will take the necessary measures to ensure that the**

***National Service Act is formally repealed or amended so as to bring the national legislation into conformity with the Convention, and it requests the Government to provide information in this respect. 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 points in a request addressed directly to the Government.

## Egypt

### Forced Labour Convention, 1930 (No. 29) (ratification: 1955)

*Articles 1(1) and 2(1) of the Convention. Use of conscripts for non-military purposes.* For a number of years, the Committee has been referring to section 1 of Act No. 76 of 1973, as amended by Act No. 98 of 1975, concerning general (civic) service, according to which young persons (male and female) who have completed their studies, and who are surplus to the requirements of the armed forces, may be directed to work in the development of rural and urban societies, agricultural and consumers' cooperative associations, and work in production units of factories. The Committee considered that these provisions were incompatible both with the present Convention and the Abolition of Forced Labour Convention, 1957 (No. 105), which provide for the abolition of any form of compulsory labour as a means of mobilizing and using labour for purposes of economic development. In this regard, the Government indicated that the draft amendments to Act No. 76 of 1973 were under examination by the legislative committee within the Ministry of Labour in order to be submitted without delay to the Parliament.

The Committee notes the Government's information in its report that the draft amendments, which are in line with both the Conventions on forced labour are in the process of being finalized. The Government indicates that the amendments ensure that the participation of young persons in the civic service are done on a voluntary basis and that their rights are fully protected. In this regard, the Committee notes the Government's information that according to the draft amendments, section 1 of the General (Civic) service states that the performance of civic service, which extends to one year, is a transitional stage between graduation and commencing employment. Male and female recruits are commissioned to perform civic service, specifying the priority areas of work, while the local committees identify the appropriate areas of work for their recruits according to each governorate's needs. The recruits are liable to undergo training in specific programmes. In assigning civic service to young people, their preferences, proximity of the service unit, their specialization and qualifications are taken into consideration so that they perform their service in decent jobs. These recruits enjoy the same rights as government employees in respect of leave, work-related injuries and health care. After completion, the recruits are issued a certificate of performance which shall be added to their period of civil service. The Committee also notes the Government's indication that no sanctions are imposed on recruits who have not performed their civic service. It further notes the Government's information concerning the grounds for granting exemptions from civic services.

The Committee observes that the draft amendments to Act No. 76 of 1973, appear to establish the compulsory call-up to perform work of a non-military character, which falls within the scope of this Convention and hence should be prohibited. The Committee once again recalls that, as regards national service obligations imposed outside emergency situations, only compulsory military service is excluded from the scope of the Convention, subject to the condition that it is used "for work of a purely military character" (*Article 2(2)(a)*), this condition being aimed specifically at preventing the call-up of conscripts for public works or development purposes. In order to avoid any ambiguity in the interpretation and to bring the legislation into line with the Convention, the principle that such non-military tasks are restricted to emergencies or performed exclusively by volunteers should be clearly reflected in the legislation (see General Survey on the fundamental Conventions, 2012, paragraph 288). ***The Committee therefore urges the Government to take the necessary measures to ensure that Act No. 76 of 1973 is***

**amended in such a way as to ensure that no young persons are obliged to perform civic service, except on a voluntary basis, in accordance with both Convention Nos 29 and 105. Noting the absence of information, the Committee once again requests the Government to provide information on the application of the above legislation in practice, including information on the number of persons who have performed such service on an annual basis, the number of persons who have applied for exemption from such service, the number of those whose applications have been refused and the reasons for such refusal.**

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

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)**

*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.* Since 1964, the Committee has been drawing the Government's attention to certain provisions under which penal sanctions involving compulsory prison labour (pursuant to sections 16 and 20 of the Penal Code) may be imposed in situations covered by Article 1(a), namely:

- sections 98(a)bis and 98(d) of the Penal Code, as amended by Act No. 34 of 24 May 1970, which prohibit the following: advocacy, by any means of opposition to the fundamental principles of the socialist system of the State; encouraging aversion or contempt for these principles; constituting or participating in any association or group pursuing any of the foregoing aims, or receiving any material assistance for the pursuit of such aims;
- sections 98(b) and (b)bis, and 174 of the Penal Code concerning advocacy of certain doctrines;
- section 102bis of the Penal Code, as amended by Act No. 34 of 24 May 1970, regarding the dissemination or possession of means for the dissemination of news or information, false or tendentious rumours, or revolutionary propaganda which may harm public security, spread panic among the people or prejudice the public interest;
- section 188 of the Penal Code concerning the dissemination of false news which may harm the public interest.

It noted that the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association in his report of June 2017, reiterated his utmost concern at the serious escalation of the crackdown on independent civil society, including on human rights defenders, lawyers, trade unionists, journalists, political opponents and protestors in Egypt (A/HRC/35/28/Add.3, paragraph 548).

The Committee notes the Government's information in its report that offences under sections 98(b), 98(b)bis and 174 of the Penal Code shall be punished with imprisonment only if it involves the use of force or violence or terrorism. The Committee, however, observes that the provisions under sections 98 (b)bis and 174 of the Penal Code do not refer to the use of force or violence for prescribing the penalties of imprisonment. **The Committee therefore urges the Government to ensure that sections 98(b), 98(b)bis and section 174 of the Penal Code are amended, without delay, by clearly restricting the application of these provisions to situations connected to the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. It requests the Government to provide information on any measures taken in this regard.**

With regard to sections 98(a)bis and 98(d) of the Penal Code, the Committee notes that penalties of imprisonment shall be imposed for their violation. The Committee notes that pursuant to section 16 of the Penal Code all those convicted and sentenced to a penalty of imprisonment are obliged to perform labour within or outside the jail. However, according to section 24 of Law No. 396 of 1956 on Prison Regulations, persons sentenced to simple imprisonment may not work, unless they so wish. Furthermore, section 2 of Decision No. 79 of 1961 on Prison Regulations require persons sentenced to simple imprisonment to submit a written request if they wish to work. **Noting that section 16 of the Penal Code provides for the obligation to perform compulsory labour by persons sentenced to**

***imprisonment, the Committee requests the Government to ensure that no form of compulsory labour is imposed in circumstances covered under sections 98(a)bis and 98(d) of the Penal Code.***

The Committee further notes that the penalties prescribed for the violation of the provisions of sections 80(d), 98(b), 98(b)bis, 102bis and 188 of the Penal Code, shall be detention. The Committee observes that the Penal Code does not indicate whether persons convicted to detention are under an obligation to work either within or outside the prison. ***The Committee therefore requests the Government to clarify whether persons convicted to detention as per sections 80(d), 98(b), 98(b)bis, 102bis and 188 of the Penal Code are obliged to perform compulsory labour and to provide a copy of the provisions that substantiate otherwise.***

Furthermore, the Committee, in its previous comments, noted the following provisions that are enforceable with sanctions of imprisonment which may involve an obligation to perform labour in prison:

- section 11 of Act No. 84/2002 on non-governmental organizations prohibits associations from performing activities threatening national unity, violating public order or calling for discrimination between citizens on the grounds of race, origin, colour, language, religion or creed;
- sections 20 and 21 of Act No. 96/1996 on the reorganization of the press prohibit the following acts: attacking the religious faith of third parties; inciting prejudice and contempt for any religious group in society; and attacking the work of public officials.

The Committee notes the Government's information that Law No 84 of 2002 has been repealed by Act No. 70 of 2017 on Associations and other Foundations in the field of Civil Work. However, the Committee notes that the activities under section 14 of Act No. 70 of 2017, correspond to those set forth under section 11 of the former Act for which penalties of imprisonment for one year or more shall be prescribed. In this regard, the Committee notes that according to section 20 of the Penal Code, the judge shall hand down a sentence of hard labour (penal servitude) whenever the period of punishment exceeds one year. In all other cases, a light confinement sentence or hard labour may be handed down. ***The Committee urges the Government to take the necessary measures to amend the above-mentioned provisions, either by repealing them, by limiting their scope to acts of violence or incitement to violence, or by replacing sanctions involving compulsory labour with other kinds of sanctions (e.g. fines), in order to ensure that no form of compulsory labour (including compulsory prison labour) may be imposed on persons who, without using or advocating violence, express certain political views or oppositions to the established political, social or economic system. It also requests the Government to provide information on any progress made in this regard.***

As regards Act No. 96 of 1996, the Government indicates that it has been repealed by Act No. 180 of 2018 Regulating the Press, Media, and the Supreme Council for Media Regulation which decriminalizes press offences. The Committee notes with ***interest*** that the list of sanctions for violations of Act No.180 of 2018, published in the Official Gazette on March 18, 2019, does not include imprisonment (which could involve an obligation to perform work).

*Application in practice.* ***The Committee requests the Government to provide information on the application in practice of the above-mentioned provisions, including copies of the court decisions, and indicating the prosecutions carried out, the penalties imposed and the grounds for such decision.***

## Eritrea

### Forced Labour Convention, 1930 (No. 29) (ratification: 2000)

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

***Follow-up to the conclusions of the Committee on the Application of Standards  
(International Labour Conference, 107th Session, May-June 2018)***

The Committee notes the detailed discussion which took place in the Conference Committee on the Application of Standards in May-June 2018, concerning the application by Eritrea of the Convention. It also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2018. The Committee further notes the report of the Technical Advisory Mission of the ILO to Eritrea that took place from 23 to 27 July 2018.

*Articles 1(1) and 2(1) of the Convention. Compulsory national service.* In the context of their previous examinations of the application of the Convention, both the Conference Committee and the Committee of Experts urged the Government to amend or repeal the Proclamation on National Service (No. 82 of 1995) and the 2002 statement concerning the Warsai Yakaalo Development Campaign in order to bring an end to the generalized and systematic practice of the exaction of compulsory labour from the population in the context of programmes related to the obligation of national service.

The Committee noted that, at the legislative level, the Constitution establishes the obligation for citizens to perform their duty of national service (article 25(3)) and that the Proclamation on National Service specifies that this obligation concerns all citizens aged between 18 and 50 years (article 6). This obligation includes active national service and service in the reserve army. Active national service, which concerns all citizens aged between 18 and 40 years, is divided into two periods: six months of active national service in the National Service Training Centre; and 12 months of active military service and development tasks in the military forces (article 8). The objectives of national service include the establishment of a strong defence force based on the people to ensure a free and sovereign Eritrea. The Committee also noted that, in practice, the conscription of all citizens between the ages of 18 and 40 years for an indeterminate period had been institutionalized through the Warsai Yakaalo Development Campaign, approved by the National Assembly in 2002. In this respect, the Government confirmed that, in the context of their national service, conscripts could be called upon to perform other types of work and that in practice they participated in many programmes, including the construction of roads and bridges, reforestation, soil and water preservation, reconstruction and activities intended to improve food security.

The Committee recalled that, although the Convention explicitly provides for a limited number of cases in which ratifying States may exact compulsory labour from the population, particularly in the context of normal civic obligations, compulsory military service and situations of emergency, the conditions under which compulsory labour is exacted are strictly defined and the work involved must respond to precise requirements to be excluded from the definition of forced labour. The Committee reaffirmed that, in view of its duration, scope, objectives of the national service (reconstruction, action to combat poverty and strengthening of the national economy), and the broad range of work performed, labour exacted from the population in the framework of compulsory national service goes beyond the exceptions authorized by the Convention and constitutes forced labour.

The Committee notes that, in its conclusions adopted in June 2018, the Conference Committee noted the Government's statement that the Warsai Yakaalo Development Campaign is no longer in force, and that a number of conscripts have been demobilized and are now under the civil service with an adequate salary. It urged the Government to amend or revoke the Proclamation on National Service, bring an end to forced labour, ensure the cessation of the use of conscripts for the exaction of forced labour in line with the Convention, and avail itself without delay of ILO technical assistance.

The Committee notes that, in its observations, the IOE emphasizes the urgency of bringing an end to compulsory national service for the purpose of development in Eritrea. The IOE also urges the Government to cooperate with the ILO and encourages it to avail itself of ILO technical assistance.

The Committee notes from the report of the ILO Technical Advisory Mission that various stakeholders pointed out that the duration of national service had been prolonged due to unrelenting threats and the state of belligerency of Ethiopia. Despite the threat of war, the Government had taken several measures to demobilize conscripts and to rehabilitate them within the civil service. However, while the demobilization process was initially implemented successfully, the subsequent phases were terminated with the state of belligerency of Ethiopia. The Government reiterates that the power to mobilize labour was related to a genuine situation of force majeure, and that it had no option but to take the necessary measures of self-defence that were proportionate to the threat faced by Eritrea.

The Committee also notes from the mission report a consensus prevailing among the various interlocutors the mission met with that it was important to understand the context of the national service with respect to any engagement with Eritrea. This context included the fact that the obligation of every citizen to undertake national service had to be seen in the light of the situation of “no war, no peace” which had been devastating for the country, and that national service had been part of the Eritrean national struggle for liberation even though national service of an indefinite duration had never been on the Government’s agenda. While recognizing that many Eritreans were willing to be part of the national service which was not intended to be “indefinite”, and that national service was essential not only to ensuring the development of the country but also to ensuring its very existence, the Committee notes that the mission was of view that national service could not be considered as a case of “force majeure”, and that the exceptions set out by the Convention could not apply to forced labour exacted for economic development purposes for an indefinite period of time.

The Committee further notes that a range of stakeholders indicated to the mission that, in light of the recent peace treaty between Eritrea and Ethiopia, the compulsory nature of the national service would no longer be justified and demobilization was expected to happen, even though no precise date has been specified. In this context, the mission report highlights that ILO technical assistance could be useful on employment-related issues, to the extent that these could be linked to the demobilization project. Future collaboration could include training on labour market reform pursuant to demobilization of the population, employment creation, income-generating activities and skills training especially for the younger population, as well as capacity building of labour administration and labour inspection. Lastly, the Committee notes that the Government and social partners indicated to the mission that they were keen to receive technical assistance with a view to ratifying the Worst Forms of Child Labour Convention, 1999 (No. 182).

The Committee notes the Government’s reference in its report to the joint declaration of Eritrea and Ethiopia on peace and friendship made on 9 July 2018, which indicates the intention of the two parties to end the state of war, open a new era of peace and friendship, implement the decision of the boundary commission and advance the vital interest of their people. The Government indicates that the peace accord has cleared the root cause and the existential threats that had been raised by the delegation of Eritrea to the Conference Committee. In this context, the Government remains engaged to work jointly on all outstanding issues and welcomes ILO technical assistance in order to enhance the whole labour administration to promote and protect the rights of employers and workers through integrated measures, as well as through comprehensive policies and programme, so as to fully comply with ILO standards. Additionally, the Committee notes that the Security Council of the United Nations welcomes the Agreement on Peace, Friendship and Comprehensive Cooperation signed by the President of Eritrea and the Prime Minister of Ethiopia on 16 September 2018.

In light of the above information, the Committee welcomes the recent peace agreement concluded between Eritrea and Ethiopia, as well as the fact that demobilization from the national service is expected to take place soon. It also takes due note of the political will demonstrated by the Government to address the issues raised by the Committee and the Conference Committee, including through its acceptance to receive an ILO technical advisory mission to examine the issues raised. ***In this respect, noting the Government’s indication to the members of the Technical Advisory Mission of its willingness to avail itself of ILO technical assistance, the Committee urges the Government to continue to collaborate with the ILO by seeking ILO technical assistance with a view to amending or repealing Proclamation No. 82 of 1995 on National Service, so as to: (a) limit the work exacted from the population within the framework of compulsory national service to military training and work of a purely military character; and (b) limit the exaction of compulsory work or services from the population to genuine cases of emergency, by ensuring that the duration and extent of such compulsory work or services are limited to what is strictly required by the exigencies of the situation. It also encourages the Government to collaborate with the ILO on a broader basis on issues linked to the demobilization from the national service as highlighted in the mission report. In addition, noting the Government’s intention to ratify Convention No. 182, the Committee requests the Government to further engage in ILO technical assistance in this regard.***

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

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

## Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

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

*Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* In its previous comments, the Committee noted that several provisions of Press Proclamation No. 90/1996 establish restrictions on printing and publishing (concerning the printing or reprinting of an Eritrean newspaper or publication without a permit; printing or disseminating a foreign newspaper or publication prohibited from entering Eritrea; publishing inaccurate news or information disturbing public order (section 15(3), (4) and (10))), which are punishable with penalties of imprisonment. Under the terms of section 110 of the Transitional Penal Code of 1991, persons convicted to imprisonment are subject to the obligation to work in prison. The Government indicated that expressing a political opinion or belief did not constitute a crime in Eritrea and that since independence, no citizen had been detained for expressing his or her opinion or for criticizing the Government. With regard to religious freedom, the Government referred to Proclamation No. 73/1995 respecting religious institutions and activities and indicated that no interference was allowed in the exercise of the rights of any religion or creed on condition that they are not used for political purposes and are not prejudicial to public order or morality. In this regard, the Committee noted that the United Nations Human Rights Council, in its resolution on the situation of human rights in Eritrea of June 2017, expressed its "deep concern at the severe restrictions on the right to freedom to hold opinions without interference, freedom of expression, including the freedom to seek, receive and impart information, liberty of movement, freedom of thought, conscience and religion, and freedom of peaceful assembly and association, and at the detention of journalists, human rights defenders, political actors, religious leaders and practitioners in Eritrea" (A/HRC/RES/35/35). It also noted that in the context of the Working Group on the Universal Periodic Review, the Government accepted the recommendations of certain countries encouraging it to "reform legislation in the area of the right to freedom of conscience and religion"; ensure that "the rights of all its people to freedom of expression, religion, and peaceful assembly are respected"; and take the "necessary measures to ensure respect for human rights, including the rights of women, political rights, the rights of persons in detention and the right of freedom of expression as it pertains to the press and other media" (A/HRC/26/13/Add.1). The Committee hoped that the Government would take all the necessary measures to ensure that the legislation currently in force, as well as any legislation concerning the exercise of the rights and freedoms under preparation, did not contain any provision which could be used to punish the expression of political opinions or views ideologically opposed to the established political, social or economic system, or the practice of a religion, through the imposition of a sentence of imprisonment under which labour could be imposed.

The Committee notes that the Government, in its report, reiterates its statement that no citizens were arbitrarily arrested for expressing their political opinion or belief nor did any courts impose prison sentences for expressing one's views or for criticizing the Government. In this regard, the Committee notes that the Human Rights Committee, in its concluding observations under the International Covenant on Civil and Political Rights of May 2019, expressed its concern about reports of ongoing arrest and detention of persons for merely expressing their opinion, including political figures, journalists and religious and community leaders (CCPR/C/ERI/CO/1, para, 39). Moreover, the United Nations Special Rapporteur, in her statement of October 2020 on the situation of human rights in Eritrea, referred to numerous cases of arrests and prolonged imprisonment of journalists and writers for being critical of the Government, as well as individuals and religious communities because of their faith and belief. She stated that Eritrea continues to severely restrict civil liberties and that independent human rights defenders, journalists and political opposition groups cannot work freely in the country. The Committee further notes the Government's indication that a new civil and penal code and other related codes with their procedural laws have been concluded and will be enacted shortly.

The Committee recalls that the Convention protects persons who hold or express political views or views ideologically opposed to the established political, social or economic system by prohibiting the imposition of penalties which may involve compulsory labour, including sentences of imprisonment including compulsory labour. Freedom of opinion, belief and expression are exercised through various rights, such as the right of assembly and association and freedom of the press. The exercise of these rights enables citizens to secure the dissemination and acceptance of their views, or to practice their religion. While

recognizing that certain limitations may be imposed on these rights as a safeguard for public order to protect society, such limitations must be strictly within the framework of the law. ***In light of these considerations, the Committee urges the Government to take the necessary measures, both in law and in practice, to ensure that no penalties involving compulsory labour are imposed for the peaceful expression of views ideologically opposed to the established political, social or economic system or the practice of a religion, for example by clearly restricting the scope of the provisions under Press Proclamation No. 90/1996 and Proclamation No. 73/1995 to situations connected with the use of violence, or by repealing penalties involving compulsory prison labour. The Committee requests the Government to provide information on any progress made in this regard, as well as information on the application in practice of the provisions of the above Proclamations, with an indication of the acts which gave rise to conviction and the type of penalties imposed.***

*Article 1(b). Compulsory national service for purposes of economic development.* In its previous comments, the Committee referred to its observation concerning the Forced Labour Convention, 1930 (No. 29), in relation to the broad range of types of work exacted from the population as a whole in the context of compulsory national service, as set out in the Proclamation on National Service No. 82 of 1995 and the 2002 Declaration on the “Warsai Yakaalo” Development Campaign. The Committee recalled that this national service obligation, to which all citizens between the ages of 18 and 40 years are subject for an indeterminate period of time, has the objectives of the reconstruction of the country, action to combat poverty and the reinforcement of the national economy and, consequently, is clearly in contradiction with the objective of this Convention which, in *Article 1(b)*, prohibits recourse to compulsory labour “as a method of mobilizing and using labour for purposes of economic development”. It therefore strongly urged the Government to take the necessary measures without delay for the elimination in law and practice of any possibility of using compulsory labour in the context of national service as a method of mobilizing labour for the purposes of economic development.

The Committee notes that the Conference Committee for the Application of Standards concerning the application of the Forced Labour Convention, 1930 (No. 29), in its conclusions adopted in June 2018, noted the Government’s statement that the “Warsai Yakaalo” Development Campaign was no longer in force, and that a number of conscripts had been demobilized and were under the civil service with an adequate salary. The Committee also notes that the Conference Committee urged the Government to amend or revoke the Proclamation on National Service, bring an end to forced labour, ensure the cessation of the use of conscripts for the exaction of forced labour in line with the Convention, and avail itself without delay of ILO technical assistance.

Referring to the ILO Technical Advisory mission report of July 2018, the Committee notes a consensus prevailing among the various interlocutors the mission met with that it was important to understand the context of the national service with respect to any engagement with Eritrea. This context included the fact that the obligation of every citizen to undertake national service had to be seen in the light of the situation of “no war, no peace” which had been devastating for the country, and that national service had been part of the Eritrean national struggle for liberation even though national service of an indefinite duration had never been on the Government’s agenda. While recognizing that many Eritreans were willing to be part of the national service, which was not intended to be “indefinite”, and that national service was essential not only to ensuring the development of the country but also to ensuring its very existence, the Committee notes that the mission was of the view that national service could not be considered as a case of “force majeure”, and that the exceptions set out by the Convention No. 29 could not apply to forced labour exacted for economic development purposes for an indefinite period of time. Moreover, a range of stakeholders indicated to the mission that in light of the recent peace treaty between Eritrea and Ethiopia, the compulsory nature of the national service would no longer be justified and demobilization was expected to happen, even though no precise date has been specified.

The Committee notes the Government’s statement in its report that Eritrea is in the process of implementing fundamental nation-building principles, and attaches great importance to such principles, which entail creating and expanding national wealth through knowledge-based well-organized productive work, and ensuring equitable distribution of resources and opportunities. If some major tasks such as water supply for all, revival of transport and communication infrastructure, green power generation and electricity supply, housing projects, modern health and education infrastructure are properly implemented, this could lead to wider chances of job creation and employment opportunities for people. It recognizes that the proven

commitment, full participation of the people and their relentless toil and resilience is necessary to transform the old traditional subsistence economy to a developed industrial economy and to bring sustainable change to the quality of life of the people. In this respect, people are called upon to carry out economic reconstruction activities, such as reforestation, soil and water conservation and food securing programmes. The Government reiterates that no forced or compulsory labour is used and that the practice of exaction of various kinds of labour from the population is only limited in scope so as to be compatible with the Convention.

In addition, the Committee notes that, in its concluding observations of May 2019, the Human Rights Committee expressed concern about allegations that national service conscripts are deployed for labour in various posts including mining and construction plants owned by private companies, while receiving very little or no salary (CCPR/C/ERI/CO/1, paragraph 37).

The Committee recalls that the prohibition laid down in *Article 1(b)* of this Convention applies even where recourse to forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development is of temporary or exceptional nature. The Committee further emphasizes that no exceptions to universally recognized human rights should be sought in the name of development (paragraph 308 of the 2012 General Survey on the fundamental Conventions). ***The Committee therefore urges the Government to take the necessary measures, without delay, to eliminate both in law and practice, the use of compulsory labour in the context of national service as a method of mobilizing labour for the purposes of economic development. In this respect, noting the Government's indication to the members of the technical advisory mission of its willingness to avail itself of ILO technical assistance, the Committee strongly encourages the Government to collaborate with the ILO by continuing to avail itself of ILO technical assistance in its efforts to bring its law and practice into compliance with the provisions of the Convention. The Committee requests the Government to provide information on the measures taken as well as 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.***

## Ethiopia

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

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

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of political or ideological views.* For a number of years, the Committee has been referring to the following sections of the Criminal Code, under which penal sanctions involving compulsory prison labour may be imposed by virtue of section 111(1) of the Code, in circumstances covered by *Article 1(a)* of the Convention:

- sections 482(2) and 484(2): punishment of ringleaders, organizers or commanders of forbidden societies, meetings and assemblies;
- section 486(a): inciting the public through false rumours; and
- section 487(a): making, uttering, distributing or crying out seditious or threatening remarks or displaying images of a seditious or threatening nature in any public place or meeting (seditious demonstrations).

The Committee also referred to the definition of terrorism under the Anti-Terrorism Proclamation No. 652/2009, under section 6 of which any person who "publishes or causes the publication of a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement, or other inducement to them, to the commission or preparation or instigation of an act of terrorism is punishable with rigorous imprisonment from ten to 20 years". In this regard, the Committee noted that in 2010 the United Nations Universal Periodic Review (UPR) Working Group expressed concern at the Anti-Terrorism Proclamation which, due to its broad definition of terrorism, had led to abusive restrictions on the press. The Committee further noted that journalists and opposition politicians had been

given sentences ranging from 11 years to life imprisonment under the Proclamation, and that numerous defendants were scheduled to appear before the courts on similar charges. The Committee therefore urged the Government to take measures to limit the scope of application of the Anti-Terrorism Proclamation and the above provisions of the Criminal Code in order to ensure that no sanctions involving compulsory labour could be imposed on those holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee notes the Government's reiterated indication in its report that, the peaceful expression of views or of opposition to the established political, social or economic system is a constitutionally respected right and nobody is forced to be subjected to forced or compulsory labour as a result of this. The Committee also notes that an ILO mission took place in Ethiopia in September 2016, as a follow-up to the March 2015 mission on implementation gaps in the application of the forced labour Conventions. According to the mission report, discussions were held with the relevant stakeholders regarding certain provisions of the Criminal Code that involve compulsory prison labour with a view to ensuring their conformity with the Convention.

Moreover, the Committee notes that, in a press release of 2016, the African Commission on Human and Peoples' Rights (the African Commission) observed with deep concern the deterioration of the human rights situation in Ethiopia, particularly the recent unrest and violence in the Oromia Region. Moreover, the Committee observes that the African Commission adopted a resolution in which it expressed concern about the use of excessive and disproportionate force to disperse protests, resulting in the deaths and injuries of several protestors, as well as the arbitrary arrest and detention of many others. Following the protests which began in November 2015, the African Commission also expressed its concern about allegations relating to the arbitrary arrest and detention of members of opposition parties and human rights defenders (ACHPR/Res.356(LIX) 2016). Moreover, the Committee observes that the African Commission is concerned by restrictions on movement, assembly, media access, internet services as well as the arbitrary arrest and detention of many people following the state of emergency declaration.

The Committee is bound to express its **deep concern** over the detentions of, and prosecutions against, members of the opposition parties and human rights defenders, and recalls that restriction on fundamental rights and liberties, including freedom of expression may have a bearing on the application of the Convention if such restrictions are enforced by sanctions involving compulsory labour. In this respect, referring to its 2012 General Survey on the fundamental Conventions, the Committee points out that the range of activities which must be protected from punishment involving compulsory labour under *Article 1(a)* of the Convention include the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views, and which may also be affected by measures of political coercion (paragraph 302). **The Committee therefore once again urges the Government to take the necessary measures to ensure that no penalties involving compulsory labour are imposed for the peaceful expression of political views opposed to the established political, social or economic system, for example by clearly restricting the application of the Anti-Terrorism Proclamation, as well as the following provisions of the Criminal Code: sections 482(2), 484(2), 486(a) and 487(a), to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. Finally, the Committee requests the Government to provide information in this connection, as well as information on the application in practice of the abovementioned sections of the Criminal Code and the Anti-Terrorism Proclamation, including copies of any court decisions specifying the penalties imposed.**

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

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

## Fiji

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1974)

*Article 1(a) of the Convention. Sanctions of imprisonment involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political,*

*social or economic system.* The Committee previously noted the following legislative provisions, which are worded in such general terms that may lead to the imposition of penalties involving compulsory labour (by virtue of section 43(1) of the Prisons and Corrections Act 2006) for activities that could be linked to the expression of political views or views ideologically opposed to the established political, social and economic order:

Public Order Act (POA), as amended by the Public Order (Amendment) Decree 2012:

- Section 14, which provides for sanctions of imprisonment for up to three years for using threatening, abusive or insulting words in any public place or any meeting, or behaves with the intent to provoke a breach of peace or whereby such a breach is likely to be occasioned; and having been given by any police officer any directions to disperse or to prevent obstruction or for the purpose of keeping order in any public place, without lawful excuse, contravenes or fails to obey such direction.
- Section 17, which provides for sanctions of imprisonment for up to 10 years for spreading any report or making any statement, which is likely to undermine or sabotage, or attempt to undermine or sabotage the economy or financial integrity of Fiji.

Crimes Decree 1999:

- Section 67(b), (c) and (d), which provides for sanctions of imprisonment for seven years for uttering any seditious words; printing, publishing, selling, offering for sale, distributing or reproducing any seditious publication; or importing any seditious publication.

The Committee notes that the Government indicates in its report that the Public Order Act is in place to ensure the safety of people from acts of terrorism, racial riots, religious and ethnic vilification, hate speech and economic sabotage.

The Committee recalls that the Convention protects persons who express political views or views ideologically opposed to the established political, social or economic system by establishing that in the context of these activities they cannot be punished by sanctions involving an obligation to work. The range of activities protected include the right to freedom of expression exercised orally or through the press and other communications media, as well as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views. While recognizing that certain limitations may be imposed on these rights as normal safeguards for public order to protect society, such limitations must be strictly within the framework of the law. In this respect, the protection provided for by the Convention does not extend to persons who use violence, incite to violence or engage in preparatory acts aimed at violence.

In this respect, the Committee observes that in its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it noted the allegations of the International Trade Union Confederation (ITUC) and the Fiji Trades Union Congress (FTUC) denouncing that permissions for union meetings and public gatherings continued to be arbitrarily refused, and that section 8 of the POA (as amended by the 2012 Decree) has been increasingly used to interfere in, prevent and frustrate trade union meetings and assemblies. The Committee notes in this regard that according to section 10 of the POA, a person who takes part in a meeting or procession for which no permit has been issued or in contravention of the provisions of the POA is liable to a prison sentence (involving compulsory prison labour).

***Therefore, the Committee requests the Government to review sections 10, 14 and 17 of the POA and section 67 (b), (c) and (d) of the Crimes Decree to ensure that, both in law and practice, persons who express political views or views opposed to the established political, social and economic system, including through the exercise of their right to freedom of expression or assembly, are not liable to penal sanctions involving compulsory labour, including compulsory prison labour. The Committee further requests the Government to provide information on the manner in which the above-mentioned***

***legislative provisions are applied in practice, including information on the number of prosecutions initiated, convictions handed down, specific penalties applied and on the facts that led to the convictions, as well as information on the grounds on which permits for public meetings and gatherings are granted or refused.***

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

## Lebanon

### Forced Labour Convention, 1930 (No. 29) (ratification: 1977)

The Committee notes with ***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 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018 and requests the Government to provide its comments in this respect.

*Articles 1(1) and 2(1) of the Convention.* *Vulnerable situation of migrant domestic workers to conditions of forced labour.* In its earlier comments, the Committee noted the observation of 2013 from the International Trade Union Confederation (ITUC), indicating that there are an estimated 200,000 migrant domestic workers employed in Lebanon. These workers are excluded from the protection of the Labour Law, have a legal status tied to a particular employer under the *kafala* (sponsorship) system, and legal redress is inaccessible to them. Moreover, they are subjected to various situations of exploitation, including delayed payment of wages, verbal, and sexual abuse. The Committee also requested the Government to take the necessary measures to ensure that the Bill regulating the working conditions of domestic workers, as well as the Standard Unified Contract (SUC) regulating their work are adopted in the very near future.

The Committee notes the Government's indication in its report that, the Bill regulating the working conditions of domestic workers was drafted in conformity with Domestic Workers Convention, 2011 (No. 189), and the Bill has been submitted to the Council of Ministers for discussion. The Bill will provide a certain number of safeguards, including social security coverage; decent accommodation; the timely payment of wages through bank transfer; hours of work (eight hours per day); sick leave; and a day of rest. The Government also indicates that a Steering Committee has been established under the Ministry of Labour in order to deal with issues related to migrant domestic workers and is composed of relevant Ministerial Departments, representatives of the private recruitment agencies, NGOs, certain international organizations, as well as representatives of certain embassies. A representative from the ILO Decent Work Technical Support Team in Beirut is also participating in the Steering Committee.

Moreover, the Government indicates that the Ministry of Interior and the Ministry of Labour have taken a series of preventive measures, including awareness raising campaigns through the media; the establishment of a shelter "Beit al Aman" for migrant domestic workers who are facing difficulties in collaboration with Caritas; the appointment of social assistants who look into the working conditions of migrant domestic workers in their workplaces; the training of labour inspectors on decent working conditions; and the conclusion of a series of Memoranda of Understanding (MOUs) with sending countries, such as the Philippines, Ethiopia and Sri Lanka. The Government further states that the Ministry of Labour has set up a specialized office for complaints and a hotline to provide legal assistance to migrant domestic workers. Moreover, under the Recruitment Agencies of Migrant Domestic Workers Decree No. 1/168 of 2015, it is prohibited to impose recruitment fees on all workers.

The Committee further notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the various measures adopted by the State party to protect the rights of women migrant domestic workers, including issuing unified contracts, requiring employers to sign up to an insurance policy, regulating employment agencies, adopting a law criminalizing trafficking in persons and integrating such workers into the social charter and the national strategy for social development. The CEDAW, however, expressed concern that the measures have proved insufficient to ensure respect for the human rights of those workers. The CEDAW is equally concerned about the rejection

by the Ministry of Labour of the application by the National Federation of Labour Unions to establish a domestic workers' union, the absence of an enforcement mechanism for the work contracts of women migrant domestic workers, limited access for those workers to health care and social protection and the non-ratification of the Domestic Workers Convention, 2011 (No. 189). The CEDAW was further concerned about the high incidence of abuse against women migrant domestic workers and the persistence of practices, such as the confiscation of passports by employers and the maintenance of the *kafala* system, which place workers at risk of exploitation and make it difficult for them to leave abusive employers. The CEDAW was deeply concerned about the disturbing documented reports of migrant domestic workers dying from unnatural causes, including suicides and falls from tall buildings, and about the failure of the State party to conduct investigations into those deaths (CEDAW/C/LBN/CO/4-5, paragraph 37).

While taking note of the measures taken by the Government, the Committee notes with **concern** that migrant domestic workers are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical abuse. Such practices might cause their employment to be transformed into situations that amount to forced labour. **The Committee therefore urges the Government to strengthen its efforts to provide migrant domestic workers with an adequate legal protection, by ensuring that the Bill regulating the working conditions of domestic workers will be adopted in the very near future and to provide a copy of the legislation, once adopted. The Committee also urges the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and working conditions that amount to forced labour.**

*Article 25. Penal sanctions for the exaction of forced labour.* In its earlier comments, the Committee noted that according to the ITUC's information, it was found that a lack of accessible complaint mechanisms, lengthy judicial procedures, and restrictive visa policies dissuade many workers from filing or pursuing complaints against their employers. Even when workers file complaints, the police and judicial authorities regularly fail to treat certain abuses against domestic workers as crimes. The Committee also noted the Government's indication that section 569 of the Penal Code, which establishes penal sanctions against any individual who deprives another of their personal freedom, applies to the exaction of forced labour. It requested the Government to provide information on any legal proceedings which had been instituted on the basis of section 569 as applied to forced labour and on the penalties imposed.

The Committee further notes that in its 2015 concluding observations, the CEDAW observed that migrant domestic workers face obstacles with regard to their access to justice, including fear of expulsion and insecurity of residence.

The Committee notes the Government's indication that the work of migrant domestic workers is regulated by the SUC and that the application of section 569 of the Penal Code is of the competency of the judiciary when a violation is detected. The Committee also notes copies of court decisions provided by the Government. It observes that the cases are related to non-payment of wages, harassment and working conditions of migrant domestic workers. In all cases employers have been sentenced to pay a monetary penalty to compensate the workers.

While noting this information, the Committee recalls that *Article 25* of the Convention provides that the exaction of forced labour shall be punishable as a penal offence. **The Committee therefore urges the Government to take the necessary measures to ensure that employers who engage migrant domestic workers in situations amounting to forced labour are subject to really adequate and strictly enforced penalties. It requests the Government to provide information on measures taken in this regard.**

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

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

## Madagascar

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2007)

The Committee notes with **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 2022, 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(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for the purposes of economic development.* In its previous comments, the Committee emphasized that national service, as established in Ordinance No. 78-002 of 16 February 1978 setting forth the general principles of national service, is incompatible with *Article 1(b)* of the Convention. Under the terms of section 2 of the Ordinance, all Malagasies are bound by the duty of national service defined as compulsory participation in national defence and in the economic and social development of the country. This compulsory service, which requires citizens to be engaged in defence or development work, involves citizens of both sexes for a maximum period of two years and may be carried out up to the age of 35. The Committee requested the Government to take the necessary measures to bring its legislation into conformity with the Convention.

The Committee notes the Government's indication that, after the processes of registration and review, young national service conscripts have to carry out their service by choosing between two options: (i) being excused for family reasons, in which case conscription is cancelled or deferred for one year, depending on the circumstances; or (ii) continuing vocational training through Action for Development Military Service (SMAD). The objective of the SMAD is therefore to facilitate the integration into active life of young Malagasies who volunteer for national service. The SMAD is established on a voluntary basis for young persons, and the duration of the training is set at 24 months, following which the volunteers are released from their statutory service obligations. These young persons choose between training for rural or urban trades.

The Committee once again recalls that programmes involving the compulsory participation of young persons in the context of military service or, instead of such service, in work for the development of their country, are incompatible with *Article 1(b)* of the Convention, which prohibits the use of compulsory national service as a method of mobilizing labour for the purposes of economic development. It observes that the Ordinance of 1978 provides that all Malagasies are covered by the duty of national service, defined as compulsory participation in national defence and in the economic and social development of the country. ***The Committee firmly requests the Government to take the necessary measures to bring Ordinance No. 78-002 of 16 February 1978 into conformity with the Convention by guaranteeing that compulsory national service is not used as a method of mobilizing labour for the purposes of economic development. In the meantime, the Committee requests the Government to specify the relationship between the service obligations envisaged in the framework of compulsory national service, as set out in the Ordinance of 1978, and participation in SMAD. The Committee further requests the Government to indicate the practical modalities for the implementation of the SMAD and whether young persons who have chosen the SMAD can cancel the training on their own initiative. Finally, the Committee requests the Government to indicate the number of cancellations registered and their consequences.***

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

## Sierra Leone

### Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

*Articles 1(1) and 2(1) of the Convention. Compulsory agricultural work.* For many years, the Committee has been referring to section 8(h) of the Chiefdom Councils Act (Cap. 61), under which compulsory cultivation may be imposed on "natives". On numerous occasions, the Government indicated that this legislation would be amended. The Government also indicated that section 8(h) of the Act was not applied in practice and, as it was not in conformity with article 9 of the Constitution, it was unenforceable. While noting this information, the Committee urged the Government to take the necessary measures to formally repeal section 8(h) of the Chiefdom Councils Act.

The Committee takes due note of the Government's information in its report that the draft Employment Bill provides for the repeal of section 8(h) of the Chiefdom Councils Act, Cap 61. The Government also indicates that though there is no express repeal of section 8(h) of the Chiefdom Councils Act (Cap 61), the issue of communal farming for community purpose is rare due to legislation and rights based campaigns. ***The Committee expresses the firm hope that the Employment Bill which***

***provides for the repeal of section 8(h) of the Chieftdom Council Act will be adopted in the near future. It requests the Government to provide information on any progress made in this regard and to transmit a copy of the repealing legislation, once adopted.***

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

## Syrian Arab Republic

### Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

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

*Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking and sexual slavery.* Following its previous comments, the Committee notes that according to the 2016 Report of the UN Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic to the Human Rights Council, credible information indicates that women and girls trapped in conflict areas under the control of the Islamic State in Iraq and the Levant (ISIL) face trafficking and sexual slavery. Some specific ethnic groups are particularly vulnerable, such as Yazidis and those from ethnic and religious communities targeted by the ISIL (A/HRC/32/35/Add.2, paragraph 65). The Committee also notes that, according to the 2017 Report of the UN Secretary-General on conflict-related sexual violence, thousands of Yazidi women and girls who were captured in Iraq in August 2014 and trafficked to the Syrian Arab Republic continue to be held in sexual slavery, while new reports have surfaced of additional women and children being forcibly transferred from Iraq to the Syrian Arab Republic since the start of military operations in Mosul (S/2017/249, paragraph 69).

The Committee notes the Government's indication in its report that, pursuant to the Prevention of Human Trafficking Act of 2010, a Department to Combat Trafficking in Persons was established. However, since the conflict has erupted, trafficking of persons and sexual slavery have increased because of the presence of terrorist groups in the country. The Committee must express its **deep concern** that, after almost six years of conflict, trafficking in persons and sexual slavery are practices that are still occurring on a large scale on the ground. ***While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee once again urges the Government to take the necessary measures to put an immediate stop to these practices which constitute a serious violation of the Convention and to guarantee that the victims are fully protected from such abusive practices. The Committee recalls that it is crucial that appropriate criminal penalties are imposed on perpetrators so that recourse to trafficking or sexual slavery does not go unpunished. The Committee urges the Government to take immediate and effective measures in this respect, and to provide information on the results achieved.***

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

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

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

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

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* For a number of years, the Committee has been 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 tranquility); and

- the Press Act No. 156 of 1960: sections 15, 16 and 55 (publishing a newspaper for which an authorization has not been granted by the Council of Ministers).

The Committee also previously noted that the abovementioned provisions are enforceable with sanctions of imprisonment for a term of up to one year which involves an obligation to perform labour in prison.

The Committee notes the Government's indication in its report that the Press Act of 1960 had been repealed and replaced by the Media Act No. 108 of 2011, under which the penalty of imprisonment has been replaced by a fine. The Government also indicates that a draft Penal Code has been prepared and is in the process of being adopted. ***The Committee expresses the firm hope that, during the process of the adoption of the new Penal Code, the Government will take all the necessary measures to ensure that persons who express political views or views opposed to the established political, social or economic system benefit from the protection afforded by the Convention and that, in any event, penal sanctions involving compulsory prison labour cannot be imposed on them.***

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

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

## Turkmenistan

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021, which refer to issues examined by the Committee in the present comment. ***It requests the Government to provide a reply to the ITUC observations.***

### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the detailed discussion, which took place at the 109th Session of the Conference Committee on the Application of Standards in June 2021.

*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 2021, the Conference Committee urged the Government to take effective and time-bound measures to: (i) ensure, in law and in practice that no one, including farmers, public and private sector workers and students, is forced to work for the state-sponsored cotton harvest, or threatened with punishment for the lack of fulfilment of production quotas; (ii) report on the status of section 7 on the recruitment of citizens to work in enterprises, institutions and organizations in cases of emergencies of the Act on the legal regime governing emergencies of 1990; (iii) eliminate the compulsory quota system for production and harvesting of cotton; (iv) prosecute and sanction appropriately any public official who participates in the forced mobilization of workers for the cultivation or harvest of cotton; (v) develop, in consultation with the social partners and with ILO technical assistance, an action plan aimed at eliminating, in law and practice, forced labour in connection with state-sponsored cotton harvesting, and improving recruitment and working conditions in the cotton sector in line with International Labour Standards; and (vi) allow independent social partners, press and civil society organizations, to monitor and document any incidences of forced labour in the cotton harvest without fear of reprisals.

In its previous comments, the Committee noted with deep concern the continued practice of forced labour in the cotton sector. It also observed that there had been no meaningful progress to address the issue of mobilization of persons for forced labour in the cotton harvest since the discussion of the case by the Conference Committee in June 2016 and the following visit of an ILO technical advisory mission to the country.

The Committee also noted that the United Nations Committee on Economic, Social and Cultural Rights, in its concluding observations of 2018, expressed concern at the reported continued widespread use of forced labour among workers and students under threat of penalties during the cotton harvest (E/C.12/TKM/CO/2, paragraph 23). It also noted from the Summary of Stakeholders' submissions of 2018 to the United Nations Human Rights Council that people forced to pick cotton had been compelled to sign declarations on "voluntary" participation in the harvest (A/HRC/WG.6/30/TKM/3, paragraph 49).

The Committee noted the ITUC's observations of 2020 alleging the widespread use by the State of forced labour in cotton harvesting. The ITUC indicated in particular that, during the 2019 cotton harvest, public sector employees, including teachers, doctors, municipal service and utility companies' employees, continued to be mobilized for cotton picking or forced to pay for replacements pickers. For the second time in 15 years, teachers were forced to spend their nine-day autumn break picking cotton. Those unable or unwilling to pick cotton had to pay a substantial part of their income. As of October 2019, teaching staff had each paid 285 Turkmenistan manats (US\$16) while their average monthly income is around US\$90.

In this respect, the Committee notes the Government's statement in the written information provided to the Conference Committee that, for the period 2015–20, the percentage of manually harvested cotton dropped from 71 per cent to 28 per cent due to the mechanization of cotton harvesting. The Government points out that the prevalent use of harvesting machines in the process of picking cotton demonstrates the absence of the need to massively involve human resources in this process.

The Committee further notes the Government's statement, in its communication dated 25 October 2021, that it has accepted a high-level mission of the ILO, as requested by the Conference Committee.

The Committee also notes the indication by the Government, in its report, that the policy of the Government is aimed at the maximum automation of manual labour in the agricultural sector and that the use of public sector employees' labour in picking cotton is not economically viable. The Government further indicates an absence of a system of mandatory quotas for the production of cotton in Turkmenistan and that the conditions of cotton production, including its volume and the purchase price, are regulated by a contract concluded between the State and a tenant. The Government also indicates that no cases of forcing citizens to pick cotton or the coercion of payments by citizens of funds intended for cotton harvesting have been registered by the law enforcement bodies.

The Committee takes note of the indication by the Government that the Act on the legal regime governing emergencies of 1990 was repealed by the State of Emergency Act of 2013 (section 31(2)) and that a state of emergency has never been introduced in Turkmenistan. The Committee also takes note of the National Human Rights Action Plan (NAP) 2021–2025 elaborated with the participation of a wide range of stakeholders. The Government indicates that the NAP 2021–2025 has a section on freedom of labour which foresees various measures particularly aimed at preventing the use of forced labour by ensuring compliance with legislation and strengthening control over its observance. In this respect, the Government points out that the NAP 2021–2025 can serve as a basis for addressing the issues raised by the Conference Committee.

The Committee however notes that, in its 2021 observations, the ITUC reiterates once again the systemic recourse to the use by the State of forced labour in picking cotton. In particular, during the 2020 cotton harvest, public sector employees and students continued to be mobilized to work in cotton fields. The ITUC indicates that mobilized persons are forced to work excessively long hours in poor sanitary conditions without protective equipment. As previously highlighted by the ITUC, in order not to participate in the cotton harvesting, persons had to pay the amounts representing a substantial part of their income for replacement pickers. The ITUC points out that the mechanization of the cotton

harvesting process does not seem to offer the necessary guarantees in order to put a lasting end to the systematic practice of forced labour in Turkmenistan.

The Committee further notes that the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, in the communication dated 30 August 2021 to the Government of Turkmenistan, expressed his deep concern about the working and living conditions of cotton workers. The Special Rapporteur indicates that, according to the information received, tens of thousands of citizens, public sector workers and workers of private companies are subjected to forced labour, as they are coerced to work in the cotton fields under the threat of dismissal from their own jobs. Cotton workers reportedly have to pay for their own transport, accommodation and food and they do not receive their wages or have very low salaries. Furthermore, workers do not have access to medical assistance when needed and they cannot afford medical care themselves due to their low incomes. If the cotton production quotas imposed by the State are not met, agricultural associations, enterprises and organizations, schools, construction organizations, public utilities services and hospitals of the respective region can be obliged to supply cotton, by purchasing cotton elsewhere.

While noting certain measures taken by the Government to address the issue of forced labour in cotton harvesting, including measures aimed at the reduction of manual harvesting, the Committee once again expresses its **deep concern** at the continued practice of forced labour in the cotton sector. ***Taking due note of the Government's stated commitment to collaborate with the ILO and implement this Convention, the Committee strongly urges the Government to pursue its efforts to ensure the complete elimination of the use of compulsory labour of public and private sector workers as well as students in cotton production. The Committee strongly encourages the Government to continue to engage in cooperation with the ILO and the social partners to ensure the full application of the Convention in practice. In this regard, it encourages the Government to consider developing a National Action Plan, in close collaboration with the social partners and the ILO, to improve recruitment and working conditions in the cotton sector. It requests the Government to provide information on the measures taken to this end and the concrete results achieved. The Committee welcomes the Government's acceptance of the high-level mission requested by the Conference Committee, which will visit the country in 2022, and trusts that the high-level mission will be able to note significant progress in this respect.***

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

***[The Government is requested to reply in full to the present comments in 2022.]***

## Uganda

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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 referring to the following provisions of the national legislation, under which penal sanctions involving compulsory prison labour, by virtue of section 62 of the Prisons Regulations, may be imposed:*

- the Public Order and Security Act, No. 20 of 1967, empowering the executive to restrict an individual's association or communication with others, independently of the commission of any offence and subject to penalties involving compulsory labour; and

- sections 54(2)(c), 55, 56 and 56(a) of the Penal Code, empowering the minister to declare any combination of two or more people an unlawful society and thus render any speech, publication or activity on behalf of, or in support of, such a combination, illegal and punishable with imprisonment (involving an obligation to perform labour).

The Committee requested the Government to take the necessary measures to ensure that the above provisions are amended or repealed so as to ensure the compatibility of the legislation with the Convention.

The Committee notes the Government's indication in its report that both the Public Order and Security Act and the Penal Code are in conformity with the Convention.

However, the Committee notes the statements made by a certain number of governments in the 2016 report of the Working Group on the Universal Periodic Review (report to the UN Human Rights Council (HRC)), recommending the amendment of the Public Order Management Act of 2013, in order to ensure full respect of freedom of association and peaceful demonstration (A/HRC/34/10, paragraphs 115.101, 117.8, 117.18 and 117.52). Moreover, the Committee notes that, according to the Report of the HRC of 2017, a certain number of stakeholders regretted that Uganda failed to fully implement its commitments from the first Universal Periodic Review regarding freedom of expression, peaceful assembly and association. They also expressed concern over physical assaults on journalists and the harassment of political activists as well as human rights defenders, and urged for reforms to the Penal Code, the Press and Journalists Act and the Public Order Management Act of 2013 (A/HRC/34/2, paragraphs 688, 692, 693 and 694).

The Committee further notes with **concern** that penalties of imprisonment (involving compulsory prison labour) may be imposed under the following provisions of the Public Order Management Act, 2013: section 5(8) (disobedience of statutory duty in case of organizing a public meeting without any reasonable excuse); and section 8(4) (disobedience of lawful orders during public meetings).

In this regard, the Committee is bound to recall that *Article 1(a)* of the Convention prohibits all recourse to sanctions involving an obligation to perform labour, as a means of political coercion or as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system. It also points out that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are covered by the Convention, as long as they do not resort to, or call for, violent means to these ends. ***In light of the above considerations, the Committee urges the Government to take the necessary measures to ensure that the abovementioned provisions of the Public Order and Security Act, No. 20 of 1967, the Penal Code, and the Public Order Management Act of 2013 are amended or repealed so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requests the Government to provide information on measures taken in this regard.***

*Article 1(d)*. *Penal sanctions involving compulsory labour as a punishment for having participated in strikes.* The Committee previously noted that the Labour Disputes (Arbitration and Settlement) Act, 2006, contains provisions concerning the resolution and settlement of labour disputes which could lead to the imposition of compulsory arbitration procedures, thus making strikes or other industrial action unlawful. Strikes may be declared unlawful, for example, where the minister or the labour officer refers a dispute to the Industrial Court (section 28(4)) or where the Industrial Court makes an award which has come into force (section 29(1)). The organization of strikes in these circumstances is punishable with imprisonment (involving compulsory prison labour) pursuant to sections 28(6), 29(2) and (3) of the Act, and the Committee accordingly reminded the Government that such penalties were not in conformity with the Convention. In addition, the Committee noted that, under section 34(5) of the Labour Disputes (Arbitration and Settlement) Act, 2006, the minister may refer disputes in essential services to the Industrial Court, thus making illegal any collective withdrawal of labour in such services, with violation of this prohibition being punishable with imprisonment (involving an obligation to perform labour) (section 33(1) and (2) of the Act). The Committee requested the Government to take the necessary measures to bring the abovementioned provisions of the Labour Disputes (Arbitration and Settlement) Act, 2006 into conformity with the Convention.

The Committee notes the absence of information on this point in the Government's report. ***The Committee therefore once again requests the Government to take the necessary measures to bring the abovementioned provisions of the Labour Disputes (Arbitration and Settlement) Act, 2006, into conformity***

*with the Convention, either by removing the penalties of imprisonment involving compulsory labour, or restricting their scope to essential services in the strict sense of the term (namely those services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population), or to situations of acute national crisis. The Committee requests the Government to provide information on measures taken in this regard.*

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

## Zimbabwe

### Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1998)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2021.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the detailed discussion, which took place at the 109th Session of the Conference Committee on the Application of Standards in June 2021, concerning the application by Zimbabwe of the Convention.

The Conference Committee deplored the continued use of penal sanctions involving compulsory labour as a punishment for the expression of views opposed to the established political or social system. It urged the Government to ensure that no penalties involving forced labour may be imposed so as to be in compliance with *Articles 1(a) and 1(d)* of the Convention; and to repeal or amend sections 31, 33, 37 and 41 of the Criminal Law (Codification and Reform) Act No 23/2004 (Cap. 9:23) (Criminal Law Code), sections 7(5) and 8(11) of the Maintenance of Peace and Order Act No. 9 of 2019 (MOPA), and sections 102(b), 104(2)–(3), 109(1)–(2), and 112(1) of the Labour Act in order to bring them into conformity with the Convention in consultation with the social partners without delay. The Committee urged the Government to avail itself of technical assistance and to report to the Committee of Experts, prior to its 2021 session.

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of views opposed to the established political, social or economic system.* In its earlier comments, the Committee noted that penalties of imprisonment (involving compulsory prison labour by virtue of section 76(1) of the Prisons Act (Cap. 7:11) and section 66(1) of the Prisons (General) Regulations 1996) may be imposed under various provisions of national legislation in circumstances falling within *Article 1(a)* of the Convention, namely:

- sections 31 and 33 of the Criminal Law (Codification and Reform) Act (Cap. 9:23) (Criminal Law Code) concerning publishing or communicating false statements prejudicial to the State; undermining authority of or insulting the President etc.; and
- sections 37 and 41 of the Criminal Law Code under which sanctions of imprisonment may be imposed, inter alia, for participating in meetings or gatherings with the intention of disturbing the peace, security or order of the public, uttering any words or distributing or displaying any writing, sign or other visible representation that is threatening, abusive or insulting, intending thereby to provoke a breach of peace; and engaging in disorderly conduct in public places with similar intention;
- sections 7(5) and 8(11) of the MOPA, which provide for sanctions of imprisonment for failure to give notice of processions, public demonstrations and public meetings; and failure to comply with a prohibition notice or any directions or conditions under which a procession, public demonstration or public meeting is authorized.

The Committee noted the ZCTU's observation that the MOPA, which repealed the Public Order Security Act (POSA), was more draconian than the POSA. It also noted the statement made by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, in 2019 that the MOPA has worrying similarities to the POSA and that it does not fully guarantee the exercise of the right to peaceful assembly. It continues to give law enforcement agencies broad regulatory discretion and powers.

The Committee notes the Government's statement in its written information provided to the Conference Committee that the 20 ZCTU members who were arrested under section 37 of the Criminal Law for having participated in a ZCTU organized protest action in October 2018, which the Committee noted in its previous comments, were acquitted by the court on 12 November 2020. It also notes the reference made by the Government representative, during the Conference Committee discussion, to section 9 of the MOPA which explicitly exempts certain gatherings and meetings from the requirements stipulated under sections 7 and 8, including meetings convened by registered unions for bona fide trade union purposes for the conduct of business, in accordance with the Labour Act [Chapter 28:01]; and public gatherings for bona fide religious or educational purposes, or those held by members of professional, vocational or occupational bodies for non-political purposes.

The Committee, however, notes that, in its observations, the ITUC reiterates that workers in Zimbabwe still face penal sanctions involving compulsory labour as a punishment for expressing views opposed to the established political, social or economic system. It states that the criminal provisions, together with their prison terms and compulsory prison labour, are used to drag trade union leaders and workers seeking to exercise their civil liberties and fundamental rights through the criminal justice system. The ITUC points out that while the failure to notify the authorities of the intention of holding a public gathering and violations of the prohibition of public gatherings or public demonstration are punishable with imprisonment of up to six months under the POSA, similar offences under sections 7(5) and 8(11) of the MOPA are punishable with one year imprisonment. The ITUC recalls that compulsory labour is by virtue of the Prisons Act and that section 76(1) of the Prisons Act and section 66(1) of the Prisons Regulations make compulsory prison labour, in practice, the norm for all prisoners. In this regard, the ITUC refers to the arrests of two ZCTU leaders in 2019 following a protest action, who were convicted and sentenced to imprisonment for a period of twenty years, as well as the arrest in December 2020 of an officer of the Amalgamated Rural Teachers Union of Zimbabwe (ARTUZ) who was convicted, under section 37 of the Criminal Code, after a trade union protest action against the erosion of teachers' salaries by the Government. She was jailed for 16 months and underwent compulsory prison labour.

The Committee notes the Government's information in its report that the prison system in Zimbabwe went through a transformation focusing on rehabilitation of offenders for integration into society and that the use of labour in prisons has been outlawed. In order to give effect to this transformation and to bring it into conformity with the Convention, the Prisons Act is currently being amended. The Government also states that pending the promulgation of this amendment, Prison Officers have been given policy directives to discontinue administering labour in prisons. Hence, the provisions of the MOPA and the Criminal Law Code, in question, are no longer applied in practice. The Committee further notes a copy of the ILO Roadmap on Strengthening International Labour Standards observance and Social Dialogue in Zimbabwe provided by the Government, which indicates the Government's readiness to engage in tripartite dialogue to address some of the existing challenges, including to unpack the MOPA and to facilitate a direct contacts mission to discuss issues of forced labour raised by the Conference Committee.

In addition, the Committee notes that the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his report of May 2020, on his visit to Zimbabwe, acknowledged restrictions against those representing dissenting voices and expressed concern about the application of section 22 (subverting constitutional Government) of the Criminal Law Code to prosecute human rights defenders, and civil society and opposition leaders suspected of having played

important roles in protests, which could lead to imprisonment for up to 20 years (A/HRC/44/50/Add.2, paragraphs 63 and 64).

While taking due note of certain measures taken by the Government to address the issues related to compulsory prison labour, the Committee expresses its **concern** that the practice of arrests, prosecutions and convictions involving the imprisonment of persons exercising their right to peaceful assembly still continues and that the legal basis for imposing labour on a person sentenced to imprisonment still exists. In this respect the Committee recalls that *Article 1(a)* of the Convention prohibits the imposition of any form of compulsory labour, including compulsory prison labour, as a punishment for expressing political views or views opposed to the established political, social or economic system. **Accordingly, in light of the proposed amendments to the Prisons Act prohibiting compulsory prison labour, the Committee strongly urges the Government to take the necessary measures to review sections 31, 33, 37 and 41 of the Criminal Law Code and sections 7(5) and 8(11) of the MOPA, so as to ensure that, both in law and in practice, no penalties involving compulsory labour shall be imposed on any person in relation to their holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee requests the Government to provide information on any progress made in this regard as well as with regard to the amendments made to the Prisons Act. Pending the adoption of such measures, the Committee requests the Government to provide information on the application of the above-mentioned provisions in practice, supplying copies of the court decisions and indicating the penalties imposed.**

*Article 1(d)*. Penal sanctions involving compulsory labour as a punishment for having participated in strikes. In its earlier comments, the Committee noted certain provisions of the Labour Act (sections 102(b), 104(2)–(3), 109(1)–(2), and 122(1)) that establish sanctions of imprisonment, which involves compulsory prison labour, for persons engaged in an unlawful collective action. The Committee noted the Government's indication that these sections of the Labour Act were included in the draft Principles for the Harmonization and Review of Labour Laws in Zimbabwe. Noting an absence of information in the Government's report and the lack of progress in the labour law reform, the Committee strongly urged the Government to ensure that the above-mentioned sections of the Labour Act are amended in conformity with *Article 1(d)* of the Convention so that no sanctions of imprisonment may be imposed for organizing or peacefully participating in strikes.

The Committee notes from the Government's written information to the Conference Committee that the Labour Amendment Bill which repeals sections 102(b), 104(2)–(3), 109(1)–(2) and 122 of the Labour Act, is in the process of being adopted. According to the Government's report the Bill has been approved by the Cabinet Committee on 28 September, 2021 and is now pending in Parliament. The Government indicates that the Labour Amendment Bill is a product of extensive consultations with social partners and relevant stakeholders to bring the Labour Act into conformity with the comments made by the ILO supervisory bodies. **The Committee expresses the firm hope that the Labour Amendment Bill, which repeals sections 102(b), 104(2)–(3), 109(1)–(2) and 122 of the Labour Act, will be adopted in the near future. It requests the Government to provide information on the progress made in this regard as well as to provide a copy, once it has been adopted.**

**The Committee encourages the Government to continue to avail itself of ILO technical assistance in its efforts to bring its law and practice into compliance with the provisions of the Convention.**

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 29** (Albania, Algeria, Angola, Armenia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Chile, Colombia, Comoros, Congo, Côte d'Ivoire,

*Cyprus, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Finland, Ghana, Haiti, Lebanon, Madagascar, Netherlands: Aruba, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, South Sudan, Syrian Arab Republic, Uganda);*  
**Convention No. 105** *(Afghanistan, Albania, Algeria, Angola, Azerbaijan, Bahamas, Bangladesh, Barbados, Belize, Benin, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Central African Republic, Chad, Chile, China: Hong Kong Special Administrative Region, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Grenada, Lebanon, Netherlands: Aruba, Saint Vincent and the Grenadines, Sierra Leone, Solomon Islands, South Sudan, Syrian Arab Republic, Tajikistan, Turkmenistan, Zimbabwe).*

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

### Afghanistan

#### Minimum Age Convention, 1973 (No. 138) (ratification: 2010)

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

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee previously noted the implementation of the various measures taken by the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) to prevent child labour, including: the National Child Labour Strategy, 2012, followed by a National Action Plan to prevent child labour in brick kilns; a National Strategy for the Protection of Children at Risk; and a National Strategy for Working Street Children, 2011. However, the Committee noted, that children in Afghanistan are engaged in child labour and often in hazardous conditions, including in agriculture, carpet weaving, domestic work, street work, and brick making. Moreover, 27 per cent of children between the ages of 5 and 17 years (2.7 million children) are engaged in child labour with a higher proportion of boys (65 per cent). Of this, 46 per cent are children between 5 and 11 years of age. At least half of all child labourers are exposed to hazardous working conditions such as dust, gas, fumes, extreme cold, heat or humidity. Moreover, 56 per cent of brick makers in Afghan kilns are children and the majority of these are 14 years of age and below.

The Committee notes that the Government's report contains no new information in this regard. The Committee once again notes with **concern** that a significant number of children under the age of 14 years are engaged in child labour, of which at least half are working in hazardous conditions. **The Committee therefore urges the Government to strengthen its efforts to ensure the progressive elimination of child labour in all economic activities, both in the formal and informal sectors, and requests that the Government provide information on the measures taken in this regard, as well as the results achieved.**

*Article 2(1). Scope of application.* The Committee noted that according to sections 5 and 13 of the Labour Law, read in conjunction with the definition of a "worker", the Law applies only to labour relations on a contractual basis and, therefore, that the provisions of the Labour Law did not appear to cover the employment of children outside a formal employment relationship, such as children working on their own account or in the informal economy.

Noting the absence of information provided in this regard in the Government's report, the Committee recalls that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not there is a contractual employment relationship. **The Committee therefore requests, once again, that the Government take the necessary measures to ensure that all children, including children working outside a formal employment relationship such as children working on their own account or in the informal economy, benefit from the protection laid down by the Convention. In this regard, the Committee encourages, once more, the Government to review the relevant provisions of the Labour Law in order to address these gaps as well as to take measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.**

*Article 7(1) and (3). Minimum age for admission to light work and determination of light work.* The Committee previously noted that section 13(2) of the Labour Law sets 15 years as the minimum age for employment in light work in industries and section 31 prescribes a weekly working period of 35 hours for young persons between 15 and 18 years of age. It observed that the minimum age for light work of 15 years is higher than the minimum age for admission to employment or work of 14 years, specified by Afghanistan.

Noting the absence of information provided in this regard by the Government, the Committee once again draws the Government's attention to the fact that *Article 7(1)* of the Convention is a flexibility clause which provides that national laws or regulations may permit the employment or work of persons aged 13–15 years in light work activities which are not likely to be harmful to their health or development and not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received.

The Committee notes the lack of information contained in the Government's report and recalls once again that *Article 7(4)* permits member States who have specified a general minimum age for admission to employment or work of 14 years to substitute a minimum age for admission to light work of 12–14 years to that of the usual 13–15 years of age (see General Survey on the fundamental Conventions, 2012, paragraphs 389 and 391). ***In view of the fact that a high number of children under 14 years of age are engaged in child labour in the country, the Committee once again requests that the Government regulate light work activities for children between 12 and 14 years of age to ensure that children who, in practice, work under the minimum age are better protected. The Committee also requests that the Government take the necessary measures to determine light work activities that children of 12–14 years of age are permitted to undertake and to prescribe the number of hours and conditions of such work, pursuant to Article 7(3) of the Convention.***

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

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2010)**

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

The Committee notes the observations of the International Organisation of Employers (IOE) received on 30 August 2017, and the in-depth discussion on the application of the Convention by Afghanistan in the Committee on the Application of Standards at the 106th Session of the International Labour Conference in June 2017.

#### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)***

*Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery or practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for use in armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration.* In its previous comments, the Committee noted that the Law on prohibiting the recruitment of child soldiers criminalizes the recruitment of children under the age of 18 years into the Afghan Security Forces. The Committee also noted that a total of 116 cases of recruitment and use of children, including one girl, were documented in 2015. Out of these: 13 cases were attributed to the Afghan National Defence and Security forces; five to the Afghan National Police; five to the Afghan Local Police; and three to the Afghan National Army; while the majority of verified cases were attributed to the Taliban and other armed groups who used children for combat and suicide attacks. The United Nations verified 1,306 incidents resulting in 2,829 child casualties (733 killed and 2,096 injured), an average of 53 children were killed or injured every week. A total of 92 children were abducted in 2015 in 23 incidents.

In this regard, the Committee noted the following measures taken by the Government:

- The Government of Afghanistan signed an Action Plan with the United Nations on 30 January 2011 to end and prevent the recruitment and use of children by the Afghan National Security Forces, including the Afghan National Police, Afghan Local Police and Afghan National Army.
- A road map to accelerate the implementation of the Action Plan was endorsed by the Government on 1 August 2014.
- The Government endorsed age-assessment guidelines to prevent the recruitment of minors.
- In 2015 and early 2016, three additional child protection units were established in Mazar e Sharif, Jalalabad and Kabul, bringing the total to seven. These units are embedded in Afghan National Police recruitment centres and are credited with preventing the recruitment of hundreds of children.

The Committee notes that the Conference Committee recommended that the Government take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children into armed forces and groups. It further recommended the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in law and practice. Finally,

the Conference Committee recommended the Government to take effective and time-bound measures to provide for the rehabilitation and social integration of children who are forced to join armed groups.

The Committee notes the IOE's indication that children are engaged in armed conflict in Afghanistan. The Committee notes the Government representative's indication to the Conference Committee that the Law on the Prohibition of Children's Recruitment in the Armed Forces (2014), along with other associated instruments, has helped prevent the recruitment of 496 children into national and local police ranks in 2017. Moreover, the Ministry of Interior, in cooperation with relevant government agencies, was effectively implementing Presidential Decree No. 129 which prohibits, among others, the use or recruitment of children in police ranks. Inter-ministerial commissions tasked with the prevention of child recruitment in national and local police have been established in Kabul and the provinces, and child support centres have been set up in 20 provinces, with efforts under way to establish similar centres in the remaining provinces. Finally, the Committee notes the Government's indication that the National Directorate of Security has recently issued Order No. 0555, prohibiting the recruitment of underage persons and that the Order is being implemented in all security institutions and monitored by national and international human rights organizations. **While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee requests the Government to continue its efforts in taking immediate and effective measures to put a stop, in practice, to the recruitment of children under 18 years by armed groups, the national armed forces and police authorities, as well as measures to ensure the demobilization of children involved in armed conflict. It once again urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice. Finally, it requests the Government to take effective and time-bound measures to remove children from armed groups and armed forces and ensure their rehabilitation and social integration, and to provide information on the measures taken in this regard and on the results achieved.**

*Articles 3(b) and 7(2)(b). Use, procuring or offering of children for prostitution and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.* The Committee previously noted that concerns remained regarding the cultural practice of *bacha-bazi* (dancing boys), which involves the sexual exploitation of boys by men in power, including the Afghan National Defence and Security Forces' commanders. It also noted that there are many child victims of *bacha-bazi*, particularly boys between 10 and 18 years of age who have been sexually exploited for long periods of time. The Committee further noted that some families knowingly sell their children into forced prostitution, including for *bacha-bazi*.

The Committee notes that the Conference Committee recommended the Government to take immediate and effective measures to eliminate the practice of *bacha-bazi*. It also recommended the Government to take effective and time-bound measures to provide for the rehabilitation and social integration of children who are sexually exploited.

The Committee notes the Government representative's indication to the Conference Committee that the Child Protection Law has been submitted to Parliament for adoption and makes the practice of *bacha-bazi* a criminal offence. The Committee also notes the new Law on Combating Human Trafficking in Persons and Smuggling of Migrants of 2017 (Law on Human Trafficking of 2017). It notes that section 10(2) of this Law punishes the perpetrator of trafficking to eight years' imprisonment when the victim is a child or when the victim is exploited for the purpose of dancing. **The Committee urges the Government to take the necessary measures to ensure the effective implementation of the prohibition contained in section 10(2) of the Law on Human Trafficking of 2017. It requests the Government to provide information on the results achieved to effectively eliminate the practice of *bacha-bazi*, to remove children from this worst forms of child labour and to provide assistance for their rehabilitation and social integration. It also requests the Government to provide information on the adoption of the Child Protection Law, and its effective implementation.**

*Article 7(2). Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour and taking into account the special situation of girls. Access to free basic education.* The Committee previously noted the Government's statement that as a result of the past three decades of conflict, insecurity and drought, children and youth are the most affected victims, a majority of whom are deprived of proper education and training. The Committee noted that Afghanistan is among the poorest performers in

providing sufficient education to its population. A large number of boys and girls in 16 out of 34 provinces had no access to schools by 2013 due to insurgents' attacks and threats that lead to the closure of schools. In addition to barriers arising from insecurity throughout 2015, anti-government elements deliberately restricted the access of girls to education, including closure of girls' schools and a ban on girls' education. More than 369 schools were closed partially or completely, affecting at least 139,048 students, and more than 35 schools were used for military purposes in 2015. Finally, the Committee noted the low enrolment rate of girls, in particular at the secondary school level, high dropout rates especially in rural areas owing to a lack of security in the journey to and from school, and the increased number of attacks on girls' schools and written threats warning girls to stop going to school by non-state armed groups.

The Committee notes the Government representative's statement at the Conference Committee that many households respond to poverty by taking their children out of school and forcing them into labour. The Government indicates that child labour is not only a law enforcement matter but a fundamental problem which requires a comprehensive understanding and a robust response mechanism. With a view to providing preschool support to children under the age of six, the Ministry of Labour, Social Affairs, Martyrs and Disabled has established over 366 local kindergartens which house over 27,000 children. The Government also indicates it is taking strong action against the exploiters as well as the families who knowingly force their children into prostitution and expects a sharp decline in the practice in the coming years. Finally, the Committee notes the Government's indication that school burnings and the imposition of bans in Taliban-controlled areas prevented girls and children from attending school. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to raise awareness among households that education is key in preventing the engagement of children in the worst forms of child labour. Additionally, it once again urges the Government to take the necessary measures to improve the functioning of the education system and to ensure access to free basic education, including by taking measures to increase the school enrolment and completion rates, both at the primary and secondary levels, particularly of girls.***

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

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

## Albania

### Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the adoption of the Law No. 18/2017 on the right and protection of children which provides, among others, for the right of every child to free and quality education and the right to protection from economic exploitation. The Committee also noted the various measures in the field of social protection and inclusion; protection from all forms of violence, abuse and economic exploitation; and the right to quality and comprehensive education implemented under the Action Plan for Children 2012–15.

The Committee notes the information provided by the Government in its report that the Decision of the Council of Ministers No. 129 of 13 March 2019 (Decision No. 129) establishes the procedures for the identification, immediate assistance, and referral of economically exploited children. Following Decision No. 129, in 2019, the field teams on the identification of economically exploited children were set up in 22 municipalities. Some 272 working children were identified in 2019 by the field teams and 150 in 2020. The Government indicates that the identified children received the necessary services, including medical care and placement in social care institutions and day care centres. The Committee also notes the adoption of the National Action Plan for the Protection of Children from Economic Exploitation, including Children in Street Situations for 2019–2021 (National Action Plan for 2019–2021) by the Decision of the Council of Ministers No. 704 of 21 October 2019. According to the 2019 periodic report of Albania to the Committee on the Rights of the Child, the main objectives of the National Action Plan for 2019–2021 are the prevention of children's economic exploitation; protection based on the

identified needs of the child; breaking the social and cultural barriers that provoke economic exploitation; and prosecution of the criminal cases related to the economic exploitation of children (CRC/C/ALB/5-6, paragraph 241). **The Committee requests the Government to continue to pursue its efforts to combat child labour and to provide information on the specific measures taken, particularly under the framework of the National Action Plan for 2019–2021, and the results achieved in this regard. The Committee further requests the Government to provide information on the application of the Convention in practice, including statistical data on the employment of children and young persons by age group and gender.**

*Article 2(1). Scope of application and labour inspection. Self-employed children or children working in the informal sector.* The Committee previously noted that section 3(1) of the Labour Code and the Regulation “On the Protection of Children at Work Decision No 108/2017” exclude, from their applicability, children engaged in work outside of an employment agreement, such as self-employed children or those working in the informal sector. The Committee further noted the measures taken by the Government to strengthen the labour inspection system to effectively monitor and enforce labour legislation, including in cases of finding informal employment.

The Committee notes the indication by the Government that in 2019, the State Labour Inspectorate and Social Services (SLISS) identified 255 working children under 18 years of age (88 girls and 167 boys), most of whom were working in manufacturing and trade. In January–March 2021, the SLISS identified 17 working children under 18 years of age. The Committee also notes the elaboration of a guide for labour inspectors on the identification of child labour for its effective monitoring. The Government further indicates that in 2019, 118 labour inspectors received training on the application of Decision No. 129, according to which labour inspectors shall immediately report on identified cases of child labour to the child protection officer. The Government also indicates that, due to the new structure of the SLISS established by virtue of the Prime Minister’s Order No. 156 of 24 November 2020, the total number of employees of the SLISS has increased from 154 to 165. The Committee, however, notes its comments on the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) indicating the need to take measures to ensure the provision of suitably equipped offices and necessary transport facilities to labour inspectors and the low percentage of the inspection visits carried out in agriculture. **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, and prevent and remedy conditions that inspectors have reasonable cause to believe constitute a threat to the health or safety of children, including children working on their own account as well as in agriculture and the informal economy. It also requests the Government to provide statistical information on the number and nature of violations detected by the SLISS related to children engaged in child labour.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes the observations of the Education International (EI), the Trade Union Federation of Education and Science of Albania (FSASH), and the Independent Trade Union of Education of Albania (SPASH) received on 3 September 2021.

*Article 3(a) of the Convention. Sale and trafficking of children for commercial sexual exploitation.* The Committee previously noted that, in its conclusions adopted in June 2015, the Conference Committee on the Application of Standards urged the Government to effectively enforce anti-trafficking legislation and to take measures for its effective implementation in practice. The Committee further noted that in 2016, 16 girls were identified as subject to sex trafficking.

The Committee notes the information provided by the Government in its report indicating a number of training activities on trafficking in persons conducted for police officers as well as their collaboration with the relevant child protection bodies. The Government also indicates that child-friendly facilities have been installed in several police stations to ensure qualitative interviewing of

children, including victims of trafficking, adapted to their age. The Committee further takes note of the regulations issued for police officers on the treatment of child victims during the investigation.

The Committee notes the Government's information that in 2019, 67 potential child victims of trafficking were identified. The Government indicates that according to the data of the State Police, in 2019, 7 cases, involving 17 offenders, were identified under section 128(b) (trafficking of minors) of the Criminal Code. The Government further indicates that in 2019, there were 6 cases, involving 2 defendants, investigated by the General Prosecutor's Office and 2 persons convicted with 15 years of imprisonment by the Special Court of First Instance for Corruption and Organized Crime under section 128(b) of the Criminal Code. The Committee, however, notes that in its 2020 report concerning the implementation by Albania of the Council of Europe Convention on Action against Trafficking in Human Beings, the Group of Experts on Action against Trafficking in Human Beings (GRETA) expressed concern at the low number of convictions for trafficking in persons, including trafficking of children, and urged the Albanian authorities to take additional measures to ensure that cases of trafficking in persons are investigated proactively, prosecuted effectively, and lead to effective, proportionate and dissuasive sanctions (paragraphs 88, 89). The Committee further notes that the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), in its concluding observations, expressed deep concern that Albania is a source, transit and destination country for victims of trafficking, including for women and children subjected to sex trafficking and forced labour (CMW/C/ALB/CO/2, paragraph 69). ***The Committee urges the Government to continue to take the necessary measures to ensure that thorough investigations and prosecutions are carried out in respect of persons who engage in the trafficking of children, and that sufficiently effective and dissuasive penalties are imposed in practice. It further requests the Government to provide information on the application of section 128(b) of the Criminal Code in practice, including statistics on the number of investigations, prosecutions, convictions and penalties imposed.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (c). Preventing the engagement of children in the worst forms of child labour and ensuring their access to free basic education. Children from Roma and Egyptian communities.* In its previous comments, the Committee noted that the Conference Committee had urged the Government to continue to remove barriers to greater participation of Roma and Egyptian children in the education system, including access to free basic education and access to education in their own language as well as to continue to take measures to stop trafficking and the practice of forced begging on the streets. The Committee further noted the various measures taken by the Government to improve the educational situation of Roma and Egyptian communities, including through facilitating enrolment in schools and the provision of free textbooks and scholarships for children of unemployed parents. The Committee, however, noted that many Roma and Egyptian children had never been enrolled, and the dropout rates were still high.

The Committee notes the Government's indication regarding the measures taken to reduce the school dropout rate among Roma and Egyptian children, such as providing scholarships to children who dropped out of school or who are at risk of dropping out, providing free school transport and after school classes for children with learning difficulties. The Committee also observes the adoption of the Instruction of the Ministry of Education, Sports and Youth No. 17 of 9 May 2018 which establishes the procedures for returning children to compulsory school. The Committee further observes the elaboration in 2019 of the Guideline "For monitoring children that are out of the education system and children that are at risk of dropping out" under the framework of the initiative "Every Child in school" supported by UNICEF. In particular, the Guideline provides for indications to educational institutions and other relevant actors on identifying children not attending compulsory school and preventing children from dropping out of school. The Government indicates the increase in the number of Roma and Egyptian children enrolled in school from 14,515 students in the 2019–20 school year to 14,875 students in the 2020–21 school year. In this respect, the Committee observes that the European Commission against Racism and Intolerance (ECRI) of the Council of Europe, in its 2020 Report on

Albania, indicated that in comparison with 2011, the total number of Roma and Egyptian children enrolled in compulsory education increased from 48 per cent to 66 in 2018. The ECRI, however, noted the extremely low rate of compulsory education completion rates (43 per cent) by Roma and Egyptian children (paragraphs 43, 44). The Committee further notes the observations of the EI, the FSASH and the SPASH indicating that additional measures are needed to reduce school dropout rates, such as providing free meals to students from families with financial difficulties, including those from Roma and Egyptian communities. Moreover, teachers should be provided with additional remuneration for the work performed outside of school hours with students who have dropped out of school, their parents, and local government bodies. **The Committee strongly encourages the Government to continue its efforts to facilitate access to free basic education of children in the Roma and Egyptian communities so as to prevent them from engaging in the worst forms of child labour. It also requests the Government to provide information on the measures taken in this regard and the results achieved, particularly with respect to increasing the school enrolment and completion rates and reducing school dropout rates of children from Roma and Egyptian communities. To the extent possible, this information should be disaggregated by age and gender.**

*Clause (d). Identifying and reaching out to children at special risk. Street children.* The Committee previously noted the various services provided to families of street children, including registration of each child in the National register of Civil Registry; enrolment in schools; employment of parents; placement in the social care institutions; and referral for attendance at day-care centres for children. The Committee also noted the awareness-raising programme on the protection of street children and the establishment of a Task Force in Tirana to identify and protect street children.

The Committee notes that the National Action Plan for the Protection of Children from Economic Exploitation for 2019–2021 (National Action Plan for 2019–2021) specifically covers children working on the streets. The Committee further observes from the 2019 periodic report of Albania to the Committee on the Rights of the Child that the on-site teams responsible for the identification process of street children, provision of first aid, and immediate referrals to the responsible case management structures were established in each municipality. The Government specifies in the 2019 periodic report that services provided by the on-site teams cover, among others, counselling, enrolment of children in school, financial assistance, and medical care. It further indicates several measures undertaken by the state police bodies against the economic exploitation of children, including child begging, as part of the efforts to protect street children. It points out that the number of cases of child exploitation for begging referred to the prosecution office has increased from 4 in 2012 to 15 in 2017 (paragraphs 247, 251). The Committee further notes from the information provided by the Government that, in 2020, 125 children in street situations were identified and provided with the necessary social protection services, such as psychological support, medical examination, and civil registration. The Government also indicates the establishment by the Tirana Municipal Council's Decision No. 66 of 12 June 2020 of the Community Field Centre, which coordinates the provision of social protection services to children in street situations. **The Committee requests the Government to continue to take measures to protect children in street situations from the worst forms of child labour and to provide for their rehabilitation and social integration. It further requests the Government to provide information on the effective and time-bound measures taken in this regard, in particular under the framework of the National Action Plan for 2019–2021, and on the results achieved.**

## Algeria

### Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (ratification: 1962)

*Article 3(1) of the Convention. Period during which night work is prohibited.* In its previous comments, the Committee noted that section 28 of the Act No. 90-11 of 21 April 1990 concerning employment relationships (Employment Relationship Act) prohibits the employment of workers of

either sex under 19 years of age in night work which means any work performed between 9 p.m. and 5 a.m. (section 27). The Committee further noted that the prohibition of night work for young persons under the Employment Relationship Act did not cover a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m., as required by *Article 3(1)* of the Convention. The Government indicated that the Committee's comments on that matter would be taken into account in the draft Labour Code under preparation.

The Committee notes the Government's indication in its report that, to give full effect to the provisions of *Article 3(1)* of the Convention, section 45 of the draft Labour Code prohibits the employment of workers and apprentices of either sex under 18 years of age at night, which covers a period of 11 consecutive hours between 7 p.m. and 6 a.m. ***Noting that the Committee has been drawing the Government's attention to the need to bring the national legislation into conformity with the Convention for many years, it firmly hopes that the draft Labour Code will be adopted in the near future and that its provisions will give full effect to Article 3(1) of the Convention. The Committee requests the Government to provide information on any progress made in this respect.***

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1984)**

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee previously noted the establishment of the national body for the protection and promotion of the rights of the child (OPPDE) under Act No. 15-12 of 15 July 2015 on child protection. It noted that the main mission of the OPPDE was to oversee the implementation and periodic evaluation of the national and local programmes for the protection and promotion of the rights of the child and to establish a national information system on the situation of children in the country. The Committee also noted the community child protection services (*services du milieu ouvert*) established at the local level to ensure the social protection of children at risk, including children subjected to economic exploitation. It requested the Government to continue its efforts to ensure that children under the minimum age of admission to work, fixed at 16 years, are not engaged in child labour. It also requested the Government to provide information on the measures taken by the OPPDE in this regard, as well as on the number of children under 16 years who have been identified as being "at risk" because of their engagement in work.

The Government indicates, in its report, that among the measures taken by the OPPDE to combat the economic exploitation of children is the establishment of a mechanism for handling complaints of children's rights violations, through a free hotline, on line, by mail or in person. The Government states that in 2019, 188 complaints related to the economic exploitation of children were registered, concerning 470 children at risk (322 boys and 148 girls). From January to the end of April 2020, 49 complaints related to the economic exploitation of children were registered, involving 132 children at risk (80 boys and 52 girls). According to the Government, the OPPDE also established a standing coordination committee within the OPPDE in 2017 and developed a committee work programme to coordinate efforts to combat child rights violations, including child labour. In addition, the OPPDE organized several public awareness-raising actions and training for professionals working in the area of child protection on combating all forms of exploitation. The Government also indicates that the development of a statistical database on the situation of children has been initiated by the OPPDE. The Committee notes that, according to the Government, an inter-ministerial commission coordinates actions to combat child labour. ***The Committee encourages the Government to pursue its efforts to ensure the progressive elimination of child labour and requests it to continue to provide information on the activities carried out by the OPPDE and the results achieved with regard to combating labour of children under 16 years. The Committee requests the Government to provide information on the activities of the inter-ministerial commission to combat child labour. It also requests the Government to intensify its efforts to set up a system for the collection of statistical data on the nature, extent and evolution of labour of children under 16 years and requests it to provide information in this regard.***

*Article 2(1). Scope of application and labour inspection.* In its previous comments, the Committee noted that Act No. 90-11 on working conditions of 21 April 1990 governed relations between salaried workers and employers, thereby excluding persons working on their own account. It also noted that, under Ordinance No. 75-59 of 26 September 1975 issuing the Code of Commerce, children under 18 years cannot engage in trading, as defined by the Code of Commerce. In this respect, the Government stated that the Code of Commerce applies to all jobs, salaried or own-account. Noting that the Code of Commerce governs activities defined as acts of trading, the Committee noted that Algerian legislation does not regulate all the economic activities that a child under 16 years of age may carry out in the informal economy or on their own account. The Committee encouraged the Government to strengthen the capacities of labour inspection to enable it to monitor child labour in the informal economy. It also requested the Government to provide information on inspections carried out in practice by labour inspectors responsible for monitoring child labour.

The Government indicates that the fight against child labour is a priority focus of the labour inspection services. It states that measures are being taken to strengthen the capacities of labour inspectors to combat child labour, including in the informal sector. According to figures provided by the Government, as a result of investigations conducted by the labour inspectorate, four children under 16 years were identified in the workforce in 2018, and three in 2019. With regard to monitoring, the Government indicates that the child labour rate over the last ten years is 0.03 percent. However, the Committee notes that according to the multiple indicator cluster survey (MICS) conducted in Algeria in 2019 by the Directorate of Population under the Ministry of Health, Population and Hospital Reform in partnership with UNICEF, 4.2 per cent of children aged 5 to 17 are engaged in child labour (5.7 per cent of boys and 2.7 per cent of girls), including in hazardous conditions. ***The Committee therefore requests the Government to intensify its efforts to strengthen the capacities of the labour inspectorate in order to detect all cases of child labour, including in the informal economy. It requests the Government to provide information on this matter and on the number of violations found related to child labour, including in hazardous conditions, and the penalties imposed. The Committee also requests the Government to take the necessary measures to ensure in practice that the protection set out by the Convention is applied to children working in the informal economy or on their own account, and not restricted to activities governed by the Code of Commerce.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and the penalties applied. Clause (a). Sale and trafficking of children.* The Committee previously noted that section 303bis(4) of Act No. 09-01 of 25 February 2009 provides for imprisonment and a fine in cases of trafficking of persons, in particular, for economic and sexual exploitation. Where the trafficking involves a person who is in a vulnerable situation owing to their age, among other things, the prison sentence is between 5 and 15 years. The Committee noted the creation of the National Committee on Preventing and Combating Trafficking in Persons. It also noted that training workshops on investigations and prosecutions for cases of trafficking in persons, and on victim protection, had been held in collaboration with the United Nations Office on Drugs and Crime (UNODC). The Committee requested the Government to provide information on the impact of the training workshops on the elimination of the sale and trafficking of children under 18 years of age.

The Government indicates, in its report, that training on trafficking in persons has strengthened the intervention capacities of investigators, particularly in identifying victims of trafficking and in determining the crime, in order to better identify cases of trafficking throughout the country, including trafficking in children for labour and sexual exploitation. The Government states that the training of personnel responsible for combating trafficking in persons is a priority of the Directorate General of National Security. There are also 50 Brigades for the protection of vulnerable persons within the police force, one mission of which is to ensure the protection of children against all forms of exploitation. In

addition, the Government indicates that in 2018, two cases of child trafficking, involving six child victims, were identified and led to criminal proceedings. As a result of the prosecutions, one person was sentenced to imprisonment and a fine, and four persons were acquitted. In 2019, three cases of child trafficking were registered, two of which were processed, involving three child victims. As a result, two persons were sentenced to imprisonment and a fine and two others were acquitted. **The Committee requests the Government to continue its efforts to combat child trafficking by ensuring that the perpetrators of these acts are identified and prosecuted, and that sufficiently effective and dissuasive sanctions are imposed. It requests the Government to continue to provide statistical information on identified cases of trafficking in children under 18 years, the prosecutions brought, the convictions obtained and the penalties imposed.**

*Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.* In its previous comments, the Committee highlighted the absence of a legislative provision prohibiting the use, procuring or offering of a child under 18 years of age for the production and trafficking of drugs. It noted with regret the absence of information from the Government and urged it to take, as a matter of urgency, the necessary measures to ensure, in law and in practice, the prohibition of the use, procuring or offering of a child under 18 years of age for illicit activities, in particular for the production and trafficking of drugs, and to establish sufficiently effective and dissuasive sanctions.

The Government indicates that where children are used for serious crimes related to drugs, the law prohibits legal proceedings against them if they are under 10 years of age. The Government provides figures on the number of children involved in cases linked to the trafficking and use of drugs. However, the Committee notes that the Government does not specify the number of children used, procured or offered for the production and trafficking of drugs.

The Committee once again emphasizes that although national legislation establishes penalties for the possession, use or trafficking of drugs, it does not define specific offences on the use, procuring or offering of children by other persons for the production and trafficking of drugs. It also reminds the Government that all children under 18 years used, procured or offered for illicit activities, in particular for the production and trafficking of drugs, must be treated as victims and not criminals. The Committee can only express its **concern** at the absence of provisions expressly prohibiting the use, procuring or offering of a child under 18 years of age for the production and trafficking of drugs. **The Committee therefore urges the Government to take, as a matter of urgency, immediate measures to ensure that national legislation prohibits the use, procuring or offering of a child for the production and trafficking of drugs. It also requests it to take the necessary measures to ensure that all children under 18 years used for the production and trafficking of drugs are treated as victims and not criminals, and are therefore not punished for their involvement in illicit activities. The Committee requests the Government to provide information on the measures taken in this regard.**

*Article 4(1). Determination of hazardous types of work.* For several years, the Committee has been noting the Government's indication that the issue of determining hazardous types of work had been addressed during the current drafting of the new Labour Code. In its previous comment, the Committee noted that section 48 of the draft Labour Code of October 2015 prohibits children below the age of 18 from engaging in hazardous work and provides for the establishment of a list of these types of work through legislation. The Committee urged the Government to take immediate measures to ensure the adoption of the draft Labour Code and the relevant regulation on the list of types of hazardous work prohibited to children under 18 years of age.

The Government indicates that the Bill issuing the Labour Code, which provides that the list of hazardous work prohibited to children under 18 years of age will be determined by legislation and revised on a regular basis following consultation with the employers' and workers' organizations concerned, is being finalized. In addition, the Government indicates that a copy of the above Bill has

been communicated to the most representative trade union organizations for their opinion. ***The Committee urges the Government to take, without delay, the necessary measures to finalize and adopt the Bill issuing the Labour Code, in order to determine, following consultation with the employers' and workers' organizations concerned, the types of hazardous work prohibited to children under 18 years of age. It requests the Government to provide a copy of the legislative text issuing the Labour Code and the regulatory text fixing the list of the types of hazardous work, once adopted.***

*Article 6. Programmes of action. Sale and trafficking of children.* In its previous comment, the Committee requested the Government to take the necessary measures to combat the trafficking of children under 18 years of age for economic or sexual exploitation.

The Government indicates that a three-year programme for the implementation of the action plan to prevent and combat trafficking in persons 2019–2021 was adopted in 2019. This three-year programme, which incorporates the main pillars of the 2015 action plan, provides, inter alia, for: (i) reliable and accurate data on trafficking in persons; (ii) capacity building for those who deal with cases of trafficking in persons cases; (iii) adaptation of the national legal arsenal to prevent and combat trafficking in persons; (iv) provision of necessary protection and assistance for victims of trafficking; and (v) strengthening of cooperation to combat trafficking in persons. The Government states that the National Committee on Preventing and Combating Trafficking in Persons has initiated the drafting of a Bill on trafficking in persons. The Committee takes note of this information. It notes, however, that the Government does not indicate any specific measures taken under the 2019–2021 three-year programme to combat trafficking in children under 18 years. ***The Committee requests the Government to provide information on the measures taken within the framework of the 2019–2021 three-year programme to effectively combat trafficking in children, and the results achieved.***

*Article 7(2). Effective and time-bound measures. Clauses (b). Providing assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Trafficking of children.* The Committee previously requested the Government to take effective and time-bound measures to establish services for the recovery of child victims of trafficking, and for their rehabilitation and social integration. It also requested the Government to take measures to ensure that child victims of trafficking are treated as victims rather than offenders and to provide information on progress in this regard.

The Government indicates that there is currently no national guidance mechanism for victims of trafficking in persons to provide coordinated care for victims but that a working group had been set up to formalize such a mechanism. The Committee further notes the information of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), in its concluding observations of 25 May 2018, according to which “victims of trafficking, including children, continue to be considered migrants in an irregular situation and risk being jailed for illegal activities, such as prostitution, that they engage in because they are victims of trafficking”. The CMW also refers to “the absence of shelters for victims of trafficking and the ban on them being opened by civil society under pain of criminal sanctions for housing migrants in an irregular situation.” (CMW/C/DZA/CO/2, paragraph 59). ***The Committee urges the Government to take effective and time-bound measures to ensure that children under 18 years of age who engage in illegal activities, such as prostitution, in the context of trafficking, are not punished for that. It also urges the Government to take specific measures to remove child victims of trafficking from this worst form of labour, and to ensure their rehabilitation and social integration, for example by establishing reception and support centres. The Committee requests the Government to provide information on the measures taken in this regard, including within the framework of the national guidance mechanism for victims of trafficking, particularly on the number of children below the age of 18 who have been removed from trafficking and given appropriate care and assistance.***

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

## Angola

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

*Article 7(2) of the Convention. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee previously noted from the Government's report of 2016 to the United Nations Committee on the Rights of the Child (CRC), that the net enrolment rate in secondary education rose from 48.7 per cent in 2013 to 51.8 per cent in 2014, and that it was expected to rise to 54.8 per cent in 2015 and 57.5 per cent in 2016 (CRC/C/AGO/5-7, page 31). The Committee requested the Government to intensify its efforts to improve the functioning of the education system and to facilitate access to free, quality basic education, particularly for children from poor families, children living in rural areas, and girls.

The Committee notes that the Government's report contain no information on this point. The Committee notes that according to the United Nations Sustainable Development Cooperation Framework, 2020–2022, Angola made substantial efforts which resulted in visible progress in primary education registration which increased from 5.8 million to 10 million between 2009 and 2018. However, this report indicates that 40 per cent of the children between the ages of 6 and 11 are not at school; 18 per cent of the young population have never been to school; and 19 per cent do not have any level of education. Almost half the population in the age group between 12 and 17 are not satisfactorily in programmes of secondary or vocational education that correspond to their age (pages 25 and 27). ***Recalling that education is key in preventing the engagement of children in the worst forms of child labour, the Committee encourages the Government to pursue its efforts to improve the functioning of the education system and to facilitate access to free, quality basic education, to all children, particularly at the secondary level. It once again requests the Government to provide information on the measures taken in this regard and the results achieved, particularly with regard to increasing school enrolment and completion rates and reducing dropout rates in the primary and secondary education. 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 ensuring their rehabilitation and social integration. Child victims of trafficking and commercial sexual exploitation.* In its previous comments, the Committee noted the Government's information, in its report of 2016 to the CRC, regarding the existence of a programme for the family reunification and placement in institutions of child victims of sexual exploitation and trafficking. It also noted from this report that the National Development Programme (PND) 2013–17 implemented policies, programmes and actions to eliminate the sale and trafficking of children, as well as child prostitution, and that the National Children's Institute (INAC) and the National Children's Council (CNAC) were the agencies responsible for ensuring the implementation of the government policies at the national level in the areas of investigation relating to children and their social protection (CRC/C/OPSC/AGO/1, paragraphs 51, 54 and 56).

The Committee notes that the Government's report does not contain any information as requested by the Committee regarding the measures taken by the INAC and CNAC in identifying and providing assistance to the child victims of trafficking and sexual exploitation. The Committee, however, notes from the concluding observations of the CRC on the application of the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) of 2018 that an Inter-ministerial Commission to Combat Trafficking in Persons and a child abduction alert system were developed in 2014 and 2017 respectively and a National Action Plan (NAP) to Combat Trafficking in Persons was adopted in 2018. However, the CRC expressed its concern at the prevalence of cases of trafficking in children from and into neighbouring countries, in particular undocumented migrant children from the Democratic Republic of the Congo, for commercial sexual exploitation (in particular of girls) and for forced labour in diamond-mining districts, and of cases of boys trafficked for forced labour, in particular cattle herding. The CRC also expressed concern at the prevalence of sexual exploitation of children in the travel and tourism sectors (CRC/C/OPSC/AGO/CO/1, paragraphs 6, 19(d), and 21). The Committee

must express its **deep concern** at the situation of children trafficked for labour and sexual exploitation. **The Committee therefore urges the Government to strengthen its measures, including within the framework of the PND and the NAP to Combat Trafficking in Persons, to prevent children from becoming victims of trafficking and commercial sexual exploitation, to remove child victims from the worst forms of child labour and to ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and the results achieved in terms of the number of children who have been removed and rehabilitated. In this regard, the Committee further requests the Government to indicate the measures taken by the INAC, the CNAC and the Inter-ministerial Commission to Combat Trafficking in Persons in identifying, removing and providing appropriate services and assistance to child victims of worst forms of child labour.**

*Clause (d). Children at special risk. HIV/AIDS orphans and other vulnerable children (OVC).* The Committee previously noted the Government's indication that a national action plan on OVC was being developed and that the plan sought to strengthen the capacities of families, communities and institutions to respond to the needs of OVC and to expand social protection services and mechanisms for these children. It however noted from the UNAIDS estimates of 2016, that approximately 130,000 children aged 17 years and younger had been orphaned by HIV/AIDS in Angola.

The Committee notes that the Government's report does not contain any information on this matter. It notes that according to the UNAIDS estimates for 2020, the number of children under 17 years who have been orphaned due to HIV/AIDS in Angola has doubled, to approximately 260,000 children. **Recalling that OVC are at an increased risk of being engaged in the worst forms of child labour, the Committee strongly urges the Government to take immediate and effective measures, as part of the national action plan on OVC, to ensure that HIV/AIDS orphans and OVC are protected from the worst forms of child labour. The Committee requests the Government to provide information on the specific measures taken in this respect and on the results achieved.**

*Application of the Convention in practice.* In its previous comments, the Committee noted the Government's statement that there are children in Angola who are engaged in the worst forms of child labour, such as those who perform hazardous types of work (in the diamond mines and in the fishing industry).

The Committee notes that the Government has not provided any information on the measures taken to protect children from these worst forms of child labour. The Committee notes that the Human Rights Committee, in its concluding observations of May 2019, expressed concern at the insufficient efforts to tackle child labour, particularly in the mining sector (CCPR/C/AGO/CO/2, paragraph 33). **The Committee urges the Government to intensify its efforts to ensure that children are protected in practice against the worst forms of child labour, particularly in hazardous work. It also requests the Government to take the necessary measures to ensure the availability of sufficient data on these issues and to provide information on the nature and scope of, and trends on the worst forms of child labour and on the number of children covered by measures giving effect to the Convention. To the extent possible, this information should be disaggregated by gender and age.**

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

## Antigua and Barbuda

### Minimum Age Convention, 1973 (No. 138) (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(1) and (2) of the Convention. Minimum age for admission to hazardous work and determination of these types of work.* The Committee previously noted the Government's indication that the unions and employers' federation were consulted regarding the activities and occupations which should be prohibited to persons below 18 years of age. It noted that although a recommendation was made, it was not submitted

before the National Labour Board, as it was the Government's aim to revamp the occupational health and safety legislation. Thereafter, the Committee noted the Government's statement that the proposed amendments to the provisions of the Labour Code on occupational health and safety have been circulated to Cabinet, but have not yet been adopted. It further noted the Government's indication that technical assistance was sought in relation to new and separate occupational health and safety legislation.

The Committee notes the Government's indication in its report that the National Labour Board is currently reviewing the occupational health and safety legislation. The Government states that it has noted the Committee's comments and that it will act accordingly. The Committee notes with **regret** that the list of hazardous types of work prohibited for children under 18 years of age has still not been adopted. The Committee therefore once again reminds the Government that *Article 3(1)* of the Convention provides that the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of young persons, shall not be less than 18 years. It also reminds the Government that, under the terms of *Article 3(2)* of the Convention, the types of hazardous employment or work shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. ***Observing that the Convention was ratified by Antigua and Barbuda more than 30 years ago, the Committee urges the Government to take the necessary measures to ensure that a list of activities and occupations prohibited for persons below 18 years of age is adopted in the near future, in accordance with Article 3(1) and (2) of the Convention. It encourages the Government to pursue its efforts in this regard through amendments to the occupational health and safety legislation, and to provide information on progress made. Lastly, it requests that the Government provide a copy of the amendments to the occupational health and safety legislation once adopted.***

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

## Armenia

### Minimum Age Convention, 1973 (No. 138) (ratification: 2006)

*Article 2(1) of the Convention. Scope of application.* The Committee previously noted that according to the Armenia Child Labour Survey, carried out with ILO technical assistance and published in 2016, a large number of children were involved in child labour, of which a large majority (90.1 per cent) worked in agriculture. Out of these children, only 5 per cent were employees with a verbal agreement, 25 per cent worked on their own account, and 70 per cent were unpaid family workers not covered by the provisions of the Labour Code concerning the minimum age for admission to employment. In this regard, the Committee urged the Government to take immediate steps to ensure that all children, including those who work outside a formal labour relationship, enjoy the protection afforded by the Convention. The Committee notes with **regret** that once again the Government's report does not provide information in this respect. ***Therefore, the Committee once again urges the Government to take all necessary measures to ensure that all children, particularly children working in the informal economy or as own-account workers, can enjoy the protection afforded by the Convention and to provide information in this regard in its next report.***

*Article 8 Artistic performances.* In its previous comments, the Committee noted that part 2.2 of section 17 of the Labour Code provides that children under 14 years of age can be engaged in cinematographic, sport, theatre and concert organizations, in circuses, in creative work and/or performance of television and radio productions with the written consent of one of the parents or adopter or guardian or a custody and guardianship body. The activities in these organizations or productions should not be harmful to their health, morality or safety, or prejudice their education. The Committee requested the Government to take measures to ensure that the labour legislation provides that individual permits be granted by the competent authority, and not only by the parents or legal guardians to authorize the participation of children under the minimum age in artistic performances in accordance with the Convention. The Committee notes that the Government indicates that the Ministry

of Labour and Social Issues has proposed to repeal part 2.2 of section 17 of the Labour Code. Taking note of this legislative proposal, the Committee recalls that *Article 8* of the Convention *allows* exceptions to the prohibition of employment or work of children under the general minimum age, which is 16 years in Armenia. Moreover, by virtue of *Article 8(1)*, children may participate in artistic performances, provided that permits are granted in individual cases by the competent authorities. ***In this regard, the Committee requests the Government to continue to provide information on the measures taken or envisaged to regulate the participation of children in artistic performances.***

*Article 9(1). Penalties.* The Committee previously noted the high number of children involved in child labour, including hazardous work and requested the Government to redouble its efforts to identify and impose appropriate sanctions for violations of the provisions of the Convention. The Committee notes that the Government indicates that, in order to ensure the effective application of the provisions of the Convention, section 41.6 of the Code on Administrative Offences of December 6, 1985 was amended. According to the amended section, the act of hiring or employing a person under the age of 16 in violation of the requirements of the law or involving a person under the age of 18 in work prohibited by the labour legislation shall result in a fine, which shall be equivalent to 200 times the minimum wage. If the violation is repeated within one year after the date of imposing the sanction, a new fine will be imposed amounting to 400 times the minimum wage. ***The Committee encourages the Government to continue taking measures to ensure that violations of the provisions of the Convention are detected and adequate penalties are imposed. In this respect, the Committee requests the Government to provide information on the application in practice of section 41.6 of the Code on Administrative Offences.***

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

## Azerbaijan

### Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

*Article 2(1) of the Convention.* 1. *Scope of application and the application of the Convention in practice.* In its previous comments, the Committee observed that the provisions relating to the minimum age of admission to employment or work in the Labour Code did not appear to apply to work performed without an employment agreement, including self-employment or work in the informal sector. The Committee however noted the Government's statement that the Convention constitutes part of the labour legislation in the country and must therefore be implemented by all employers and private individuals. The Committee further noted the significant number of children involved in informal work in the agricultural sectors of tea, tobacco and cotton, including in hazardous situations, as well as children who work on their own account.

The Committee notes the Government's indication in its report that, various awareness-raising events on preventing child labour were conducted by the state labour inspectorate for employers, police officers, and students in 2020. The Government also indicates that in 2020, the police identified 21 cases of work performed by children without an employment agreement. In addition, three cases of the use of child labour were identified by the state labour inspectorate. In this connection, administrative fines of 3,000 Azerbaijani manats (AZN) were imposed on the employers for employing children under 15 years of age, in accordance with section 192.8 of the Code of Administrative Offences. However, the Committee once again observes that while a significant number of children are involved in informal work in the agricultural sectors of tea, tobacco and cotton, including in hazardous situations, only few cases of the use of child labour were identified by the state labour inspectorate and the police. ***The Committee requests the Government to take the necessary measures to ensure that the Convention is applied to children and young persons who perform work without an employment agreement including self-employment or work in the informal economy. Referring to its comments made under the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969***

**(No. 129), the Committee once again urges the Government to take measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working in the informal economy and on their own account, particularly in the agricultural sector. The Committee also requests the Government 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 police as well as the penalties imposed.**

2. *Minimum age for admission to employment or work.* For many years, the Committee has been pointing out that the minimum age of 16 years for admission to employment or work specified upon the ratification of the Convention under its *Article 2(1)* is not established in the national legislation. In particular, section 42(3) of the Labour Code allows a person who has reached the age of 15 years to be part of an employment contract, and section 249(1) specifies that “persons who are under the age of 15 shall not be employed under any circumstances”.

The Committee notes with **concern** that the relevant provisions of the Labour Code have not been amended with a view to raise the minimum age for admission to employment or work from 15 to 16 years. The Committee notes the Government’s indication that raising the minimum age from 15 to 16 years would restrict the existing opportunity to work for children who have reached 15 years of age, which is the age of completion of compulsory education. **Recalling that the Convention allows and encourages the raising of the minimum age but does not permit lowering of the minimum age once specified, the Committee once again urges the Government to take the necessary measures, without further delay, to ensure the establishment of a minimum age of 16 years for admission to employment or work in the Labour Code.**

## Bahamas

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

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

*Article 2(2) and (3) of the Convention. Raising the minimum age for admission to employment or work and the age of completion of compulsory schooling.* The Committee previously noted that the minimum age for admission to employment or work specified by the Bahamas at the time of ratification was 14 years. It also noted that section 7(2) of the Child Protection Act of 2007 establishes a minimum age of 16 years for admission to employment or work. Furthermore, the Committee noted that, by virtue of section 22(3) of the Education Act, the age of completion of compulsory schooling is 16 years.

The Committee notes the Government’s indication in its report that efforts will be taken through a Tripartite Council to rectify the situation and raise the minimum age to 16 as laid down in the national legislation. **The Committee welcomes this information and expresses the firm hope that the Government will take the necessary measures to raise the minimum age for admission to employment or work from 14 years (initially specified) to 16 years in accordance with the Child Protection Act and in accordance with the age of completion of compulsory schooling under the Education Act. In this regard, the Committee requests 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 that it had previously specified.**

*Article 3(2). Determination of types of hazardous work.* In its previous comments, the Committee had noted that draft regulations under the Health and Safety at Work Act, which include provisions determining the types of hazardous work prohibited for persons under 18 years of age, had been approved by the tripartite social partners.

The Committee notes the Government’s information that the draft regulations under the Health and Safety at Work Act have not yet been finalized. It states that these draft regulations will be presented again to the Tripartite Council and will be finalized. **The Committee once again expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that the draft regulations on the list of types of hazardous work prohibited for persons under the age of 18 years, will be adopted in the near**

**future. It requests the Government to provide information on any progress made in this regard as well as 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 previously noted 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. The Committee requested the Government on several occasions to provide information on the measures taken or envisaged in respect of provisions or regulations which would determine light work activities and the conditions in which such employment or work may be undertaken by young persons from the age of 12 years.

The Committee notes the Government's indication that these regulations determining light work activities will be presented to the Tripartite Council and will be finalized. In this regard, the Committee may wish to draw 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. Hence, the Committee requests the Government to take into consideration that in the event of any progress with regard to the raising of the minimum age for admission to employment or work from 14 to 16 years as per *Article 2(2) and (3)* of the Convention, the minimum age for light work should also be amended 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 determining the light work activities that may be permitted to children of 12 or 13 years and above, subject to raising of the minimum age, and the conditions in which such employment or work may be undertaken by them. 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.**

## Bangladesh

### Minimum Age (Industry) Convention (Revised), 1937 (No. 59) (ratification: 1972)

*Application of the Convention in practice.* In its previous comments, the Committee noted the information provided by the Government on the various measures taken for the effective abolition of child labour, as well as the adoption of a list of 38 types of hazardous work prohibited to children under 18 years of age. In addition, free school books and financial assistance in the form of stipends or tuition fees were provided by the Government which benefited a total of 3,250,563 children. The Committee further noted the Government's information on the impact of these measures, such as an increase in the net enrolment rate at the primary level and a decrease in the primary school dropout rate. The Committee, however, noted that according to the Child Labour Survey of 2013, of the 3.45 million children between 5 and 17 years who were working, 1.7 million children were involved in child labour with the manufacturing sector dominating (33.3 per cent in child labour). It urged the Government to strengthen its efforts to eliminate child labour in the sectors covered by the Convention.

The Committee notes with **interest** the Government's information in its report that six sectors were declared child labour free in February 2021, such as the tannery, glass, ceramic, ship recycling, export oriented leather goods and footwear and silk sectors, in addition to the garment and shrimp sectors which was earlier declared as child labour free. The Committee also notes the Government's information that in order to improve labour inspection, the Department of Inspection for Factories and Establishments (DIFE) was restructured and upgraded by increasing the number of inspectors to 575 and establishing new offices in 23 districts and by increasing the budget by 452 per cent in the fiscal year 2020–21. The Government also indicates that in 2020–21, a total of 47 in-house training programmes for labour inspectors were organized with a participation of about 988 inspectors. During 2020–21, a total of 47,361 inspection visits were carried out by the DIFE, and a total of 1421 cases were filed against the employer, of which 98 cases were related to the violation of section 34 (prohibition of

employment of children and adolescent) of the Employment Act. Moreover, with the assistance of the ILO, a mobile and web-based application namely “Labour Inspection Management Application (LIMA)” has been developed and around 8367 inspections were carried out in 2020–21 using this application.

The Committee also notes from the draft National Plan of Action (NPA) for the Elimination of Child Labour 2021–25 document that the Seventh Five year Plan (SFYP) 2016–20 under its inclusion strategy addresses child labour and calls for effective measures to reduce child labour. The Committee takes due note of the information that the Ministry of Labour and Employment has also identified actions beyond SFYP, which include the preparation for the ratification of the ILO Minimum Age Convention, 1973 (No. 138). ***The Committee encourages the Government to continue its efforts to eliminate child labour in the sectors covered by the Convention, including through strengthening the capacities of the labour inspectors in identifying and monitoring child labour. It requests the Government to provide information on the concrete measures taken within the framework of the NPA for the Elimination of Child Labour 2021–25 and the results achieved. The Committee also requests the Government to continue to provide updated statistical information on the extent of child labour in the sectors covered by this Convention, as well as on the practical application of the Convention, including reports of inspection services, number and nature of violations reported and penalties applied.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3(a), 5 and 7(1) of the Convention. Worst forms of child labour, monitoring mechanisms and penalties. Sale and trafficking of children.* The Committee previously noted the establishment of an Anti-Human Trafficking Offence Tribunal at the district level wherein the offences under the Prevention and Suppression of Human Trafficking Act No. 3 of 2012 (Trafficking Act) shall be tried. While observing that the Government did not provide statistics related to the number of penalties imposed on persons found guilty of child trafficking specifically, the Committee noted from the 2016 UNODC Global Report on Trafficking in Persons, that 232 child victims of trafficking were identified by the police between May 2014 and April 2015. It also noted from the list of issues of 14 February 2017 under the International Covenant on Civil and Political Rights (ICCPR), that the Human Rights Committee pointed out that there seemed to be numerous acquittals in human trafficking cases for the number of prosecutions.

The Committee notes the Government’s information in its report that the Police has set up two tiers of monitoring cells, namely the Human Trafficking Monitoring Cell at the Police Headquarters in each district and a Monitoring Cell headed by the Additional Superintendent of Police which has been monitoring, guiding and liaising with the district level monitoring cells. A Trafficking in Human Beings (THB) Cell has also been set up in the Criminal Investigation Department (CID) of the Bangladesh Police to monitor the investigation of human trafficking cases and to provide necessary instructions and guidance to the field level officers. Moreover, an ‘Integrated Crime Data Management System’ (CDMS) has been set up at the Monitoring Cell in Police Headquarters where relevant statistics on human trafficking cases are regularly preserved and analysed. According to the statistical information provided by the Government concerning cases of trafficking in persons, from 2018 to 2020, a total of 715 cases of trafficking were reported, which included cases involving the trafficking of 182 children. It further states that, as of June 2021, 554 cases are under investigation while 4,945 cases are pending trial before the tribunal. The Committee once again observes that the Government has not provided any specific information concerning the investigations, prosecutions and penalties applied for trafficking of children. ***The Committee therefore once again urges the Government to take the necessary measures to ensure that, in practice, thorough investigations and prosecutions are carried out for persons who engage in the trafficking of children, and that sufficiently effective and dissuasive sanctions are imposed. In this regard, the Committee once again requests the Government to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied by the Anti-Human Trafficking Offence Tribunal for the offence of trafficking in persons under 18 years of age, in accordance with the provisions of the Trafficking Act.***

*Articles 3(d) and 5. Hazardous work and labour inspection.* In its previous comments, the Committee noted the information on the measures taken to strengthen the capacity of the labour inspectors of the Department of Inspection for Factories and Establishments (DIFE). It also noted that the DIFE regularly inspects the shrimp and dried fish industries, the construction sector, brick factories and tanneries and the ready-made garment sector and that as of 2016, a total of 95 cases were filed by the DIFE against employers for employing children below the minimum age. However, it noted from the National Child Labour Survey (NCLS) findings published in 2015, that 1.28 million children aged 5 to 17 were found to be engaged in hazardous work in manufacturing (39 per cent); agriculture, forestry and fishing (21.6 per cent); wholesale and retail (10.8 per cent); construction (9.1 per cent); and transportation and storage (6.5 per cent). The Committee requested the Government to continue taking measures to strengthen the capacity and improve the ability of labour inspectors of the DIFE to detect all children under the age of 18 engaged in hazardous work, and to provide information on the progress achieved in this regard.

The Committee notes the Government's information that from 2020 to 2021, more than 47,000 inspections were carried out and 98 cases were filed by the DIFE against employers for employing children in violation of the Bangladesh Labour Act 2006 (as amended up to 2018), of which 14 cases were settled. The Committee also notes the Government's indication that the DIFE withdrew 5,088 children from hazardous work during 2020–21. The Committee notes, however, the Government's statement in its report under the Minimum Age (Industry) Convention (Revised), 1937 (No. 59) that the inspectors are mandated for inspection of child labour in the formal sector. However, child labour is mostly concentrated in the informal sector where regular inspection is not possible.

In this regard, the Committee notes from the draft National Plan for the Elimination of Child Labour 2021–25 that according to the Multiple Indicator Cluster Survey of 2018, child labour continues to affect 6.8 per cent of children aged 5–17 years with a massive majority of 95 per cent working in the informal sector which includes: food shop and tea stalls, motor and steel workshops, grocery and furniture shops, clothing and tailoring and waste collection. The Committee further notes from the UNICEF research document of 2021 entitled "*Evidence on Educational Strategies to Address Child Labour in India and Bangladesh*" (UNICEF document 2021) that although the findings from the two NCLS of 2003 and 2015 indicates a significant drop in child labour levels in Bangladesh, the number of children engaged in hazardous work decreased by just 0.01 million, from 1.29 to 1.28 million. This report also points to the fact, based on the findings of the NCLS of 2015, that over 1 million children identified as hazardous child labourers are invisible to the formal authorities. In this regard, the Committee notes that the Committee on Economic, Social and Cultural Rights in its concluding observations of April 2018, expressed concern about the large number of children still engaged in child labour, their dire conditions of work, particularly in domestic settings, and the lack of sufficient labour inspections focusing on child labour (E/C.12/BGD/CO/1, paragraph 54). While noting the measures taken by the Government, the Committee must once again express its **concern** at the significant number of children who are engaged in hazardous work, particularly in the informal economy. ***The Committee strongly urges the Government to take the necessary measures, in law and practice, to strengthen and adapt the capacities and expand the reach of the labour inspectors to ensure that children under the age of 18 years are not engaged in hazardous work, particularly in the informal economy and that they benefit from the protection afforded by the Convention. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide adequate training to the labour inspectors to detect cases of children engaged in hazardous work and remove them from this worst form of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

*Articles 3(d) and 7(2)(d). Hazardous work and effective and time-bound measures. Identifying and reaching out to children at special risk. Child domestic workers.* The Committee previously noted that the Domestic Workers' Protection and Welfare Policy of 2015 (DWPWP) provides the legal framework for

the protection of domestic workers, including child domestic workers. By virtue of this policy, any kind of indecent behaviour, physical or mental torture, towards domestic workers, is strictly prohibited and existing laws, including the Penal Code and the Women and Child Repression Prevention Act, are applicable. While this Policy sets the minimum age for light domestic work at 14 years, and hazardous domestic work at 18 years, the Committee observed that children of 12 years of age could possibly be employed with the consent of the legal guardian of the child. The Committee therefore requested the Government to provide information on the measures it envisages in the framework of this Policy, to ensure that all children under 18 years of age are protected from performing hazardous work in the domestic work sector.

The Committee notes the Government's information in its report that the DWPWP provides guidelines for the working conditions and safety of domestic workers, a decent working environment, decent wages and welfare enabling workers to live with dignity, good employer–employee relations, and redress of grievances. Appropriate actions in line with the existing laws will be taken in case of any physical or mental torture or engaging child domestic workers in hazardous work. The Government also indicates that a “Central Monitoring Cell on Domestic Workers” has been created to monitor implementation of this Policy and two divisional level workshops were organized in 2019 as part of the awareness raising campaign of this Policy. However, the Committee notes from the draft document on the National Action Plan for the Elimination of child labour 2020–25 (NPA document) that a study on the DWPWP revealed that only 7 per cent of the employers were aware of this policy and identified poor media coverage and illiteracy as the prime reasons behind poor policy awareness. The NPA document also states that the Policy establishes a very loose grievance settlement process in which a domestic worker has to report to the Central Monitoring Cell, human rights organisations or child help line for any support. This Policy, without any supportive legal instrument and mass awareness, is largely unimplemented. This document also refers to the findings of the NCLS of 2015 which indicates that 115,658 children aged between 5 and 17 years are domestic workers in Bangladesh, of which 91 per cent are girls. The Committee once again recalls that child domestic workers constitute a high-risk group who are outside the normal reach of labour controls and are scattered and isolated in the households in which they work. This isolation, together with the children's dependency on their employers, lays the ground for potential abuse and exploitation. In many cases, the long hours, low or no wages, poor food, overwork and hazards implicit in the working conditions, affect the children's physical health (General Survey on the fundamental Conventions, 2012, paragraph 553). ***The Committee therefore urges 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 requests the Government to indicate the measures taken or envisaged by the Central Monitoring Cell on Domestic Workers in ensuring that children under 18 years of age are not engaged in hazardous domestic work. In addition, the Committee requests the Government to provide information on the imposition, in practice, of sufficiently effective and dissuasive penalties on persons who subject children under 18 years of age to hazardous work.***

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

## Barbados

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

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

*Article 3(a) of the Convention. Worst forms of child labour. Sale and trafficking of children.* The Committee previously noted the adoption of the Transnational Organized Crime (Prevention and Control)

Act in 2011, section 8 of which criminalizes the trafficking of persons for the purposes of labour and sexual exploitation.

The Committee takes due note of the Government's information in its report that the Transnational Organized Crime (Prevention and Control) Act of 2011 was repealed and replaced by the Trafficking in Persons Prevention Act 2016-9, which contains comprehensive provisions addressing the issue of trafficking. According to section 4, the trafficking of children for labour and sexual exploitation is punishable by a fine of 2 million Barbadian dollars (BBD) (about US\$990,099), life imprisonment or both. The Committee notes, however, that according to the Government's written replies to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) of 2017, since 2015, no new arrests and charges have been made in relation to trafficking (CEDAW/C/BRB/Q/5-8/Add.1, paragraph 52). In its concluding observations of 2017, the CEDAW expressed its concern that Barbados remains both a source and a destination country for women and girls, including non-nationals, who are subjected to trafficking for purposes of sexual exploitation and forced labour, as a result of high unemployment, increasing levels of poverty and the weak implementation of anti-trafficking legislation. The CEDAW was also concerned about the lack of information on the number of complaints, investigations, prosecutions and convictions related to the trafficking of women and girls (CEDAW/C/BRB/CO/5-8, paragraph 25). The Committee on the Rights of the Child (CRC) similarly expressed its concern at the high level of internal trafficking of children, the lack of information on the situation in general and the lack of effective measures to address and prevent the sale and trafficking of children in its concluding observations of 2017 (CRC/C/BRB/CO/2, paragraph 58). **The Committee therefore requests the Government to take the necessary measures to ensure the effective implementation of the Trafficking in Persons Prevention Act 2016-9, particularly in relation to the trafficking of children. It also requests the Government to provide information on the application of section 4 of the Act in practice, including the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed.**

*Articles 3(d) and 4(1). Determination of hazardous work.* The Committee previously noted that, while section 8(1) of the Employment (Miscellaneous Provisions) Act prohibits the employment of a young person in any work that by its nature or the circumstances in which it is done is likely to cause injury to his/her health, safety or morals, the national legislation does not contain a determination of these types of work, as required under *Article 4(1)* of the Convention. The Government indicated that the formulation of a list of types of hazardous work prohibited to persons under 18 years of age was being considered. The Committee also noted that the Safety and Health at Work Act 2005 entered into force in January 2013 and that draft regulations under the provisions of this were forwarded for comments to the representative employers' and workers' organizations.

The Committee notes the Government's repeated indication that the types of hazardous work prohibited to persons under 18 years of age are addressed in specific pieces of legislation, including the Factories Act, the Pesticide Control Regulations, the Protection of Children Act and the Employment (Miscellaneous Provisions) Act. However, the Committee observes that these provisions together do not constitute a comprehensive determination of the types of hazardous work prohibited for persons under 18 years of age. The Committee also notes the Government's statement that none of the draft regulations under the Safety and Health at Work Act deal with this issue. Considering that it has been referring to this issue since 2004, the Committee must express its **deep concern** at the absence of a comprehensive list of the types of hazardous work prohibited for children. The Committee once again draws the Government's attention to *Article 4(1)* of this Convention, according to which the types of work referred to under *Article 3(d)* must be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards, in particular Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). **The Committee therefore urges the Government to take the necessary measures to ensure that the determination of types of hazardous work prohibited for persons under the age of 18 is included in national legislation, after consultation with the organizations of employers and workers concerned, and to provide information on any progress made in this regard.**

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

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

## Belize

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with **deep concern** that the Government's report, due since 2014, has not been received. In light of its urgent appeal launched to the Government in 2019, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Article 3 of the Convention. Clause (b). 1. Use, procuring or offering of a child for prostitution.* In its previous comments, the Committee noted that section 49 of the Criminal Code, Chapter 101 only prohibited the procurement of female children for prostitution and urged the Government to take measures to ensure the adoption of legislation prohibiting the use, procuring or offering of boys and girls under the age of 18 for prostitution.

While reiterating its concern at the absence of a Government report, the Committee takes due note of the adoption of the Commercial Sexual Exploitation of Children (Prohibition) Act, 2013. According to section 6(1) of the Act, a person having the authority or control over a child (defined by section 2 of the Act as a person below the age of 18), who takes advantage of his authority or control over that child or causes another person to sexually exploit that child, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

*2. Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously noted the absence of provisions in the Criminal Code establishing offences related to the involvement of a child for the production of child pornography and it urged the Government to take the necessary measures to ensure the adoption of specific provisions in this regard. While reiterating its concern at the absence of a Government report, the Committee takes due note that, pursuant to section 7(2) of the Commercial Sexual Exploitation of Children (Prohibition) Act, 2013, a person who coerces, induces, encourages, pays for, or exchanges any material benefit for, or otherwise causes any child to pose for any photographic material or to participate in any pornographic video or film or audio, visual or other electronic representation of any child involved in any form of child pornography commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

***The Committee welcomes the Government's efforts to prohibit child prostitution and child pornography, and requests the Government to provide information on the application in practice of sections 6(1), and 7(2) of the Commercial Sexual Exploitation of Children (Prohibition) Act, 2013, including information on the number and nature of violations reported, investigations, prosecutions, convictions and penalties imposed on the offenders.***

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

## Benin

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

*Article 2(1) and (3) of the Convention. Minimum age for admission to employment or work and age of completion of compulsory schooling.* Further to its previous request to indicate clearly the age of completion of compulsory schooling, the Committee notes the Government's indication in its report that, according to section 13 of the Act No. 90-32 establishing the Constitution of the Republic of Benin of 11 December 1990, primary education shall be compulsory. The Government further indicates that, pursuant to section 113 of the Act No. 2015-08 issuing the Children's Code in Benin of 2015, schooling is compulsory from nursery level to the end of primary school. The Government points out that the duration of education at primary school lasts until the age of 14 years, which is the minimum age for admission to employment, according to section 166 of the Labour Code of 1998.

The Committee, however, observes that, pursuant to section 24 of the Act on the Orientation of National Education No. 2003-17 of 2003, the usual duration of primary education is six years and it begins for children approximately at the age of four and a half years. Furthermore, the Committee also previously referred to the 2014 Multiple Indicator Cluster Survey (MICS) indicating that, in principle, children attend secondary school from the age of 12 years. The Committee therefore observes that in Benin, the age of completion of compulsory education is lower than the minimum age for admission to employment or work. In this respect, in its 2012 General Survey on the fundamental Conventions, paragraph 371, the Committee observed that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children. The Committee further notes that, according to the data of the United Nations Children's Fund (UNICEF), in Benin, completion rates for children of primary school age was 48 per cent in 2018. The Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 2020, expressed concern that many pupils drop out before having completed their primary schooling and about the high level of inequality in primary school completion between boys and girls (63.51 per cent and 56.85 per cent) (E/C.12/BEN/CO/3, paragraph 45). **Recalling that compulsory education is one of the most effective means of combating child labour, the Committee requests the Government to ensure that compulsory education is effectively implemented in the country. In this regard, it requests the Government to provide information on the measures taken to increase the school enrolment, attendance and completion rates for children under 14 years, paying special attention to girls. The Committee also strongly encourages the Government to consider raising the age of completion of compulsory education to coincide with that of the minimum age for admission to employment or work.**

*Articles 6 and 9(1). Apprenticeships and penalties.* In its previous comments, the Committee noted the cases recorded by the Departmental Service for Further Training and Apprenticeships of non-compliance with the minimum age required for apprenticeships. The Committee also noted the reluctance of artisanal employers to provide the information requested by the inspection teams and that these teams rarely managed to meet the employers in order to raise their awareness. In this respect, the Government indicated that it was taking action to ensure that effective penalties constituting an adequate deterrent were imposed in practice on artisanal employers who admitted children under 14 years of age to apprenticeship centres.

The Committee notes the Government's indication that labour inspectors have identified cases of non-compliance with the minimum age for admission of children to an apprenticeship, non-endorsement of apprenticeship contracts by labour inspectors, use of apprentices in tasks that do not fall within their training, and use of corporal punishment by artisanal employers. The Committee also observes that, according to the 2020 report on labour statistics of the Ministry of Labour and Public Service, in 2020, most of the children (87.44 per cent) identified in child labour by labour inspectors were apprentices. The Government further indicates that penalties established for the violation of the national legislation on employment of children are not dissuasive enough and that it will be taken into account during the review of the Labour Code of 1998. The Government, however, indicates that the situation with a high proportion of children under 14 years of age in apprenticeship has changed due to the active involvement of the Ministry of Labour and Public Service and the UNICEF. In particular, the Committee welcomes the measures undertaken in 2019–20 to eliminate child labour in the apprenticeship sector, such as the creation and operationalization of departmental services to combat child labour as well as the undertaking of various awareness-raising campaigns and trainings on child protection at work for artisanal employers. The Government points out that as a result of the undertaken measures, the number of children under 14 years of age in apprenticeships has decreased. **The Committee requests the Government to continue its efforts to ensure that children under 14 years of age are not admitted to an apprenticeship in practice. It further requests the Government to ensure that effective penalties constituting an adequate deterrent are applied for violations of the provisions**

**regarding the minimum age of 14 years for admission to an apprenticeship. Lastly, the Committee requests the Government to continue to provide information on the number and nature of violations reported and penalties imposed in this respect.**

*Article 7(1), (3) and (4). Admission to light work and determination of such work.* In its previous comments, the Committee noted that the Order No. 371 of 26 August 1987, issuing exceptions to the minimum age for admission to employment for children, authorizes as an exception the employment of children between 12 and 14 years of age in domestic work and light work of a temporary or seasonal nature. The Committee observed that the terms of *Article 7* of the Convention – namely, that the work: (i) is not likely to be harmful to children’s health or development; (ii) is not such as to prejudice their attendance at school or their participation in vocational guidance or training programmes; and (iii) shall be determined by the competent authority, which shall prescribe the number of hours and the conditions of employment – were not fulfilled. The Government further indicated that the National Labour Council had approved a draft order amending Order No. 371, with a view to raising the minimum age for the admission of children to light work and that it was planned to determine the types of light work.

The Committee notes the Government’s indication that the amendment of Order No. 371 and the adoption of the list of light work are scheduled for 2021. ***The Committee once again firmly hopes that the amendment of Order No. 371 and adoption of the list of types of light work will be undertaken as soon as possible, with provisions that are in line with Article 7 of the Convention. It requests the Government to continue to provide information on progress made in this respect.***

*Labour inspection and application of the Convention in practice.* In its previous comments, the Committee noted with concern the high number of child labour in Benin, including under hazardous conditions and in the informal sector. In particular, according to the 2014 MICS, 53 per cent of children between 5 and 17 years of age were involved in child labour and 40 per cent of them were working under hazardous conditions. The Committee also noted that the database on the child labour monitoring system (SSTEB) installed in five departmental directorates was not operational.

The Committee notes the Government’s indication that, according to the Demographic and Health Survey carried out by the National Institute of Statistics and Economic Analysis, in 2018, 33 per cent of surveyed children between 5 and 17 years of age were engaged in child labour. Most of these children were children between 12 and 14 years (40 per cent), were from rural areas (40 per cent), and from poor families (47 per cent). The Government further indicates that the SSTEB has been integrated into a database “Integrated System for the Collection and Publication of Labour Statistics” (SIRP-STAT). The Committee notes with ***interest*** that, since 2017, the Ministry of Labour and Public Service produces annual reports on labour statistics, which contain a chapter on child labour. In particular, the 2020 report on labour statistics indicates that the number of children identified by labour inspectors as engaged in child labour doubled between 2019 and 2020, from 1,328 to 2,836. The 2020 report also indicates that more than half of the identified children were girls (56 per cent). The Government indicates that most of the cases of child labour have been identified in the informal economy, particularly in markets, craft trades, and construction sector. The 2020 report indicates that 963 awareness-raising sessions on the fight against child labour were carried out, which included 2,825 participants. ***Given that the number of children under 14 years of age engaged in child labour remains high, the Committee strongly encourages the Government to pursue its efforts to prevent and progressively eliminate child labour in the country, including in construction sector. It also requests the Government to continue to provide statistical information on the number and nature of violations recorded by labour inspectors in the course of their work involving children below the minimum age for admission to employment, including those who are working in the informal economy. 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.

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

*Article 3 of the Convention. Clause (a). Worst forms of child labour. Forced labour. Vidomégon children.* In its previous comments, the Committee noted with concern that *vidomégon* children, namely children who are placed in the home of a third party by their parents or by an intermediary in order to provide them with education and work, face various forms of exploitation in host families. The Committee further noted that section 219 of the Children's Code (Act No. 2015-08 of 8 December 2015) establishes the obligation for the child placed in the family to attend school and prohibits the use of such children as domestic workers. The Committee, however, noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 2016, expressed concern at the distortion of the traditional practice of *vidomégon* into forced labour and that children placed outside their families, particularly *vidomégon* children, face sexual exploitation. The United Nations Human Rights Committee, in its concluding observations of 2015, also expressed concern at the persistent misuses of the placement of *vidomégon* children, who had become a source of financial and sometimes sexual exploitation.

The Committee notes the Government's indication in its report that the identification of cases of labour exploitation of *vidomégon* children is hampered by the fact that labour inspectors cannot access households. The Government, however, points out that in case of identified abuse or violence against *vidomégon* children, perpetrators of such actions are prosecuted and convicted. The Government further indicates the launch of a helpline for child victims of violence and abuse, including *vidomégon* children, with a view to combat mistreatment and physical violence against children. It further points out that the phenomenon of *vidomégon* children has declined since more parents are aware of the exploitation of children in host families. The Committee, however, notes that the CRC, in its concluding observations of 2018, expressed concern about the persistence of harmful practices in Benin, such as *vidomégon*, and recommended to investigate and prosecute persons responsible for such harmful practices (CRC/C/OPSC/BEN/CO/1, paragraphs 20(e), 21(e)). The Committee further notes the indication in the 2017 Report of the Office of the United Nations High Commissioner for Human Rights that 90 per cent of *vidomégon* children do not go to school and that they are employed at markets and in the street trade, in addition to performing unpaid domestic tasks. The 2017 Report further indicates that young *vidomégon* girls, in addition to being exploited economically, were reportedly often victims of prostitution (A/HRC/WG.6/28/BEN/2, paragraph 38). The Committee notes with **deep concern** the continuing situation of *vidomégon* children exposed to various forms of exploitation in host families. ***While noting certain measures taken by the Government, the Committee urges the Government to intensify its efforts to protect children under 18 years of age from all forms of forced labour or commercial sexual exploitation, particularly vidomégon children. It also requests the Government to take the necessary measures to ensure, as a matter of urgency, that thorough investigations and prosecutions are conducted of persons subjecting children under 18 years of age to forced labour or commercial sexual exploitation, and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee requests the Government to provide information on the results achieved in this regard.***

*Articles 3(a) and 7(1). Worst forms of child labour and penalties. Sale and trafficking of children.* In its previous comments, the Committee noted that the Act No. 2006-04 of 10 April 2006 establishing conditions for the movement of young persons and penalties for the trafficking of children in the Republic of Benin prohibits the sale and trafficking of children for economic or sexual exploitation. The Committee also noted that the Children's Code of 2015 contains provisions relating to the sale and trafficking of children (sections 200–203 and 212). The Committee, however, noted that statistics on the number of convictions and criminal penalties handed down were not yet available. The Committee further noted that the CRC, in its concluding observations of 2016, expressed concern at the number of children who fell victim to internal trafficking for the purpose of domestic work, subsistence farming or trade or, particularly in the case of adolescent girls, to transnational trafficking for sexual exploitation

and domestic labour in other countries. Furthermore, the Committee noted that the Human Rights Committee, in its concluding observations of 2015, continued to express concern that Benin was at the same time a country of origin, transit and destination for trafficking in persons, and in particular women and children.

The Committee notes the Government's indication that, in January–May 2020, the Central Office for the Protection of Children and Families and the Elimination of Trafficking in Persons (OCPM) identified 10 cases of trafficking of children in Benin. The Government further indicates that statistical data on the number of investigations, prosecutions, convictions and penal sanctions imposed for trafficking of children is being currently collected. The Committee further notes in the Government's report concerning the application of the Forced Labour Convention, 1930 (No. 29) the establishment of the branches of the OCPM in risk areas and the adoption of identification procedures of child victims of trafficking. The Committee, however, notes that the CRC, in its concluding observations of 2018, expressed concern about the prevalence of cases of trafficking in children from and into neighbouring countries, particularly for domestic servitude and commercial sexual exploitation in cases of girls, and for forced labour in mines, quarries, markets and farms in cases of boys, especially in diamond-mining districts. The CRC further noted that the system in place for identifying child victims of sale and trafficking, is inadequate and inefficient (CRC/C/OPSC/BEN/CO/1, paragraphs 20(f), 32(a)). ***The Committee requests the Government to strengthen its efforts to ensure the effective implementation and enforcement of the provisions of the Act No. 2006-04 of 10 April 2006, including by conducting thorough investigations and prosecutions of persons who engage in the trafficking of children under 18 years of age. The Committee further requests the Government to provide information on the number of investigations, prosecutions, convictions and penalties imposed for the offence of trafficking of children under 18 years of age. Lastly, the Committee requests the Government to provide information on the activities of the OCPM in preventing and combatting trafficking of children.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from such labour. Children working in mines and quarries.* The Committee previously noted that, according to a survey conducted as part of the ILO–IPEC ECOWAS II project (December 2010–April 2014), 2,995 children had been found working on 201 different mining sites, and 88 per cent of them were children of school age. The Committee also noted that further to the implementation of the ILO–IPEC ECOWAS II project, targeted actions had been carried out to prevent child labour on mining sites, such as awareness raising and occupational safety and health training for mining site operators. Quarry operators had also established internal regulations prescribing penalties for operators or parents who use child labour on the sites. Alert mechanisms had also been put in place to notify site supervisors of the presence of working children.

The Committee notes the Government's indication that the committees to monitor child labour in quarries and on granite crushing sites were established in the communes of Djidja, Zangnanado, Bembéréké, Tchaourou, and Parakou with the UNICEF's support in 2020. The monitoring committees are consisted of labour inspectors, heads of mining and quarrying departments, heads of social promotion centres, judicial police officers, site and quarry operators, heads of women's crushers' associations, and district and village leaders. The Government further indicates that a training workshop on child labour, particularly in mines and quarries, was conducted for the members of the monitoring committees. During the monitoring committees' visits, several working children were found at the granite crushing sites in the commune of Bembéréké. ***The Committee once again encourages the Government to continue to take effective and time-bound measures to protect children from hazardous work in the mining and quarrying sector. It further requests the Government to provide statistical data on the number of children protected or removed from this hazardous type of work and to indicate the rehabilitation and social integration measures from which they have benefited.***

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

## 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)

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 an overview of the issues concerning the application of the core Conventions on the medical examination of young persons, the Committee considers it appropriate to examine Conventions Nos 77 and 78 in a single comment.

*Article 2(1) of Conventions Nos 77 and 78. Medical examination for fitness for employment.* The Committee previously noted Decision No. 001 of 11 May 2004, issued by the Ministers of Labour and of Health and Sports (SEDES), section 1 of which provides that the Ministry of Health and Sports, through its ministries and municipal authorities, shall allocate the necessary and adequate medical personnel so that, in coordination with the Ministry of Labour, free medical examinations are carried out for boys, girls and young persons who are working in the industrial and agricultural sectors and who work on their own account in urban or rural areas, under the terms of section 137(1)(b) of the Code on Boys, Girls and Young Persons of 1999. In this respect, the Committee noted section 137(1)(b) of the Code, under the terms of which young persons engaged in work shall periodically undergo medical examination. It observed that the expression "medical examinations" contained in section 1 of Decision No. 001 of 11 May 2004 only appears to refer to the periodical medical examinations that young persons have to undergo during employment, but not the thorough medical examination of their fitness for work. The Government indicated, however, that the Ministry of Labour, Employment and Social Welfare was preparing a new Bill on occupational safety and health.

While noting that section 131(4) of the new Code on Children and Young Persons provides that the issuance of work permits is subject to prior medical examination for persons under 18 years, the Committee observes that this work permit can be granted to children from the age of ten. The Committee recalls that this issue was raised by this Committee as well as the Committee on the Application of Standards in 2015. **In this regard, the Committee refers to its detailed comments of 2015 concerning the application of the Minimum Age Convention, 1973 (No. 138).**

*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 once again that the Bill on occupational safety and health has still not been adopted and that the Government does not appear to have taken any measures to give legal effect to these provisions of the Conventions. **The Committee requests the Government to take the necessary measures to adopt the Bill without delay 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.* The Committee previously noted that no measure has been taken by the Government to ensure the 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, or in the informal economy. **The Committee expresses the firm hope that the Bill on occupational safety and health will be adopted in the near future and 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 the other methods of supervision to be adopted for ensuring the strict enforcement of the Convention, in accordance with Article 7(2) of the Convention.**

*Application of the Conventions in practice.* In its previous comments, the Committee noted that due to economic constraints, there are certain shortcomings in the application of this Convention, particularly in the capitals of remote departments, such as Cobija and Trinidad, and in rural areas. Nevertheless, it noted that the Government had adopted measures, in accordance with the possibilities available to it, so that all young persons who work in the country will progressively be covered by the protection afforded by the Convention. **Noting the absence of information in the Government's report, the Committee requests the Government to provide information on progress achieved in relation to the application of the Convention in practice, by providing in particular, in accordance with available capacities, information concerning the number of children and young persons who are engaged in work and have undergone the periodical medical examinations envisaged in the Convention and extracts from the reports of the inspection services relating to any infringements reported and the penalties imposed.**

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

### **Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) (ratification: 1977)**

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

*Article 2(1) of the Convention. Medical examination for fitness for employment and periodic re-examinations required for persons under 21 years of age.* In its previous comments, the Committee noted that the Ministry of Labour, Employment and Social Welfare was drafting a new Bill on occupational safety and health. The Committee notes the Government's indication in its report that the Bill on occupational safety and health has not yet been adopted. **Recalling that the Plurinational State of Bolivia ratified the Convention more than 30 years ago, the Committee requests the Government to take the necessary measures to ensure that the Bill on occupational safety and health is adopted as soon as possible in order to give effect to the provisions of the Convention. It requests the Government to provide information on any progress made in this regard.**

*Application of the Convention in practice.* In its previous comments, the Committee noted the description by the Ministry of Labour, Employment and Social Welfare of the child labour inspection system (SITI), through which it will be possible to obtain information on the number of children and young persons working in the country. It noted that the inspection system is based on a standard questionnaire which seeks to evaluate the working conditions of these children and young persons and which is particularly concerned with the issue of the medical examination for fitness for employment. **Noting the absence of information on this subject, the Committee requests the Government to provide information on the number of children and young persons covered by the Convention and extracts from the reports of the inspection services.**

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

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1997)**

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

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the Confederation of Private Employers of Bolivia (CEPB), received on 31 August 2018, the Government's report and the in-depth discussion on the application of the Convention by the Plurinational State of Bolivia that took place in the Committee on the Application of Standards at the 107th Session (June 2018) of the International Labour Conference.

**Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)**

*Article 2(1) of the Convention. Minimum age for admission to employment or work and labour inspection.* In its previous comments, the Committee noted the observation made by the International Trade Union

Confederation (ITUC) concerning the adoption by the Government of the new Code for Children and Young Persons of 17 July 2014, amending section 129 of the previous Code through the addition of section 129(II), which reduces, under exceptional circumstances, the minimum age for admission to work for children from 14 to 10 years for own-account workers, and reduces it to 12 years for children in an employment relationship. The ITUC observed that these exemptions from the minimum age of 14 years are incompatible with the exceptions to the minimum age authorized for light work established under *Article 7(4)* of the Convention, which does not authorize work by children under 12 years of age. The Committee also noted the ITUC's statement that authorizing children to work from the age of 10 years would inevitably affect their compulsory schooling, which, in the Plurinational State of Bolivia, consists of a fixed period of 12 years, namely at least up to 16 years of age. The Committee also noted the joint observations of the IOE and the CEPB indicating that the high proportion of work in the informal economy (70 per cent) encourages child labour, since it is not subject to labour inspection, and that there is no child labour in the formal sector.

Also in its previous comments, the Committee deeply deplored the Government's indication that the amendments made to section 129 of the Code for Children and Young Persons would remain in place as provisional measures. The Government indicated that the new exemptions from the minimum age of 14 years, as set out in section 129 of the Code, can only be registered and authorized on condition that the work done does not jeopardize the child's right to education, health, dignity and general development. Furthermore, the Committee expressed deep concern at the distinction made between the minimum age fixed for own-account child workers (10 years), and the minimum age fixed for children engaged in an employment relationship (12 years). Lastly, the Committee noted that the Ministry of Labour, Employment and Social Welfare was giving effect to the Convention through integrated and inter-sectoral routine and complaint-based inspections conducted by the services for the protection of children and young persons in order to highlight cases involving work by children under 14 years of age.

Recalling that the objective of the Convention is to eliminate child labour and that it encourages the raising of the minimum age, but does not authorize its reduction once the minimum age has been set (14 years at the time of ratification of the Convention by the Plurinational State of Bolivia), and while duly noting the positive results of the economic and social policies implemented by the Government, the Committee urged the Government to repeal the provisions of the legislation setting the minimum age for admission to employment or work and to immediately prepare a new law, in consultation with the social partners, increasing the minimum age for admission to employment or work in conformity with the Convention. Lastly, the Committee observed the Government's indication that there are 90 labour inspectors (four more than in 2012), and it asked the Government to provide the labour inspectorate with increased human and technical resources and training for inspectors with a view to ensuring a more effective application of the Convention.

The Committee notes that the Government representative drew the Conference Committee's attention to Decision No. 0025/2017 of the Constitutional Court of 21 July 2017, which declared section 129(II) of the Code for Children and Young Persons and its related sections (130(III); 131(I), (III) and (IV); 133(III) and (IV); and 138(I)) to be unconstitutional. The Conference Committee noted that the Constitutional Court used *Articles 1, 2 and 7* of the Convention as a reference point and the legal basis for its decision. In its conclusions, the Conference Committee urged the Government to adapt the national legislation, in consultation with the most representative employers' and workers' organizations, following the repeal of the provisions of the Code for Children and Young Persons by the Constitutional Court, in accordance with the Convention. The Conference Committee also urged the Government to provide the labour inspectorate with increased human, material and technical resources, in particular in the informal economy, in order to ensure the more effective application of the Convention in law and in practice.

The Committee notes the joint observations of the IOE and the CEPB, asking the Government to bridge the legal gap left by the Constitutional Court decision by amending the legislation to bring it into conformity with the Convention. The Committee notes with **interest** the Government's indication in its report that, further to the decision of the Constitutional Court, the minimum age for access to employment or work established in section 129 of the Code for Children and Young Persons is 14 years, in conformity with the Convention. However, the Committee notes the Government's indication that, since the decision of the Constitutional Court is binding, there is no need to revise the Code for Children and Young Persons since the provisions which are contrary to the Convention no longer have the force of law. Moreover, the Committee notes the Government's indication that the number of labour inspectors has increased to 103 since 2017 and

that the labour inspectorate used mobile offices in 2016–17 to carry out 1,874 inspections in connection with child labour and forced labour, of which 30 per cent were referred to the courts. **While noting that section 129(II) of the Code for Children and Young Persons and its related sections have been declared unconstitutional by the Constitutional Court, the Committee also notes the importance in legal terms and in accordance with the ILO Constitution, of having the legislation being in conformity with the ratified Conventions. Accordingly, the Committee requests the Government, in consultation with the employers' and workers' organizations, to take all necessary steps to amend the Code for Children and Young Persons so as to fix the minimum age for access to employment or work at 14 years, in conformity with the Convention and the decision of the Constitutional Court in order to eliminate any confusion and thereby minimize the risk of non-compliance with the Convention. It requests the Government to send information on all progress made in this regard. The Committee also requests the Government to continue its efforts to strengthen the capacities of the labour inspectorate and to indicate the methods used to ensure that the protection provided for by the Convention is also afforded to children working in the informal economy.**

*Article 6. Apprenticeships.* In its previous comments, the Committee noted that, under sections 28 and 58 of the General Labour Act, children under 14 years of age may work as apprentices with or without pay, and it reminded the Government that, under *Article 6*, the Convention does not apply to work done by persons at least 14 years of age in undertakings where such work is carried out as part of a course of education or a programme of training or vocational guidance. The Committee also noted the Government's indication that labour inspectors were responsible for implementing measures to ensure that children under 14 years of age do not engage in apprenticeships. The Committee recognized that measures to reinforce the labour inspection services were essential to combat child labour, but noted that labour inspectors needed a basis in law consistent with the Convention to enable them to ensure that children are protected against conditions of work liable to jeopardize their health or development. It noted that, although the Government refers to Act No. 070 *Avelino Siñani-Elizardo Pérez* of 20 December 2010 which regulates the system of education and apprenticeships, this Act does not prescribe a minimum age for work as an apprentice.

The Committee notes once again with **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. The Government merely indicates that sections 28–30 of the General Labour Act taken together with section 129 of the Code for Children and Young Persons fix the minimum age for apprenticeships at 14 years. However, the Committee notes that sections 28–30 of the General Labour Act do not prescribe the minimum age for signing an apprenticeship contract and do not make any reference to section 129 of the Code for Children and Young Persons. **Recalling once again that it has been drawing the Government's attention to this matter for over ten years, 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 fix without delay the minimum age for admission to employment or work at 14 years.**

*Article 7(1) and (4). Light work.* The Committee previously noted that sections 132 and 133 of the Code for Children and Young Persons allow children between 10 and 18 years of age to perform light work, subject to the authorization of the competent authority, under conditions which limit their hours of work, do not endanger their life, health, safety or image, and do not interfere with their access to education. It recalled that under *Article 7(1) and (4)* of the Convention, the employment of persons in light work is permitted, under certain conditions, from 12 and not 10 years of age, and it therefore urged the Government to take the necessary steps to amend sections 132 and 133 of the Code for Children and Young Persons.

The Committee notes the Government's indication that it does not consider it necessary to amend the legislation since Decision No. 0025/2017 of the Constitutional Court has invalidated the provisions of sections 132 and 133, which are contrary to the Convention. **The Committee requests the Government, in consultation with the social partners concerned, in the light of the decision of the Constitutional Court, and the importance, in accordance with the ILO Constitution of having the legislation being in conformity with the ratified Conventions, to take the necessary steps to amend the Code for Children and Young Persons so that the age for admission to light work is fixed at no less than 12 years, in accordance with Article 7(1) and (4) of the Convention.**

*Article 9(3). Keeping of registers.* In its previous comments, the Committee noted that, under section 138 of the Code for Children and Young Persons, registers for child workers are required in order to obtain authorization for work. The Committee observed that these registers include the authorization for children between 10 and 14 years of age to work. It also noted Decision No. 434/2016, which provides for the inclusion

in a register of minors under 14 years of age who are engaged in work, and Decision No. 71/2016 created the Information System on Children and Young Persons (SINNA), which registers and contains information on the rights of the child, including information relating to children working on their own account or for a third party.

The Committee notes the Government's indication that further to Decision No. 0025/2017 of the Constitutional Court declaring section 138(I) of the Code for Children and Young Persons unconstitutional, the SINNA system has been modified to enable the registration of young workers from the age of 14 and not 10 years. **The Committee urges the Government, in consultation with the social partners, to take the necessary steps to amend the Code for Children and Young Persons so that, further to inclusion in the registers, only children who are at least 14 years of age may be permitted to work, in accordance with the Convention and the practice of the SINNA system.**

**The Committee reminds the Government that it may request technical assistance from the ILO in order to bring its law and practice into conformity with the Convention.**

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

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

### **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.

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the Confederation of Private Employers of Bolivia (CEPB) received on 1 September 2017.

*Articles 3(a) and 7(2)(a) and (b) of the Convention. Debt bondage and forced and compulsory labour in the sugar cane and Brazil nut harvesting industries, 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 from child labour and for their rehabilitation and social integration.* 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 also noted the Government's corporate incentives programme "Triple Sello", under which the provision of certain benefits is conditional on the enterprise demonstrating that it does not practice any form of child labour, including in work related to the harvesting of nuts. The Committee noted that, based on the Plan of Action 2013–17 with UNICEF, a programme had been established in 17 Bolivian nut and sugar cane producing municipalities to provide education assistance to children, and that 3,400 children had been reintegrated into basic education.

The Committee notes the Government's indication in its report that no cases of child labour have been identified in the sugar cane production sector. With regard to the nut production sector, the Government indicates that a tripartite agreement has been signed with the representatives of employers and their workers in the sector, including a clause prohibiting child labour. According to the Government, during the harvest period, labour inspectors undertake inspections to assess the conditions of work, and also keep a special record of cases of children working in the sector. The Government adds that these inspectors are empowered to impose penalties when they detect violations of labour rules. However, the Committee notes that the Government does not indicate the number of violations identified or the penalties imposed. It also notes with **regret** the absence of information on the effective and time-bound measures taken to prevent children becoming victims of debt bondage or forced labour. **The Committee once again urges the Government to take effective and time-bound measures to 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. The Committee once again requests the Government to explain the manner in which it ensures 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 effective and dissuasive sanctions are applied. The Committee requests the Government to indicate how the tripartite agreement signed in the nut production sector will concretely impact on child labour, and to provide a copy of the agreement.**

*Articles 3(d) and 7(2)(a) and (b). Hazardous types of work. Children working in mines. Effective and time-bound measures for prevention, assistance and removal.* The Committee noted previously that over 3,800 children work in the tin, zinc, silver and gold mines in the country. It also noted the awareness-raising and educational measures and the economic alternatives offered to the families of children working in mines. The Committee noted that, according to the Government's statistical data, only 8 per cent of the inspections carried out in mines found children under the age of 12 years working there. However, the Committee also noted that around 2,000 children were identified in 2013 in labour activities in traditional artisanal mines in the municipalities of Potosí and Oruro. The Committee further noted that 145 young persons below 18 years of age were found working in mines in Cerro Rico in June and July 2014. Finally, the Committee noted the Government's indication that it intended to formulate a national policy for the eradication of child labour within the next two years.

The Committee notes the joint observations of the IOE and the CEPB that it is necessary for the Government to adopt a national plan for the eradication of child labour after consulting the social partners.

The Committee notes that, according to the Government, the Ministry of Labour has taken action directed at employers in the mining sector to discourage them from using child labour. The Government also refers 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. However, the Committee notes with *regret* that the national policy for the eradication of child labour has not yet been adopted. **The Committee therefore requests the Government to take the necessary measures for the adoption in the very near future of the national policy for the eradication of child labour and to provide information on this subject. It also requests the Government to indicate the effectiveness of the action undertaken by Integrated Mobile Offices in preventing children from being engaged in hazardous work in mines, their removal from such work and their rehabilitation.**

*Article 5. Monitoring mechanisms and application in practice.* The Committee previously noted the lack of resources of labour inspectors and the difficulties encountered in gaining access to plantations in the Chaco region. It also noted that the most recent information provided by the Government merely repeated the statistics provided previously indicating that only 5 per cent of the inspections carried out had identified children under 14 years of age engaged in work.

The Committee notes that, according to the Government, the labour inspectorate has six inspectors specialized in the progressive elimination of child labour. It adds that inspectors supervise labour standards relating to all fundamental rights. The Government adds that in remote areas where there are no Ministry of Labour offices, it has established Integrated Mobile Offices composed of labour inspectors with competence for the exhaustive supervision of the application of labour standards. The Committee notes that 265 inspections relating to child labour were carried out in 2015, all of which were undertaken by the Mobile Offices. The Committee also notes the Government's indication in its report on the application of the Minimum Age Convention, 1973 (No. 138), that studies and analysis have been carried out of the situation of children working in domestic service, mines, on their own account, in sugar cane fields and those engaged in hazardous types of work, but it notes that the Government has not provided the findings of these studies. The Government indicates that the analyses in the studies are helping in the formulation of a plan of action which will be coordinated by municipal authorities and government departments. **The Committee requests the Government to continue providing updated statistics on the results of routine and unscheduled inspections, including inspections carried out by inspectors specialized in child labour. It also requests the Government to ensure that these statistics clearly indicate the nature, scope and trends of the worst forms of child labour, particularly in the sugar cane and Brazil nut harvest, and in the mining sector. Finally, the Committee requests the Government to provide information on the adoption of the plan of action referred to above.**

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.**

## Bosnia and Herzegovina

### Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1993)

*Article 1(1) and (2) of the Convention. Definition of “industrial undertaking”. Federation of Bosnia and Herzegovina (FBiH).* The Committee previously noted that the Labour Law of the FBiH No. 62 of 2015 (Labour Law of the FBiH, 2015) prohibits minors from performing particularly hard manual labour, underground or underwater works, or other jobs, which could have a harmful effect or pose increased risks to their life and health, development or morality, given their psychological and physical capacities (section 57(1)). In addition, section 42(1) of the Labour Law of the FBiH, 2015 prohibits night work of minors, and section 42(2) states that for minors employed in industry, “night work” includes work between 7 p.m. and 7 a.m. According to section 42(5), the Federal Minister of Labour and Social Policy shall prescribe the activities considered to be industrial in terms of night work for minors by virtue of a Rulebook.

The Committee notes with **regret** the Government’s reply in its report that the Rulebook, pursuant to section 42(5) of the Labour Law of the FBiH, 2015, has not been adopted yet. The Committee also takes note of the Government’s intention to harmonize the national legislation with the Convention on this point. **The Committee therefore once again expresses the firm hope that a Rulebook, prescribing the activities considered as industrial for night work for minors and which will take into account the compliance with Article 1(1) and (2) of the Convention will be adopted in the near future. The Committee requests the Government to provide information on any progress made in this regard.**

*Brčko District.* The Committee previously noted the Government’s statement that in the Brčko District, activities that fall under the term “industrial undertakings” are regulated by collective agreements based on the laws regulating agricultural, commercial and other activities and which determine the boundary that separates industry from other activities. The Committee requested the Government to clarify whether the classification by collective agreement in the Brčko District includes all the activities mentioned under *Article 1(1)* of the Convention, in particular activities related to mining and quarrying.

The Committee notes an absence of information in the Government’s report in this respect. The Committee observes, however, that section 2(a) of the new Labour Law of the Brčko District No. 34/19 of 2019 (the Labour Law of the Brčko District, 2019) defines the term “employer” as a domestic or foreign legal entity or entrepreneur who employs persons in accordance with the Labour Law. The Committee observes therefore that an employer is determined regardless of the business performed and that the prohibition on night work of young persons under the age of 18 years set out by section 57(1) of the Labour Law of the Brčko District, 2019 is applied in industry and in other branches of business activities. The Committee further observes that the Classification of Activities in Bosnia and Herzegovina of 8 June, 2010 (KD BIH 2010) includes the activities established by *Article 1(1)* of the Convention.

*Articles 2(1) and 3(1) of the Convention. Period during which night work is prohibited for persons under 18 years. Republika Srpska.* The Committee previously noted that section 72(1) of the Labour Law of the Republika Srpska, 2015, read in conjunction with section 70(2), prohibits the night work of young persons under the age of 18 years between 7 p.m. and 6 a.m., that is for a period of 11 consecutive hours, which is inconsistent with *Article 2(1)* of the Convention. The Committee recalled that *Article 2(1)* of the Convention, read in conjunction with *Article 3(1)*, stipulates that the prohibition on night work of young persons under the age of 18 years shall constitute a period of at least 12 consecutive hours.

The Committee notes with **regret** the indication by the Government, according to which there were no changes during the reporting period in this respect. **The Committee once again requests the Government to take the necessary measures to bring the Labour Law of the Republika Srpska, 2015**

**into line with Articles 2(1) and 3(1) of the Convention thereby prohibiting night work of a period of at least 12 consecutive hours for young persons under the age of 18 years.**

Articles 4(2) and 5. *Exemptions from the prohibition of night work of persons of 16–18 years of age in case of emergencies. FBiH, Republika Srpska and Brčko District.* The Committee previously noted with regret that the Labour Law of the FBiH, 2015 and the Labour Law of the Republika Srpska, 2015 had not taken into account the Committee's comments related to the age of young persons for whom temporary exceptions from the prohibition of night work in case of emergencies may be granted, according to Articles 4(2) and 5 of the Convention. In particular, the Committee observed that the exceptions from the prohibition of night work under section 42(4) of the Labour Law of the FBiH, 2015 refer to minor employees (between 15 and 18 years of age), and under section 72(2) of the Labour Law of the Republika Srpska, 2015, apply to workers younger than 18 years of age. In addition, the Committee noted that section 28(3) of the Labour Law of the Brčko District No. 19/06 of 2006 exempted temporarily minor employees (between 15 and 18 years of age) from night work in case of major breakdowns and force majeure, based on the approval of the competent authority of the canton. The Committee recalled that pursuant to Articles 4(2) and 5 of the Convention, the prohibition of night work shall not apply or may be suspended only with regard to young persons between the ages of 16 and 18 years in case of emergencies.

The Committee notes with **regret** that the new Labour Law of the Brčko District, 2019 did not take into account the Committee's comments on this matter. In particular, section 57(2) of the Labour Law of the Brčko District, 2019 allows minor employees under the age of 18 years to be temporarily exempted from the prohibition of night work in the event of elimination of the consequences of force majeure and accidents or for the purpose of protection of general interests, based on the approval of the labour inspector. The Committee further notes the indication by the Government that the Committee's comments will be taken into consideration during the next review of the Labour Law of the FBiH, 2015. The Government also indicates that in the Republika Srpska and the Brčko District, there were no cases of the work carried out at night by young persons under 18 years of age in case of emergencies. **The Committee once again requests the Governments of the FBiH, the Republika Srpska and the Brčko District to take the necessary measures to ensure that the exemption on the prohibition of night work shall be applicable only to children between the ages of 16 and 18 years in accordance with Article 4(2) in case of emergencies which could not have been controlled or foreseen or suspended in accordance with Article 5 when in case of serious emergency, the public interest demands it. The Committee requests the Government to provide information on any measures taken in this regard.**

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1993)**

Article 3(2) of the Convention. *Determination of hazardous work.* 1. *Federation of Bosnia and Herzegovina (FBiH).* In its previous comments, the Committee noted that pursuant to section 57 of the Labour Law of the FBiH No. 26/16 of 2016, underage persons may not be assigned to any physically demanding work, underground or underwater work, or any other work likely to create a hazard or increased risk to their life, health, development or morale, taking into account their mental and physical characteristics. The Committee further noted that a by-law that shall define the types of work referred to in section 57 of the Labour Law had not been adopted. The Committee notes with **regret** that according to the information provided by the Government in its report, such a by-law has not been adopted yet. **Observing that it has been raising this issue since 2005, the Committee once again urges 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.**

2. *Brčko District.* The Committee previously noted that section 41 of the Labour Law of the Brčko District No. 19/06 of 2006 provides that underage persons may not be assigned to any dangerous or demanding work, underground or underwater work, or any other work likely to pose a hazard or jeopardize their life, health, physical development or morale, and that these types of work shall be regulated under collective agreements. The Committee requested the Government to provide information on the progress made in adopting the list of types of work prohibited to children and young persons under 18 years of age, as well as on the types of work prescribed by collective agreements.

The Committee notes with **regret** an absence of information in the Government's report in this respect. The Committee further notes that pursuant to section 75(1) of the new Labour Law of the Brčko District No. 34/19 of 2019, employees under the age of 18 may not be assigned to any physically demanding work, underground or underwater work, work carried out at a height, or any other work likely to create a hazard or increased risk to their life, health, development or morale, taking into account their mental and physical characteristics. **Observing that it has been raising this issue since 2005, the Committee 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 reminds the Government that it may avail itself of ILO technical assistance in order to facilitate the application of the Convention.**

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

**[The Government is asked to reply in full to the present comments in 2022.]**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3(a) and 7(1) of the Convention. Trafficking of children and penalties.* The Committee observes that pursuant to the Criminal Code of Bosnia and Herzegovina of 27 June 2003, transnational trafficking (section 185(2)) and organized transnational trafficking of persons under 18 years of age (section 186(2)) are criminal offences. Furthermore, section 210(a)(2) of the Criminal Code of the Federation of Bosnia and Herzegovina of 9 July 2003, section 146 of the Criminal Code of the Republika Srpska of 2017, and section 207(a)(2) of the Criminal Code of the Brčko District of 2003 penalize trafficking of children. The Committee observes from the 2018–20 Reports of the State Coordinator for Combating Trafficking in Human Beings that there were two persons convicted under section 207(a)(2) of the Criminal Code of the Brčko District in 2017 and two persons convicted under section 146 of the Criminal Code of the Republika Srpska in 2018. The Committee further notes that the Committee on the Rights of the Child (CRC), in its concluding observations, expressed concern about the low rate of prosecutions and convictions of the trafficking and exploitation of children and urged the Government to strengthen training for law enforcement officers at all levels to investigate all cases of child trafficking and to ensure that the perpetrators of those criminal offences are prosecuted and adequately punished at all levels of jurisdiction (CRC/C/BIH/CO/5-6, paragraph 46). The Committee recalls that, under *Article 7(1)* of the Convention, the Government is obliged to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of penal sanctions. **The Committee therefore requests the Government to ensure that persons involved in the trafficking of children are investigated and prosecuted and that sufficiently effective and dissuasive sanctions are imposed upon them. The Committee requests the Government to provide information on training sessions for law enforcement officers addressed to investigating child trafficking and apprehending perpetrators, including the number, nature, and duration of sessions and the number of officers attending. It also requests the Government to provide statistical data on the above-mentioned sections of the Criminal Codes concerning the trafficking of children, including statistics on the number of investigations, prosecutions, convictions and penalties imposed.**

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

## Botswana

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

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

The Committee notes the observations of the Botswana Federation of Trade Unions (BFTU), received on 1 September 2018.

*Articles 3(a) and 6 of the Convention. All forms of slavery or practices similar to slavery and programmes of action. Sale and trafficking of children.* The Committee takes due note of the adoption of the Anti-Human Trafficking Act in July 2014, introducing a specific offence of trafficking in persons in the national legislation, as well as the establishment of a Human Trafficking (Prohibition) Committee in 2015. It notes that the perpetrator of trafficking for the purposes of forced labour or exploitation of another person's prostitution is liable to a term of imprisonment of up to 30 years and/or a fine not exceeding 1 million Botswana pula (approximately US\$93,170), pursuant to section 9 of the Anti-Human Trafficking Act. The law provides for the creation of centres for child victims of trafficking, to ensure protection, care, counselling, education and rehabilitation of children (section 18). The Committee notes the Government's indication in its report that a National Action Plan on human trafficking has been developed. Furthermore, it notes the Government's indication that the Southern African Development Community (SADC) Strategic Plan on combating trafficking in persons, especially women and children for the 2009–19 period, is being implemented through the SADC Regional Political Cooperation Programme. The United Nations Office on Drugs and Crime (UNODC) indicates that together with SADC Member States, including Botswana, UNODC has developed an Anti-Trafficking in Persons Data Collection System, to ensure the collection of reliable data on the crime of trafficking in persons.

The Committee notes the observations of the BFTU reporting the continued existence of practices of trafficking in children despite national laws and control measures. The BFTU also states that public education on trafficking and slavery is not adequately done. ***The Committee urges the Government to strengthen its efforts to ensure the effective application of the Anti-Human Trafficking Act and requests it to provide information in this regard, including the number of infringements reported, investigations, prosecutions, convictions and penalties applied for the sale and trafficking of children under 18 years of age. It also requests the Government to provide information on the adoption and implementation of the National Plan of Action on human trafficking and its impact in terms of the elimination of trafficking in children.***

*Article 4(1). Determination of hazardous work.* The Committee previously noted the Government's statement that the Tripartite Labour Advisory Board had prepared a draft list of hazardous types of work prohibited to young persons, which was being circulated to the relevant ministries for their endorsement. The Committee accordingly requested the Government to pursue its efforts to ensure the adoption, in the near future, of the list determining the types of hazardous work prohibited to persons under 18 years of age.

The Committee notes with ***interest*** the drafting of the list of hazardous types of work by the tripartite constituents, which includes such types of work as: handling and spraying of pesticide and herbicide and the exposure to chemicals, toxic dust, fumes and gases; garbage collecting; the lifting of heavy loads; unsupervised fishing and extraction of water from wells; the brewing of alcoholic beverages; working underground, at night or at heights; and building and construction work. The Committee notes the Government's indication that the incorporation of the list of hazardous types of work into the Employment Act will be considered during the ongoing labour law review process. ***The Committee expresses the firm hope that the draft list of types of hazardous work prohibited to children under 18 years of age will be adopted in the very near future. It requests the Government to supply a copy of this list, once it is adopted.***

*Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour. Child victims of commercial sexual exploitation.* In its previous comments, the Committee noted that the United Nations Committee on the Elimination of Discrimination against Women expressed concern, in its concluding observations of 2010, that women and girls enter into prostitution to support themselves and their families as a result of poverty. It noted that, within the national Action Programme on the Elimination of Child Labour (APEC), a total of 1,927 children were prevented and

withdrawn from child labour, including from commercial sexual exploitation. The Committee also noted the Government's statement that children engaged in commercial sexual exploitation are identified as children in need of protection under the Children's Act of 2009 and that, according to section 54, the Minister shall develop programmes and rehabilitative measures to reintegrate abused or exploited children.

The Committee notes the Government's statement that children in need of protection can be placed in child welfare institutions, and receive psychosocial support. The Government indicates that, taking into account all forms of vulnerability, there are currently more than 450 children in child welfare institutions. The Government also states that a study on violence against children has recently been completed and that the results will give an indication of the prevalence of violence, in its different forms, among children. ***The Committee requests the Government to pursue its efforts to remove children engaged in commercial sexual exploitation, and to provide them with the necessary and appropriate direct assistance, pursuant to section 54 of the Children's Act. It requests the Government to provide information on the number of child victims of commercial sexual exploitation who have been effectively removed, rehabilitated and socially integrated as a result of the measures implemented, including by providing the statistics compiled as a result of the study on violence against children.***

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.***

## Burkina Faso

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

*Article 1 of the Convention. National policy, labour inspection and application of the Convention in practice.* In its previous comments the Committee noted that, according to the last National Survey of Child Labour in Burkina Faso (ENTE), published in 2008, child labour affected 41.1 per cent of children between 5 and 17 years of age a total of 1,658,869 working children. The Committee noted that the National Economic and Social Development Plan 2016–2020 (PNDES) gives priority status to combating child labour and that one of the expected outcomes was to “reduce the proportion of children in the 5–17 age group involved in economic activities from 41 per cent to 25 per cent in 2020.”

The Committee notes the information in the Government's report on the activities undertaken as part of the PNDES, including the implementation of the road map for the prevention, removal and reintegration of children from small-scale gold mines and quarries (2015–19). The Government also indicates that action has been engaged under the GOVERNANCE (2016–19) project, implemented in the framework of the France–ILO partnership, to strengthen the capacities of the labour inspection in respect of the informal economy. The action includes the elaboration of strategic plans for intervention by the labour inspectorate in general engineering workshops, construction and public works. It also covers the informal economy, and is piloted in four Regional Directorates for Labour and Social Protection. Training is provided for labour inspectors, duplicated across the different regional labour directorates. Finally, the Committee notes that the Government has adopted the National Strategy to Combat the Worst Forms of Child Labour 2019–23 (SN-PFTE). However, the Government indicates that it has no recent statistics on the nature, extent and trends in child labour, but that a nation survey is under way, with the support of the ILO and UNICEF. ***The Committee encourages the Government to continue to take measures, within the framework of the SN-PFTE or otherwise, to ensure the progressive elimination of child labour, and to provide detailed information on the impact of the measures taken in terms of the number of working children under 15 years of age who have been able to enjoy the protection granted by the Convention, particularly children working in the informal economy. The Committee requests the Government to take the measures necessary to ensure that the national survey on child labour is completed in the near future, so as to be able to provide sufficient updated statistics on the child labour situation, such as recent statistics disaggregated by gender and by age group, relating to the nature, extent and trends of work done by children and young persons***

**who are under the minimum age specified by the Government at the time of ratification, and extracts from the reports of the inspection services.**

*Article 3(2) and Article 9(1). Hazardous work and penalties.* In its previous comments, the Committee noted with concern the large number of children engaged in hazardous types of work in Burkina Faso. It noted that in accordance with section 8 of Decree No. 2016 504/PRES/PM/MFPTPS/MS/MFSNF determining the list of hazardous types of work in Burkina Faso (Decree No. 2016-504) of 9 June 2016, any person committing an offence constituting one of the worst forms of child labour shall be punished according to the terms of section 5 of Act No. 029-2008/AN of 15 May 2008 combating trafficking in persons and similar practices, which provides for imprisonment of 10 to 20 years for offenders. The Committee requested the Government to provide information on the application in practice of Decree No. 2016-504.

The Committee notes the Government's information, according to which the 88 monitoring exercises carried out in 2019 recorded 1,636 children (434 girls and 1,202 boys) engaged in work on 437 sites (19 gold-mining sites, 409 informal sector structures and nine agricultural undertakings). Violations observed included failure to respect the minimum age for admission to employment; failure to grant paid annual leave or weekly rest; failure to respect the prescribed number of working hours for children. However, the Government indicates that the focus is on raising the awareness of the actors and on the social reintegration of the victims of the worst forms of child labour and that it has no statistics on the number of penalties imposed. The Committee recalls that under *Article 9(1)*, all necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention. Furthermore, with reference to the General Survey on the fundamental Conventions, 2012, the Committee underlines that even the best legislation only takes value when it is applied effectively (paragraph 410). **The Committee therefore requests the Government to take the measures necessary to ensure the implementation and effective application of Decree No. 2016-504 against persons who engage children under 18 years of age in hazardous work, and that appropriate penalties are imposed. It requests the Government to provide information on the measures taken in this regard and on the number of convictions handed down and penalties imposed for violations.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3(a) and 7(1) of the Convention. Sale and trafficking of children and penalties.* In its previous comments, the Committee noted the considerable extent of internal and cross-border trafficking of children for the labour exploitation. While noting the figures provided by the Government on the number of convictions and sanctions imposed by the courts in this regard, the Committee observed that the number of prosecutions and convictions remain low in light of the high number of presumed child victims of trafficking (1,099 in 2015). The Committee therefore encouraged the Government to step up its efforts to ensure that the criminal law concerned, Act No. 029 2008/AN of 15 May 2008 on combating the trafficking in persons and similar practices, are effectively implemented and that the capacities of the enforcement bodies are strengthened.

The Committee notes the statistics provided by the Government in its report, according to which ten new cases were filed with the courts of the first instance in 2018, four in 2019 and four in 2020. There were six prosecutions in 2018 and five in 2019. Only five convictions were handed down in 2019. However, the 2018 national report on the trafficking of persons in Burkina Faso states that 1,047 presumed victims of trafficking were intercepted, of which 962 were children under 18 years of age. Moreover, in its report, the Government indicates that thanks to action by the National Committee for Vigilance and Surveillance (CNVS), 2,303 child victims of trafficking were intercepted in 2019 (of which 172 were trafficked for the purpose of sexual exploitation and 2,131 for labour exploitation). While noting the efforts made to intercept child victims of trafficking, the committee observes with **concern** that the number of cases, prosecutions and convictions remains low when compared with the number

of presumed child victims of trafficking. **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 Act No. 029 2008/AN of 15 May 2008 on combating the trafficking in persons and similar practices. In this regard it again 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 continue providing concrete information on the application of the provisions related to the worst forms of child labour, especially by providing statistics on the number of convictions and penal sanctions imposed.**

*Article 6. Plan of action and application of the Convention in practice. Sale and trafficking of children.* The Committee previously noted with regret that the drafting of the National Action Plan to Combat Trafficking and Sexual Violence against Children in Burkina Faso (PAN-LTVS), which sets out clear strategies for combating the trafficking and sexual exploitation of children, and the implementation of a national study for evaluating action against trafficking in children remained unchanged.

The Committee again notes with **regret** that the PAN-LTVS and the national study for evaluating action against trafficking in children remain unfinished. The Government indicates that a national study on violence against children in Burkina Faso was validated in 2018, and that a national action plan on violence against children, 2021–23, was adopted in September 2020. The Committee notes, however, that this action plan does not address the specific issues related to the scourge of sale and trafficking of children. The Committee further notes, according to the 2018 national report on the trafficking of persons in Burkina Faso, published in 2020, that the Government encountered difficulties in combating the trafficking of persons and children, including the non-functioning of the CNVS, the situation of insecurity in the country and insufficient resources. The Committee recalls that under *Article 6* of the Convention, the Government shall design and implement programmes of action to eliminate as a priority the worst forms of child labour, including the sale and trafficking of children for the purposes of their sexual or commercial exploitation, and that this is made more important still by the prevalence of the problem in the country and the difficulties encountered by the Government in combating the problem. **The Committee therefore again urges the Government to take the necessary steps to ensure that the national study for evaluating action against trafficking in children is conducted and the PAN/LTVS is drafted and adopted as soon as possible, and requests it to provide information on progress made in this respect.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. 1. Sale and trafficking of children.* Further to its previous comments, the Committee notes the detailed information provided by the Government regarding measures taken to prevent children from becoming victims of trafficking for the purposes of sexual exploitation or labour exploitation and to remove child victims for rehabilitation and social integration, as well as the results achieved. In particular, the Government indicates that 685 vulnerable children have been fostered, 10,890 persons were made aware of the issue of trafficking, displacement and the worst forms of child labour and that 29,337 vulnerable children had been enrolled or re-enrolled in school.

The Committee further notes the Government's indication that Burkina Faso has, since 2018, implemented the subregional project to assist and protect children on the move (DFID), with the assistance of UNICEF. The results achieved include the following: (i) 9,894 displaced children or other vulnerable children have received high-quality protection; (ii) 2,871 children and youths have benefited from psychosocial care; (iii) 3,769 displaced children, including 769 migrant children in transit, 547 returning children and 349 internally displaced children have received support through 13 regional

directorates of social action; (iv) 803 displaced children have benefited from sustainable reintegration, 4,319 children have been issued birth certificates; and (v) 1,083 multisectoral actors (frontier officers responsible for security, social, education and health officers) have received training on child mobility, case management, and the child protection information management system (CPIMS+). **The Committee strongly encourages the Government to pursue its efforts to prevent children under 18 years of age from becoming victims of trafficking for economic or sexual exploitation and to remove child victims of sale and trafficking and ensure their rehabilitation and social integration. It requests the Government to continue providing information on the measures taken in this respect and on the results achieved.**

2. *Children working in small-scale gold mines and quarries.* In its previous comments, the Committee noted that around one third of the population at the 86 small-scale gold mines were children, making a total of 19,881 children, of whom 51.5 per cent were boys and 48.6 per cent were girls, used in all forms of mining operations, such as work in mine galleries, dynamiting of rocks, rock breaking, crushing and sieving, selling water and hauling minerals to sheds. The Committee urged the Government to take time-bound measures to remove children from the worst forms of labour in small-scale gold mines and ensure their rehabilitation and social integration.

The Committee notes the information provided by the Government according to which several measures have been taken to remove children from the worst forms of child labour. These include: monitoring and visits to the gold mining sites by the monitoring services accompanied by the security forces; information and awareness-raising activities on the gold mining sites; the development of income-generating activities to assist the families of children removed from gold mining sites; and socio-occupational integration for children removed from work in gold mines. The Committee also notes that according to the information available on the UNICEF website, around 3,000 children are removed from small-scale gold mines each year and re-enrolled in school or in occupational training. **The Committee strongly encourages the Government to pursue its efforts, with UNICEF or otherwise, to remove children from the worst forms of child labour in small-scale gold mines and quarries, and ensure their rehabilitation and social integration. The Committee requests the Government to provide information on progress made and results achieved in this regard.**

*Article 8. International cooperation and assistance. Regional cooperation regarding the sale and trafficking of children.* Further to its previous comments, the Committee notes with **interest** the information from the Government according to which the tripartite cooperation agreement with Togo and Benin was signed on 23 December 2019. The objectives of this agreement are to: (i) prevent and repress child trafficking through effective cooperation between the three States; (ii) protect, rehabilitate, reintegrate and reinsert displaced children or victims of cross-border trafficking in a protective environment; (iii) cooperate in the investigation, arrest, prosecution and extradition of the guilty through the competent authorities in each State; and (iv) establish systems to protect and accompany these children. A permanent monitoring committee has been established to follow up and evaluate action carried out in the framework of this agreement. In addition, the Government indicates that an agreement to protect displaced children was signed on 31 July 2019 in the framework of the existing friendship and cooperation treaty between Burkina Faso and Côte d'Ivoire. **In view of the importance of cross-border trafficking in the country, the Committee requests the Government to provide information on the implementation of the cooperation agreement signed with Togo and Benin, as well as the agreement signed with Côte d'Ivoire, as well as the funds allocated to such agreements. Please also provide information on the results achieved in terms of interception of child victims of sale or trafficking, as well as their rehabilitation, social reintegration and repatriation.**

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

## Burundi

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 28 August 2021.

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee previously noted the National Plan of Action (NPA) for the elimination of the worst forms of child labour 2010–2015, one of the goals of which is to contribute to the elimination of child labour, in all its forms, by 2025. The Committee requested the Government to provide information on the results achieved under the NPA 2010–2015 to ensure the progressive elimination of child labour and on any new national policy formulated in this respect.

The Government indicates in its report that the NPA 2010–2015 enabled awareness-raising among children, parents and professionals on child protection under the Convention. The Government specifies that a national policy to combat child labour and a corresponding action plan will soon be formulated. The Committee notes that, according to UNICEF statistical data, 30.92 per cent of children were engaged in child labour in 2017 in Burundi (32.16 per cent of girls and 29.66 per cent of boys). **The Committee requests the Government to intensify its efforts to ensure the progressive elimination of child labour in the country, particularly through the adoption of a national policy on the matter, in accordance with Article 1 of the Convention. It requests the Government to communicate information on the specific measures taken in this respect as well as on the results achieved.**

*Article 2(1). Scope of application.* In its previous comments, the Committee noted that sections 3 and 14 of the Labour Code prohibit work by young persons under 16 years of age in public and private enterprises where such work is carried out on behalf of and under the supervision of an employer. It noted the Government's indication that the question of extending the application of the Convention to the informal economy, where there is evidence of child labour, would be taken into account during the revision of the Labour Code. The Committee further noted the survey on domestic labour, especially child domestic labour, in Burundi carried out in 2013–14, according to which 5.3 per cent of children in the 7–12 age group and over 40 per cent of children in the 13–15 age group are domestic workers. The Committee therefore requested the Government to take the necessary steps to extend the scope of application of the Convention to work done outside a formal employment relationship, particularly in the informal economy and in agriculture.

The Government indicates in its report that child labour in the informal sector has been taken into account in the revision of the Labour Code. The Committee notes the observations of COSYBU that the revised Labour Code, promulgated on 24 November 2020 (Act No. 1/11), has enabled progress to be made in extending the scope of application of the Convention to work done outside a formal employment relationship. The Committee notes in this regard that under Article 2 of the 2020 Labour Code, relations between domestic workers and employers and the informal sector are governed by this Code, to the extent permitted by specific laws applicable to them. The minimum age of admission to employment, set at 16 years, applies to family agricultural, breeding, commercial or industrial activities. Section 3 of the Code specifies that relations between employers and workers, and working conditions in strictly informal sectors are determined by a special law.

The Committee notes that according to UNICEF's 2020 annual report in Burundi, the majority of young people in work occupy jobs in the informal sector, as the economy is heavily dependent on agriculture. The Committee notes with **interest** the adoption of the revised Labour Code of 2020, which extends the scope of application of the Convention to the informal economy. **The Committee encourages the Government to pursue its efforts and requests it to indicate any measures taken or envisaged to ensure in practice the application of the minimum age of admission to employment of**

**16 years in the informal economy. It also requests the Government to communicate a copy of the Act governing work in the informal economy.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted Act No. 1/19 of 10 September 2013 establishing the structure of primary and secondary education, which had strengthened core education by increasing it from six to nine years of schooling, starting at the age of 6 years. Hence, a child who starts school at six years of age completes compulsory schooling at the age of 15 years. It noted that COSYBU, in its observations, asked the Government to fix the minimum age for the completion of compulsory schooling. The Committee requested the Government to take the necessary steps without delay to ensure that schooling is compulsory up to the minimum age of admission to employment, namely 16 years, so that the age of completion of compulsory schooling coincides with the minimum age of access to employment or work.

The Committee notes the absence of new information from the Government on this point. ***The Committee urges the Government to take the necessary measures so that, in accordance with Article 2(3) of the Convention, schooling up to the minimum age of admission to employment, namely 16 years, is compulsory. 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.

**Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children.* In its previous comments, the Committee noted that Act No. 1/28 of 29 October 2014 concerning the prevention and suppression of trafficking in persons and the protection of victims (Anti-Trafficking Act) established penalties of 15–20 years' imprisonment for persons found guilty of trafficking in children. It noted the Government's information that women and children were victims of trafficking in 2017 to Oman, Saudi Arabia and Kuwait, for economic and sexual exploitation. The Government had pointed out that some cases of trafficking escaped the control of the law. The Committee noted the increase in the number of cases of trafficking in persons, including girls, for purposes of domestic servitude and sexual slavery. The Committee therefore requested the Government to intensify its efforts to ensure the thorough investigation and effective prosecution of individuals who engaged in the sale and trafficking of children and to ensure that penalties constituting an effective deterrent were applied in practice.

The Government indicates in its report that a mechanism for the identification, repatriation and reintegration of victims of trafficking and for the search and prosecution of perpetrators is being implemented. It further indicates that, according to the National Observatory to Combat Transnational Crime, in 2018, 24 underage girls who were victims of trafficking to Gulf countries were identified. The Government reiterates the indication that some perpetrators of trafficking escaped the control of the law. It also refers to several sections of the revised 2017 Criminal Code (Act No. 1/27). Section 246, which reproduces the definition of trafficking in the Anti-Trafficking Act, provides that trafficking in persons, including children, is punishable with a prison sentence of five to ten years and a fine. Section 245 provides for a prison sentence of up to 20 years for any person who brings in or takes out of the country a child under 18 years of age with the intention of violating the child's freedom, including for the purpose of sexual or domestic exploitation. In addition, the Committee notes that section 255 of the Criminal Code provides that the offence of trafficking in persons is punishable by a prison sentence of 15–20 years and a fine where it is committed against a child.

The Committee also notes that, according to the website of the Independent National Human Rights Commission (CNIDH), the Commission is responsible for the reception and handling of complaints from victims of trafficking in persons. In its 2020 annual report, the CNIDH indicates that in 2020 only one case was referred to it concerning allegations of trafficking of a girl. The CNIDH also indicates that it was informed of networks of trafficking in persons to other countries, and that it envisaged leading in-depth investigations with the cooperation of the competent services. In addition,

the Committee notes that a programme to combat trafficking in Burundi has been developed by the Government, in partnership with the International Organization for Migration, for 2019–22, to strengthen the Government's capacity to combat trafficking in persons. **The Committee requests the Government to intensify its efforts, including by strengthening the capacities of the law enforcement bodies, to ensure that all persons who commit acts of trafficking in children are subject to investigation and prosecution, and that sanctions constituting effective deterrents are imposed. It requests the Government to provide information on the number of investigations conducted by the CNIDH and the competent services concerning trafficking in children under 18 years and on the number of proceedings brought. It also requests it to indicate the penalties imposed on the perpetrators of trafficking in children, the facts that formed the basis of the convictions and the provisions under which the sanctions were imposed.**

*Article 7(2). Effective and time-bound measures. Clause (a). Prevention of the engagement of children in the worst forms of child labour. Access to free basic education.* In its previous comments, the Committee noted the adoption of a Sectoral plan for the development of education and training 2012–20. It noted the Government's indications that measures had been taken to improve access to education, including a policy of free schooling, the setting up of schools and school canteens, the abolition of official school fees in primary education and for the poorest pupils of secondary school fees, and the distribution of school kits in some provinces. The Committee also noted information from UNESCO and the Committee on the Elimination of Discrimination against Women (CEDAW) according to which the dropout rate for girls at secondary level is extremely high. The Committee requested the Government to continue its efforts to improve access to, and the functioning of, the education system in the country, including by increasing the rate of enrolment and the rate of completion in secondary education for girls.

The Government refers to several measures taken to improve access to education, including: (i) the ongoing "Back to School" and "Zero Pregnancies" campaigns; (ii) the establishment of a national school canteens policy; (iii) the establishment of a system for the reintegration of girls who have dropped out of school; and (iv) the launch of the "aunt/school and father/school" project in all schools in Burundi. The Committee highlights, in its observation formulated under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), adopted in 2020, that the "aunt/school and father/school" project was developed to combat school dropouts and unwanted pregnancies. The Committee notes the Transitional Plan for Education in Burundi 2018–20, the priority pillars of which include access for and retention of children in basic education and improvement of the quality of education.

The Committee notes, however, that according to the 2020 annual report of the CNIDH, although basic education was free, *Batwa* (indigenous community) households and poor families had difficulty keeping their children in school and children dropped out very early. The Committee also notes the information of the UNICEF Burundi office, in its 2020 annual report, according to which the percentage of children completing basic education has decreased, falling from 62 per cent in 2017/2018 to 53.5 per cent in 2018/2019, mainly owing to disparities in quality education in the country. One in five girls and one in four boys completes secondary education, and one in five women aged 15 to 24 is illiterate. UNICEF reports that 30 per cent of adolescents are not in school, 95 per cent of whom are girls. In addition, according to UNICEF information, school enrolment of children aged 6–11 has increased sharply in recent years but has declined significantly for children aged 12–14 (63.7 per cent of children aged 12–14 were enrolled in school in 2018), particularly due to household poverty, early pregnancy, school violence, including cases of sexual abuse by teachers, and low-quality education. While noting the measures taken by the Government, the Committee notes with **concern** the decline in the rate of completion for children in basic education and the low enrolment rates in junior secondary schools. **Recalling that education plays a key role in preventing children from being engaged in the worst forms of child labour, the Committee requests the Government to intensify its efforts to improve the**

**functioning of the education system in the country, through measures aimed, in particular, at increasing the school enrolment rate and reducing the school dropout rate in primary and secondary education, including for girls and the Batwa community. It requests the Government to continue to provide information on the measures taken or envisaged in this respect, as well as on results achieved.**

*Clause (d). Children at special risk. Street children.* In its previous comments, the Committee noted the Government's indications that parties involved in child protection cooperated to promote the socio-economic reintegration of street children. It noted that several centres for the rehabilitation of children were opened in Ruyigi and Rumonge, and in Ngozi, particularly for girls. It noted, however, that these rehabilitation centres were presented as prisons for children, and noted the arrest and detention of minors working or living in the streets. The Committee requested the Government to take specific measures to adequately protect children living in the streets against exploitation and to ensure their rehabilitation and social integration.

The Government indicates that the child protection committees, established at the hill-settlement, communal and provincial levels, coordinate with the police unit for the protection of minors and morals to repatriate street children. The Committee also notes the Government's indication, in its report to CEDAW of 26 August 2019, that part of the mission of the homes managed by Humanitarian Work for the Protection and Development of Children in Difficulty is to reintegrate street children (CEDAW/C/BDI/CO/5-6/Add.1, paragraph 15). The Committee notes that, according to information from UNICEF, the number of street children is rising, and that some of them are arrested by the authorities. In addition, the Committee notes that section 527 of the 2017 revised Criminal Code (Act No. 1/127) provides for a prison sentence of five to ten years and a fine in the case of exploitation of minors for begging. **Recalling that street children are particularly exposed to the worst forms of child labour, the Committee requests the Government to step up its efforts to protect these children from the worst forms of child labour, and not to treat them like criminals, so as to ensure their rehabilitation and social integration. It requests the Government to provide information in this regard, including on the number of children identified as living or working in the streets and the support measures provided to them.**

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

## Cameroon

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC), received on 16 September 2021. **The Committee requests the Government to provide its comments in response to the observations made by the UGTC.**

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that over 1.5 million children under 14 years of age were working in Cameroon and over a quarter of children aged 7 or 8 years were engaged in some form of economic activity (27 and 35 per cent, respectively) and were at serious risk (of abuse, injuries and disease) in the workplace owing to their extreme youth. In addition, 164,000 children between 14 and 17 years of age were forced to perform hazardous work. The Committee also noted with concern that the National Plan of Action for the elimination of the worst forms of child labour (PANETEC) had still not been adopted.

The Committee notes that the Government indicates in its report that the PANETEC was adopted on 18 October 2017, and was updated in 2020. The Government indicates that the Ministry of Labour and Social Security has established the National Committee against child labour in Cameroon (CNLTEC) and that, at the Committee's third session, held on 26 September 2018, the PANETEC was presented to the public, with a view to eradicating the worst forms of child labour by 2025. However, the Committee

notes the UGTC's observation that neither the PANETEC nor the CNLTEC is operational due to lack of funds. Moreover, the Committee notes that the Economic and Social Council, in its 2019 concluding observations, again noted with concern that many children aged between 6 and 14 years of age were engaged in some form of economic activity, particularly in the informal sector (E/C.12/CMR/CO/4, paragraph 42). **The Committee urges the Government once again to step up its efforts to ensure the effective elimination of child labour below the minimum age for admission to employment, including in hazardous types of work, in particular by taking measures to implement the PANETEC. In that connection, it requests the Government for information on the implementation of the PANETEC and the results achieved.**

*Article 2(1). Application and labour inspection. Children working in the informal economy.* In its previous comments, the Committee noted that the Labour Code only applies within the framework of an employment relationship and does not protect children engaged in work outside a contractual employment relationship. However, the Committee noted the Government's indication that children are essentially engaged in activities in the informal economy. The Committee also noted that the resources allocated to the labour inspection services were not adequate to conduct effective investigations and that the services did not carry out inspections in the informal economy. It noted that, within the framework of the PANETEC, the reinforcement of the means of action of labour inspectors and the extension of their scope of intervention were priorities.

The Committee notes the information provided by the Government that labour inspectors receive training in labour standards covering all aspects related to work, including child labour. Inspections carried out by the labour inspectors are, in conformity with the legislation, general in nature and cover all sectors and branches of work; they are also directed at all targets, including cases potentially involving children. The objective set for the number of annual inspections is revised upwards each year. The Government reports that 6,500 inspections were foreseen for 2020 and that despite the upheavals caused by the COVID-19 pandemic, 5,365 had been carried out. However, the Committee notes the Government's indication that it is unaware of any recorded violations and therefore unable to transmit any related information or extracts of reports.

The Committee recalls that the Convention applies to all branches of economic activity and covers all kinds of employment or work, whether or not there is a labour relationship or paid remuneration. In that regard, the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in the informal economy does not seem a practicable solution (General Survey on the fundamental Conventions, 2021, paragraph 345). **The Committee urges the Government to take the steps necessary, within the framework of the PANETEC or otherwise, to reinforce the capacities of the labour inspectorate and widen the scope of its intervention to fully and adequately address participation in informal economic activity by children. It requests the Government to take measures to obtain relevant information on the inspections carried out by labour inspectors in the area of child labour, both in the formal and informal economy, including the number of violations recorded and extracts from the inspection reports.**

*Article 2(3). Age of completion of compulsory education.* The Committee previously noted that the school attendance rate of working children aged between 6 to 14 years (70 per cent) was substantially lower than that of non-working children (86 per cent). The Committee noted that by virtue of Act No. 98/004 of 14 April 1998 governing education in Cameroon, only primary education is compulsory in the country, and that it ends at 12 years of age, which is two years before the minimum age for admission to employment or work (14 years). The Committee urged the Government to take the necessary steps to make education compulsory up to the minimum age for admission to employment, namely 14 years.

The Committee notes the Government's indication that parents are incited to place their children in schooling under article 355(2) of the Penal Code, which sanctions parents who have sufficient means but who refuse to do so. The Committee stresses however that parents are only obliged to send their children to school until the end of compulsory education, and that this age is still linked to the completion of elementary school, i.e. at 12 years of age. Moreover the UGTC observes that despite the provisions of the Penal Code, certain children do not go to school and are forced to remain idle due to lack of means. With reference to the 2012 General Survey, the Committee again observes that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (paragraph 371). The Committee therefore recalls that it is preferable to raise the age of completion of compulsory education to coincide with that of the minimum age for admission to employment, as provided in paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). ***Recalling that compulsory schooling is one of the most effective means of combating child labour, the Committee once again urges the Government to take the necessary steps to make education compulsory up to the minimum age for admission to employment, namely 14 years. It requests the Government to provide information on progress made in this respect in its next report.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

The Committee takes note of the observations of the General Union of Workers of Cameroon (UGTC) of 16 September 2021. ***The Committee requests the Government to send its comments in reply to the observations made by the UGTC.***

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children and penalties.* In its previous comments, the Committee noted section 342-1 of the new Penal Code, which renders any person who engages in the trafficking of persons liable to imprisonment. The Committee also noted, according to the estimates of the study produced jointly by the Government and the "Understanding child labour" programme, that between 600,000 and 3 million children were victims of trafficking in Cameroon but that the number of investigations into the trafficking of children was very low, and so this could hardly be considered an adequate response given the scale of the problem. In the Committee on the Application of Standards at the 104th Session of the International Labour Conference in June 2015, the Government representative of Cameroon pointed out that the low number of investigations was due to the small number of complaints made. The Committee also noted the Government's indications that measures had been taken to raise the awareness of stakeholders involved in combating child labour, but observed that this did not respond to its concerns regarding the low number of investigations and prosecutions in this field.

The Committee notes that the United Nations Human Rights Committee, in its concluding observations of 2017, again noted with concern the persistence of trafficking for the purposes of forced prostitution of women or child domestic labour. The Committee was also concerned at reports that most cases of trafficking were detected by civil society organizations (CCPR/C/CMR/CO/5, paragraph 31).

The Committee notes the Government's indications in its report that a freephone number and helpline has been set up for the purpose of reporting cases of human trafficking. The Government also indicates that the law enforcement agencies intercepted 40 *Baka* (adults and children) who were victims of trafficking and that the perpetrator of this act was handed over to the competent authorities. Moreover, the competent operational technical units of the Ministry of Social Affairs took care of 381 victims of trafficking, including 304 children, in the first six months of 2020.

The Government indicates that any allegation relating to the sale and trafficking of children triggers an investigation and, where appropriate, leads to the prosecution and conviction of the perpetrators. According to the Government, 13 children (7 boys and 6 girls) were victims of trafficking in 2020 and judicial proceedings have been opened against the perpetrators. Moreover, the Government indicates that the Regional Court of Diamaré sentenced one person to three years'

imprisonment for having instigated the transfer of two children (nine and 11 years old) from Kousseri to the border with Chad to meet an unknown person, in violation of the provisions of section 342-1(2)(a) of the Penal Code.

While noting the efforts made to intercept child victims of trafficking in Cameroon, the Committee notes with **concern** that the number of prosecutions and convictions remains low. **Recalling that the established penalties are only effective if they are actually applied, the Committee requests the Government to intensify its efforts, including by reinforcing the capacities of law enforcement bodies, to ensure that all persons who engage in the trafficking of children are investigated and prosecuted, and that penalties which constitute an effective deterrent are imposed. The Committee requests the Government to provide information on the number of investigations conducted by the competent services in relation to the trafficking of children under 18 years of age and on the number of prosecutions initiated. It also requests the Government to indicate the sentences imposed on persons guilty of the trafficking of children, the facts giving rise to the convictions, and the provisions under which the penalties have been imposed.**

*Article 3(b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities.* In its previous comments, the Committee observed that the provisions of the Penal Code adopted through Act No. 2016/007 – including sections 344 and 346 prohibiting the corruption of young people and indecent behaviour in the presence of a minor – do not adequately prohibit the use, procuring or offering of a child for the production of pornography or for pornographic performances, or for illicit activities. The Committee also noted that the Conference Committee had urged the Government to adopt and implement the Child Protection Code, which had been pending for almost ten years, in order to prohibit the use, procuring or offering of children for the above-mentioned purposes.

The Committee notes the Government's indication that sections 80–83 of Act No. 2010/012 of 21 December 2010 concerning cybersecurity and cybercrime in Cameroon makes any person liable to punishment who commits the above-mentioned acts in relation to children. The Committee observes that under section 80 of the above-mentioned Act any person who disseminates, fixes, records or transmits for payment or free of charge images depicting paedophilic acts on a minor through electronic media or an information system shall be liable to punishment. Furthermore, any person who offers, makes available or disseminates, imports or exports, by any electronic means whatsoever, an image or representation of a paedophilic nature, or any person who possesses paedophilic images or representations, shall be liable to punishment. Under section 81, any person who offers, produces or makes available child pornography with a view to its dissemination, or who procures for self or others, or disseminates or transmits, child pornography through an information system, or adults who make sexual proposals to young persons under 15 years of age, shall be liable to punishment. Moreover, indecent acts committed through electronic media (section 82) also constitute an offence.

The Committee observes that Act No. 2010/012 of 21 December 2010 addresses only the production or electronic dissemination of pornographic material involving children, which appears to include the use, but not the procuring or offering, of children for the production of pornographic material. Moreover, the Committee notes with **regret** that the Government does not supply any information on the prohibition on the use, procuring or offering of children for illicit activities. **The Committee requests the Government to provide information on the application in practice of the relevant provisions of Act No. 2010/012 of 21 December 2010 concerning the use, procuring or offering of children under 18 years of age for the production of pornographic material or for pornographic performances. It also requests the Government to take the necessary steps to ensure that the use, procuring or offering of a child under 18 years of age for illicit activities is prohibited by the legislation of Cameroon as quickly as possible, and to provide information on measures taken in this regard.**

*Article 4(3). Periodic review and revision of the list of hazardous types of work.* In its previous comments, the Committee noted that Order No. 17 of 27 May 1969 concerning child labour (Order No. 17) does not prohibit work under water or work at dangerous heights, as in the case of children employed in fishing or banana harvesting. The Committee noted that the Conference Committee had urged the Government to urgently revise, in consultation with the social partners, the list of hazardous types of work established by Order No. 17 in order to prevent the engagement of children under 18 years of age in hazardous activities, including underwater work and work at dangerous heights. In this regard, the Government indicated that the revision of the list of hazardous types of work was due to take place in 2018 and would be undertaken in conjunction with the social partners.

The Committee notes the Government's indication that the process for the revision of the list of hazardous types of work is under way. **Observing that the Government has been referring to this for many years, the Committee urges the Government to take the necessary steps to ensure, as quickly as possible, the adoption of the revised and adapted list of hazardous types of work prohibited for children under 18 years of age, in consultation with the social partners. The Committee once again requests the Government to provide information on progress made in this respect.**

*Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. HIV/AIDS orphans.* In its previous comments, the Committee noted with concern that, according to estimates of the Joint United Nations Programme on HIV/AIDS (UNAIDS), the number of children who were HIV/AIDS orphans in Cameroon had risen from 310,000 in 2014 to 340,000 in 2016. The Committee asked the Government to take immediate and effective measures to protect these children from the worst forms of labour.

The Committee notes the Government's indications that Cameroon has a national strategy for the care of orphans and vulnerable children, implemented by the Ministry of Social Affairs, which includes cases of HIV/AIDS orphans in its operations. To this end, welcome centres set up throughout the national territory take care of the children, who receive training in various fields with a view to their social integration. While noting the measures taken by the Government, the Committee observes that the number of HIV/AIDS orphans continues to rise, with UNAIDS estimating putting this figure at 390,000 in 2020. **Recalling that children who are HIV/AIDS orphans are at particular risk of being engaged in the worst forms of child labour, the Committee requests the Government to intensify its efforts to protect them from these worst forms of labour, particularly as part of the national strategy for the care of orphans and vulnerable children. The Committee also requests the Government to provide information on the measures taken in this respect and the results achieved, and also on the number of HIV/AIDS orphans who have been received by the welcome structures set up for their benefit.**

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

## Central African Republic

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

*Articles 1 and 2(1) of the Convention. National policy, scope of application and application of the Convention in practice.* In its previous comments, the Committee noted that the Labour Code only covers occupational relationships deriving from a contract of employment. It noted the absence of a national policy, despite the significant number of children engaged in work who are below the minimum age for admission to employment, set at 14 years. The Committee noted the Government's indications that the activities undertaken in collaboration with UNICEF had led to a reduction in the number of children working on their own account or in the informal economy. It requested the Government to continue taking measures to ensure that children working in the informal economy benefit from the protection of the Convention.

In its report, the Government reaffirms its commitment to strengthening the measures ensuring adequate protection for all children, including those working in the informal economy, in collaboration with UNICEF and the country's other partners. The Government indicates that the draft revised Labour Code contains provisions protecting children against child labour. The Committee also notes that according to the multiple indicator cluster survey (MICS) undertaken in 2018–19 by the Central African Institute for Statistics and Economic and Social Studies with the support of UNICEF, the proportion of children between the ages of five and 11 years engaged in child labour is 33.5 per cent, with a rate of 22.9 per cent for children aged 12–14 years, a significant number of whom work under hazardous conditions. The Committee notes with **concern** the significant number of children under 14 years of age engaged in child labour, including under hazardous conditions. **The Committee urges the Government to take all the necessary measures to ensure the progressive elimination of child labour, including through the implementation of a national policy, in accordance with Article 1 of the Convention. It requests the Government to provide information on the measures taken in this regard. The Committee also requests the Government to continue taking measures so that children working in the informal economy or on their own account benefit from the protection of the Convention in law and practice. It requests the Government to provide information on the progress achieved in this respect.**

*Article 3(1) and (2). Minimum age for admission to hazardous types of work and determination of these types of work.* In its previous comments, the Committee noted with concern the absence of a list of hazardous types of work, despite section 261 of the Labour Code adopted in 2009, which provides that an order shall determine the nature and types of work and the categories of enterprises prohibited for children and the age limit up to which this prohibition shall apply. It urged the Government to take the necessary measures to ensure that the list of hazardous types of work prohibited for children under 18 years of age is adopted as soon as possible.

The Committee notes the absence of information from the Government on this point. It is therefore bound to note once again with **deep concern** the absence of a list determining the hazardous types of work prohibited for children under 18 years of age. It recalls that, in accordance with *Article 3(2)* of the Convention, the hazardous types of work prohibited for children under 18 years of age shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. **The Committee therefore urges the Government to take the necessary measures without delay to determine the list of hazardous types of work prohibited for children under 18 years of age. It requests the Government to report any progress achieved in this regard.**

*Article 9(3). Keeping of registers by employers.* The Committee previously noted that, under section 331 of the Labour Code, certain enterprises or workplaces may be exempted from the obligation to keep an employment register by order of the Ministry of Labour. It urged the Government to take the necessary measures as soon as possible to bring the legislation into conformity with the *Article 9(3)* of the Convention by ensuring that no employers may be exempted from the obligation to keep a register of persons under 18 years of age employed by them or working for them.

The Government indicates that, within the framework of the current legal reform, the draft revised Labour Code contains measures protecting children from child labour. **The Committee therefore expresses the firm hope that, on the occasion of the current legal reform, the Government will take into account the Committee's comments and ensure that no employers are exempt from keeping a register of the children under 18 years of age employed by them or working for them, and ensure that the registers contain, as a minimum, the names and ages or dates of birth, duly certified wherever possible, of such children. It requests the Government to provide information on the progress achieved in the adoption of the revised Labour Code, and to provide a copy once it has been adopted.**

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

*Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict.* The Committee previously noted the forced recruitment of children of under 18 years of age for use in the armed conflict which was taking place in the country. The Committee noted an agreement signed on 5 May 2015 by ten armed groups to stop and prevent the recruitment and use of children, and the adoption of a new Constitution in March 2016. It noted the information provided by the Government, according to which, as part of the first pillar of the National Recovery and Peacebuilding Plan for the Central African Republic (RCPCA) for 2017–21, entitled “Support peace, security and reconciliation”, the Government has initiated the process of disarmament, demobilisation, reintegration and repatriation, and also the reform of the security sector, with a view to restoring the authority of the State to allow it undertake investigations and prosecute the perpetrators of forced recruitment of children. The Committee observes, however, from a report dated 28 July 2017 by the independent expert on the human rights situation in the Central African Republic, that the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimated that between 4,000 and 5,000 children were enlisted. The Committee expressed deep concern at the current situation and urged the Government to intensify its efforts to eliminate the forced recruitment of children under 18 years of age by all armed groups in the country. It also urged the Government to take immediate measures to ensure that the investigation and prosecution of offenders is carried out and that sufficiently effective and dissuasive penalties are imposed on persons found guilty of recruiting children under 18 years of age for use in armed conflict.

The Government indicates in its report that efforts continue under the implementation of the first pillar of the RCPCA for 2017–21. It states that, in partnership with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), the progressive redeployment of the defence and security forces is intensifying throughout the territory, especially in the secondary cities of the country, previously occupied by armed groups, in order to ensure the security and protection of the civilian populations. The Government further indicates the adoption of an Act issuing the Child Protection Code in 2020, to protect children from enlistment in the armed forces or by armed groups. The Committee takes due note of this information and observes that the Report of the United Nations Secretary-General of 12 October 2020 on the Central African Republic clarifies that the Child Protection Code, promulgated on 15 June 2020, criminalizes the recruitment and use of children by the armed forces and groups, and considers enlisted children as victims (S/2020/994, paragraph 70).

The Committee notes the Political Agreement for Peace and Reconciliation in the African Republic (APPR-RCA), signed on 6 February 2019 between the Government and 14 armed groups, which calls for a stop to hostilities between the armed groups, as well as the ceasing of all exactions and violence against the civilian populations. The Agreement, which includes an implementation mechanism, calls for the establishment of a Truth, Justice, Reparation and Reconciliation Commission (CVJRR). The Committee notes from the report by the independent expert on the human rights situation in the Central African Republic of 24 August 2020, covering the period from July 2019 to June 2020, that the time limit fixed by the national authorities of the end of January 2020 to complete disarmament and demobilisation was not respected. Regardless of their engagements under the Agreement, the armed forces and armed groups in the country that were signatories thereof had recourse to the recruitment and use of children (A/HRC/45/55, paragraphs 24, 25, 33, 36, 39 and 40).

According to a report dated 4 August 2021 published jointly by the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the MINUSCA on violations of human rights and international humanitarian law in the Central African Republic during the electoral period, and specifically on the period from July 2020 to June 2021, the security situation worsened progressively in the country. The recruitment of children by parties to the conflict were included among the violations observed.

The Committee notes from the report of the United Nations Secretary-General of 6 May 2021 on children and armed conflict, that 584 cases of children (400 boys and 184 girls) recruited and used by armed groups and the armed forces were confirmed in 2020, including by ex-Séléka factions (the majority), and other armed groups as well as by the internal security forces and the Central African armed forces. Children were used as combatants and in support roles, and were subjected to sexual violence. Moreover, 42 cases of child deaths were confirmed and 82 cases of sexual violence were verified; 58 children were abducted by armed groups for the purposes of recruitment, sexual violence and ransoms. The Secretary-General expressed alarm at the sharp increase in recruitment and use of children in the armed conflicts as well as the increased incidence of sexual violence, abduction, compounded by electoral violence (A/75/873-S/2021/437, paragraphs 24, 26, 27, 30, 34, 35). The same report also emphasizes the conviction of 110 perpetrators of violations against children (paragraph 32). The Committee finds itself obliged to **deplore** the continuing recruitment and use of children in the armed conflict in the Central African Republic, all the more so as it gives rise to other serious violations of the child rights, such as abductions, murder and sexual violence. **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 pursue its efforts to put an end to the practice of forced recruitment of children of less than 18 years of age by the armed forces and armed groups in the country. Moreover, the Committee again urges the Government to take immediate and effective measures to ensure that all persons, including members of the regular armed forces, who recruit children of under 18 years of age for use in armed conflict, are thoroughly investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice, in conformity with the Child Protection Code. The Committee requests the Government to provide information on the number of investigations undertaken, prosecutions filed and convictions handed down against such persons. It also requests a copy of the Child Protection Code.**

*Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee previously observed that the impact of the political and security crisis in the Central African Republic has aggravated the situation regarding basic education for children. It noted various measures taken by the Government to promote children's access to education. However, the Committee noted information according to which the school attendance rate is extremely low, in particular for girls, and the dropout rate between primary and secondary education is high. The Committee urged the Government to intensify its efforts and take effective and time-bound measures to improve the operation of the education system and facilitate access to good quality basic education for all children in the Central African Republic, including in the zones affected by the conflict, giving special attention to the situation of girls.

The Government indicates that the Act issuing the Child Protection Code, adopted in 2020, includes provision on education and the protection of children in the school environment. The Committee notes that the Report of the United Nations Secretary-General on the Central African Republic of 16 June 2021 highlights the fact that half of the country's children are out of school (S/2021/571, paragraph 38). Furthermore, the independent expert on the human rights situation in the Central African Republic draws attention, in his report of 24 August 2020, to the partial or total closure of several schools as a result of the armed conflict, particularly in the hinterland, cutting off children's access to education (A/HRC/45/55, paragraph 61). According to the UNICEF communication of 27 April 2021, available on the UN info internet site, one school in four is not functioning due to the combat.

The Committee also noted that the confrontations during the electoral period between July 2020 and June 2021 gave rise to pillaging, attacks and occupation of numerous schools, gravely affecting the resumption of school in early January 2021 joint report of the OHCHR and the MINUSCA on violations of human rights and international humanitarian law in the Central African Republic during the electoral period, paragraphs 31, 112, 113 and 115). The Committee is obliged to express its **deep concern** at the large number of children deprived of education as a result of the climate of insecurity prevailing in the

country. It recalls that education plays a key role in preventing children from engaging in the worst forms of child labour, including their recruitment in armed conflicts. **While recognizing the difficult situation prevailing in the country, the Committee urges the Government to intensify its efforts to improve the operation of the education system and facilitate access to free basic education for all children, including girls, and in the zones affected by the conflict. It requests the Government to provide information on the concrete measures taken in this regard as well as on the school attendance, maintenance and dropout rates at primary and secondary levels.**

*Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Forced recruitment of children for use in armed conflict.* In its previous comments, the Committee noted the revision of the national disarmament, demobilization and reintegration strategy to include appropriate provisions concerning children. It noted information from UNICEF to the effect that 9,449 children had been freed from armed groups between January 2014 and March 2017, but only 4,954 had benefited from reintegration programmes. Furthermore, the United Nations Secretary-General indicated that many demobilized children had been enlisted again in the armed groups. The Committee urged the Government to intensify its efforts to provide appropriate direct assistance to remove child victims of forced recruitment from armed groups and ensure their rehabilitation and social integration so as to guarantee their long-term, definitive demobilization.

The Committee notes the absence of information in the Government's report on this point. The Committee notes the report of the independent expert on the human rights situation in the Central African Republic of 24 August 2020, which covers the period from July 2019 to June 2020, according to which, within the framework of the Programme for Disarmament, Demobilisation, Reintegration and Repatriation, the armed groups signed protocols and action plans with the authorities to liberate children from their ranks and abstain from further recruitment. The independent expert remarks that some children were discharged following the signature of the protocols. However, he notes that cases of enlistment and use of children by armed groups had been documented (A/HRC/45/55, paragraph 59).

The Committee notes that the United Nations Secretary-General, in his report on children and armed conflict of 6 May 2021, indicates that 497 children recruited into the armed groups were liberated in 2020, and that 190 children, self-demobilized from the armed groups, were identified (A/75/873-S/2021/437, paragraph 33). The Secretary-General also indicates, in his report of 16 February 2021, that on 30 November 2020 four children, accused of association with armed groups and imprisoned, were released and enrolled in reintegration programmes. The Secretary-General also indicates that, as part of the "ACT to protect children affected by armed conflict" campaign, MINUSCA has raised awareness among 2,000 persons on the increased risk of grave violations child rights violations during the electoral period (S/2021/146, paragraph 65 and 66). The Committee notes the information in the UNICEF communication of 27 April 2021, to the effect that although, since 2014, UNICEF and its partners have helped liberate more than 15,500 children from the armed groups, more than one in five of the children had yet to be enrolled in a reintegration programme. **The Committee urges the Government to take appropriate and time-bound measures to ensure the removal of children recruited for use in the armed conflict and for their rehabilitation and social integration. It also urges the Government to take the measures necessary to ensure that all children removed from the armed groups and from the armed forces benefit from reintegration programmes. It requests the Government to provide information in this regard, including on existing reintegration programmes for these children and on the number of children that have benefited from rehabilitation and social integration.**

**In light of the situation described above, the Committee deplores the continued recruitment and use of children in armed conflict by both armed groups and the armed forces, especially as it entails other violations of children's rights, such as abductions, murders and sexual violence. The Committee has been raising this issue since 2008, and the recruitment and use of children in armed conflict, both as combatants and in support roles, has sharply increased in recent years. The Committee must also express its deep concern at the significant number of children deprived of education due to the climate**

**of insecurity in the country. The Committee considers that this case meets the criteria set out in paragraph 96 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 110th Session and to reply in full to the present comments in 2022.]**

## Chad

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

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

*Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict.* In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraphs 45 and 46), despite progress in the implementation of the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad, and although the national army of Chad did not recruit children as a matter of policy, the country task force verified 34 cases of recruitment of children by the army during the reporting period. The 34 children appeared to have been enlisted in the context of a recruitment drive in February–March 2012, during which the army gained 8,000 new recruits. In this respect, the Committee noted the new roadmap of May 2013, adopted further to the review of the implementation of the action plan concerning children associated with the armed forces and armed groups in Chad and aimed at achieving full observance of the 2011 action plan by the Government of Chad and the United Nations task force. The Committee observed that, in the context of the roadmap, one of the priorities was to speed up the adoption of the preliminary draft of the Child Protection Code, which prohibits the recruitment and use of young persons under 18 years of age in the national security forces and lays down penalties to that effect. Moreover, during 2013 it was planned to establish transparent, effective and accessible complaint procedures regarding cases of recruitment and use of children, and also to adopt measures for the immediate and independent investigation of all credible allegations of recruitment or use of children, for the persecution of perpetrators and for the imposition of appropriate disciplinary sanctions.

The Committee takes note of the information contained in the United Nations Secretary-General's report of 15 May 2014 to the Security Council on children and armed conflict (A/68/878-S/2014/339). According to this report, the deployment of Chadian troops to the African-led International Support Mission in Mali (AFISMA) has prompted renewed momentum to accelerate the implementation of the action plan signed in June 2011 to end and prevent underage recruitment in the Chadian National Army, and the Chadian authorities have renewed their commitment to engage constructively with the United Nations to expedite the implementation of the action plan. The Government of Chad, in cooperation with the United Nations and other partners, has therefore taken significant steps to fulfil its obligations. For example, a presidential directive was adopted in October 2013 to confirm 18 years as the minimum age for recruitment into the armed and security forces. This directive also establishes age verification procedures and provides for penal and disciplinary sanctions to be taken against those violating the orders. The directive was disseminated among the commanders of all defence and security zones, including in the context of several training and verification missions. Furthermore, on 4 February 2014, a presidential decree explicitly criminalized the recruitment and use of children in armed conflict.

The Secretary-General states, however, that while the efforts made by the Government to meet all obligations under the action plan have resulted in significant progress, a number of challenges remain to ensure sustainability and the effective prevention of violations against children. Chad should pursue comprehensive and thorough screening and training of its armed and security forces to continue to prevent the presence of children, including in the light of Chad's growing involvement in peacekeeping operations. While no new cases of recruitment of children were documented by the United Nations in 2013 and no children were found during the joint screening exercises carried out with the Chadian authorities, interviews confirmed that soldiers had been integrated in the past into the Chadian National Army from armed groups while still under the age of 18. According to the Secretary-General, the strengthening of operating

procedures, such as those for age verification, which ensure the accountability of perpetrators, should remain a priority for the Chadian authorities. Finally, the Secretary-General invited the National Assembly to proceed as soon as possible with the examination and adoption of the Child Protection Code, which should provide greater protection for the children of Chad. ***The Committee therefore requests the Government to intensify its efforts to end, in practice, the forced recruitment of children under 18 years of age by the armed forces and armed groups and to undertake immediately the full demobilization of all children. The Committee urges the Government to take immediate measures to ensure that the perpetrators are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed on persons found guilty of recruiting and using children under 18 years of age in armed conflict. Finally, the Committee urges the Government to take the necessary measures to ensure the adoption of the Child Protection Code as soon as possible.***

*Article 7(2). Effective and time-bound measures. Clauses (b) and (c). Preventing children from being engaged in the worst forms of child labour, removing children from these forms of labour and ensuring their rehabilitation and social integration. Children who have been enlisted and used in armed conflict.* In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraph 49), the actions taken by the Government for the release, temporary care and reunification of separated children, while encouraging, were not yet in line with the commitments made in the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad. The Committee noted that one of the priorities referred to in the 2013 roadmap was to secure the release of children and support their reintegration.

The Committee notes that, according to the Secretary-General's report of 15 May 2014, a central child protection unit has been established in the Ministry of Defence, as well as in each of the eight defence and security zones, to coordinate the monitoring and protection of children's rights and to implement awareness-raising activities. Between August and October 2013, the Government and the United Nations jointly conducted screening and age verification of approximately 3,800 troops of the Chadian national army in all eight zones. The age verification standards had been previously developed during a workshop organized by the United Nations in July. In addition, between August and September 2013, a training-of-trainers programme on child protection was attended by 346 members of the Chadian National Army. As from July 2013, troops of the Chadian National Army deployed in Mali started to receive pre-deployment training on child protection and international humanitarian law; in December of the same year, 864 troops attended child protection training at the Loumia training centre. ***The Committee encourages the Government to intensify its efforts and continue its collaboration with the United Nations in order to prevent the enrolment of children in armed groups and improve the situation of child victims of forced recruitment for use in armed conflict. In addition, the Committee requests the Government once again to supply information on measures taken to ensure that child soldiers removed from the armed forces and groups receive adequate assistance for their rehabilitation and social integration, including reintegration into the school system or vocational training, wherever appropriate. It requests the Government to supply information on the results achieved in its next report.***

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

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

## Chile

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

*Article 3(c) of the Convention. Use, procuring or offering of a child for illicit activities.* In its previous comments, the Committee referred to the absence of legal provisions penalizing the use, procuring or offering of a child under 18 years of age for illicit activities. The Committee noted the Government's indication that a Bill had been prepared to amend the Penal Code to provide that the use of children under 18 years of age constitutes an aggravating circumstance. In this respect, the Committee requested the Government to ensure that the Bill covers not only the use, but also the procuring or offering of children under 18 years of age for illicit activities. The Committee notes the Government's

indication that the Bill (Bulletin 10356-07) is being examined by the Chamber of Deputies, and that it only refers to the use, and not to the procuring or offering of children under 18 years of age for illicit activities. The Committee also notes the Government's indication that, according to the System for the Recording of the Worst Forms of Child Labour, the number of children used for illicit activities was 252 in 2018, 369 in 2019 and 337 in 2020. **The Committee once again requests the Government to take the necessary measures to ensure that both the use and the offering or procuring of children under 18 years of age for illicit activities are penalized by the national legislation. The Committee requests the Government to provide information on any progress achieved in this respect in its next report.**

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

## China

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

*Article 3(1) of the Convention. Hazardous work performed through work-study programmes.* The Committee previously noted from the report on the labour protection of interns in Chinese textile and apparel enterprises, carried out with ILO assistance, that 52.1 per cent of interns continue to work in conditions that do not meet national minimum standards for labour protection, and 14.8 per cent of interns are engaged in involuntary and coercive work. It noted with concern that a significant number of schoolchildren continued to engage in hazardous work within the context of work-study programmes. The Committee also noted the adoption of the Regulations on the Management of Student's Internship in Vocational Schools (Management Regulations) in 2016, which protect the basic rights of internship students and establishes penalties for violations thereof. The Committee requested the Government to take the necessary measures to ensure the effective application of the Management Regulations, and to provide statistical information concerning the number and nature of infringements detected, as well as the specific penalties applied.

The Committee notes the Government's information, in its report that it has increased its efforts in disseminating the Management Regulations and strengthened information campaigns, through the Internet, WeChat and school information campaigns, so that more students and parents are aware of the rights and interests that students should enjoy during their internship, hence reducing the possibility of illegal practices. The Ministry of Education, in conjunction with relevant departments, ensures the effective implementation of the Management Regulations, including by strengthening institutional cooperation and supervision and inspection. In this regard, key inspections were conducted in 2017 on the work carried out in schools and internship entities in ten provinces and autonomous regions. In 2021, a circular was issued to conduct a comprehensive survey of typical problems with internships in vocational colleges and schools, and to strictly implement relevant rules and regulations. Other circulars concerning (i) reporting violations on internship regulations; (ii) improving and supporting policies related to internship training; and (iii) strengthening and standardizing the management of internships were also issued. Moreover, a hotline specifically dedicated to offer advice on internship management for students of vocational institutions, suggestions and responses to related issues reported, was established. **The Committee requests the Government to continue taking effective measures to protect the rights of the students participating in work-study programmes and to ensure that such students are not engaged in hazardous, involuntary and coercive work. It requests the Government to continue providing information on the measures taken in this regard, including the effective implementation of the Management Regulations and other circulars issued in this regard. Finally, the Committee requests the Government to provide information on the outcome of the inspections conducted in schools and internship entities, including statistical information on the number and nature of infringements detected, as well as the specific penalties applied.**

*Article 8. Artistic performances.* The Committee previously noted that section 13(1) of the 2002 Regulations Banning Child Labour provides that organizations for performing arts and sports may

recruit professional artists and athletes under the age of 16 years upon consent from their parents or legal guardians. According to the report from the 2013 ILO technical assistance mission, there were 2.01 million performances in China in 2012, including 13,000 registered performing groups, half of which included children. It also noted the Government's indication that according to the working rules of school art education (Ministry of Education Order No. 13 of 2002), no entities or schools shall organize students to participate in any commercial artistic activities or commercial celebration activities. However, the Government indicated that as this internal working rules lacked wider legal effect, the Ministry of Education was making efforts to incorporate it into the legislative process. The Committee requested the Government to take the necessary measures to enact national legislation that is in conformity with *Article 8* of the Convention by specifying that children employed in artistic performances are permitted to do so on the basis of individual permits granted by the competent authority.

The Committee notes the Government's information that section 15 of the Labour Law was amended in December 2018 to state that "Art, sports and special-skill units that plan to recruit juveniles under the age of 16 shall comply with the relevant provisions of the state and guarantee the right of the employed to receive compulsory education." The Government also indicates that this amendment abolishes the administrative approval procedures; reduces unnecessary prior approvals; strengthens the responsibility of employing units to comply with the relevant employment related laws and regulations; and focuses on post-recruitment monitoring and investigation. The Government also indicates that Chinese cultural and sports talents are trained by the professional school education system and that in 2021, 1,172 professional faculties of culture and art in secondary vocational schools nationwide have been registered, involving 629 vocational schools. Moreover, with regard to athletic performances, the Measures for the Administration of Sports Schools for Children and Adolescents stipulates that sports schools should ensure that: (i) the students complete the nine-year compulsory education courses; (ii) the students should be trained scientifically and systematically in accordance with the national youth teaching and training programme; and that (iii) the training time per day should be limited to 2.5 hours in principle. The Committee however observes that the amendments to section 15 of the Labour Law concerning the recruitment of juveniles under 16 years by art, sports and special units do not contain the requirement of granting of individual permits for children participating in artistic and sports activities as required by *Article 8* of the Convention.

While taking note of the Government's information, the Committee notes with **regret** that, despite its reiterated comments for many years, the Government has not taken any measures to establish, in law and in practice, the system of granting individual permits for artistic performances by young persons under the age of 16 years. In this regard, the Committee once again recalls that, by virtue of *Article 8* of the Convention, children below the minimum age of admission to employment or work of 16 years, who are employed in artistic activities, shall do so on the basis of individual permits granted by the competent authority. Moreover, permits so granted shall limit the number of hours during which and prescribe the conditions in which such employment or work is allowed. ***The Committee therefore urges the Government to take the necessary measures to ensure the establishment of a system of individual permits for children under 16 years of age who are engaged in artistic and sports activities and to regulate such activities in accordance with Article 8 of the Convention. It requests the Government to provide information on any measures taken in this regard as well as information on the number of children under 16 years who currently participate in artistic and professional sports activities, and who fall within the exception provided for by section 13(1) of the 2002 Regulations Banning Child Labour.***

*Article 9(1). Labour inspectorate and penalties.* The Committee previously noted that labour security advisers from trade unions and other institutions monitor the compliance of employers with national labour laws and regulations. The Government indicated that the labour inspectorate carries out law enforcement activities jointly with the departments of public security, industry and commerce, administration of work safety and public health, with regard to child labour. The Committee noted with

regret the Government's statement that the data on investigations and penalties regarding child labour was considered confidential and hence could not be provided. However, it noted that according to the Measures on the Disclosure of Major Labour Violations to the Public (MoHRSS Order No. 29 of 2016), the Department of Human Resources and Social Security must publish the cases of major labour violations which have been investigated and closed, including the violations of the Regulations Banning Child Labour, among others (section 5(5)). The Committee requested the Government to provide the relevant data in this regard.

The Committee notes the Government's information that in March 2021, the "Trial Measures for Trade Union Supervision over Labour Law Enforcement" were issued to further strengthen their supervision work in the area of labour laws, with focus on the use of child labour. The Government also indicates that currently there are 26,000 full time labour inspectors in China. The Committee further notes the statistical information provided by the Government concerning the employment of young persons aged 16 years and above which indicates that 1.2 per cent of the 775.86 million people employed in China are persons between 16 and 19 years of age. In this regard, the Committee notes that the United Nations Special Rapporteur on extreme poverty and human rights on his mission to China, in its report of March 2017 indicated that "the data-collection process in official surveys lacks transparency. Beyond references to household surveys, detailed information on sources and collection procedures is sparse. Expert interlocutors pointed to examples of negative data being withheld from publication". (A/HRC/35/26/Add.2, paragraph 29). **The Committee therefore once again urges the Government to take the necessary steps to ensure that sufficient and accurate data on the situation of working children in China is made available, including, for example, data on the number of children and young persons below the minimum age of 16 years who are engaged in economic activities, and statistics relating to the nature, scope and trends of their work. It also once again requests that the Government provide information on the number and nature of violations detected by the labour inspectorate and the trade unions, and the penalties imposed.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

*Article 3(a) of the Convention. Worst forms of child labour. Sale and trafficking of children.* In its previous comments, the Committee noted that section 240 of the Criminal Law of 1997 prohibits trafficking in women and children. However, it noted that section 9 of the Judicial Interpretation No. 28 of 2016 on the effective application of the laws regarding trafficking in women and children, referred to children under section 240 of the Criminal Code as persons under 14 years of age. The Committee therefore requested the Government to indicate the measures taken or envisaged to protect boys aged 14 to 18 years from trafficking.

The Committee notes the Government's information in its report that the Criminal Law of China adopts a multi-crime decentralized legislative model to protect citizens from trafficking, namely (i) crimes related to the sale and trafficking of women and children for labour or sexual exploitation; (ii) the crime of forced labour; (iii) the crime of luring, organizing or forcing into prostitution or the production and dissemination of pornography; and (iv) the crime of engaging children in hazardous work. Referring to the definition of a child as "persons under the age of 14 years" and regarding the protection of boys from 14 to 18 years from trafficking, the Government states that in China, the vast majority of trafficking of children occurs around the age of six years for illegal adoption. In judicial practice, trafficking of boys over the age of 14 is rare. If boys aged 14–18 are trafficked for forced labour or prostitution, the perpetrators can be held criminally responsible for other related crimes under the Criminal Law of China, and the punishment is relatively heavier. In this regard, the Committee recalls that the Convention applies to all children under 18 years of age and that the prohibition of child trafficking must extend to boys and girls (paragraph 450 of the General Survey on the fundamental Conventions, 2012). **The Committee therefore requests the Government to indicate the provisions in**

***the national legislation that establish penalties for the offences related to the sale and trafficking of boys aged 14–18 years.***

*Articles 5 and 7(1). Monitoring mechanisms and penalties. Sale and trafficking of children.* The Committee notes the Government's information that the Supreme People's Court, in conjunction with the Supreme People's Procuratorate and the Ministry of Public Security, continues to carry out special crackdowns on crimes of trafficking in women and children, effectively curbing the high incidence of such crimes. The Government indicates that the number of such cases accepted by the People's Court has been declining year by year. Since 2021, the public security organs have launched an operation named "Reunion", making an all-out effort to resolve cases of child trafficking, arrest suspects and search for children who were trafficked. The Government further indicates that in 2018, 30 people were prosecuted in a mega case of transnational child trafficking in Yunnan Province. In 2020, the Supreme People's Procuratorate guided the handling of a series of child trafficking cases in southeast Hubei province and identified more than 20 cases of trafficking in children. Furthermore, according to the statistical information provided by the Government, in 2020, the People's Courts at all levels across the country examined 546 cases of trafficking in women and children. Of the 1,103 defendants convicted of trafficking in women and children, 55.94 per cent were sentenced to imprisonment of more than five years. ***The Committee requests the Government to continue to provide information on the investigations, prosecutions and penalties applied, in particular the data concerning the sale and trafficking of children under 18 years for labour and sexual exploitation.***

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

## Colombia

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes the observations of the National Employers Association of Colombia (ANDI) received on 31 August 2021. It also notes the joint observations of the Confederation of Workers of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Labour (CGT), received on 1 September 2021.

*Article 1 of the Convention. National policy for the abolition of forced labour and application in practice.* The Committee welcomes the response to its previous request, with the information in the Government's report on the adoption of the Public Policy Framework for the Prevention and Eradication of Child Labour and the Comprehensive Protection of Young Workers, 2017–2027, structured around six strategic pillars: (1) the strengthening of institutional architecture; (2) the promotion of rights and prevention of violations; (3) the quality and coverage of care; (4) the participation of children and their families; (5) knowledge management; and (6) monitoring and evaluation. The Committee notes that the Policy Framework has been discussed by national, regional and local authorities responsible for providing care for children engaged in child labour; and that the Colombian Family Welfare Institute (ICBF), in coordination with the Ministry of Labour, provided guidance in the formulation of action plans in 32 Inter-institutional Committees for the Eradication and Prevention of Child Labour and its Worst Forms (CIETIs) in the departments and the capital city. It notes the provision, under the Progressive Plan for Social Protection and Guaranteeing Rural Sector Workers' Rights (under the Peace Agreement), of technical assistance in the area of child labour targeting family commissioners, territorial officials, social leaders, employers and workers.

The Committee welcomes the statistical information provided by the Government according to which the rate of child labour for boys and girls aged between 7 and 14 years fell by 2.1 per cent between 2015 and 2020. However, approximately 522,593 child and young workers were identified who were engaged in hazardous types of work affecting their mental and physical health, while 573,477 performed more than 15 hours work a week in their homes. The Committee notes that, in the framework of the ILO project Responsible Business Conduct in Latin America and the Caribbean

(RBCLAC), the communication campaign “Coffee Producers for Child Protection” was launched by the Salgar Coffee Growers’ Cooperative in Antioquía to provide information and raise the awareness of families in coffee-growing areas to encourage them to take action to prevent child labour.

The Committee notes that the ANDI highlights the Government’s achievements in reducing child labour and emphasizes that the private sector is contributing actively to achieving this objective by raising enterprise leaders’ awareness of the importance of eradicating child labour in supply chains, as well as by supporting and participating in the elaboration of public policies. Public–private partnerships have been set up through the Network of Employers against Child Labour, which currently includes 44 enterprises and 19 strategic partnerships. Finally, the Committee notes that the Government emphasizes that it has an Integrated Information System for Identification, Registration and Classification of Child Labour and its Worst Forms (SIRITI), which provides a basis on which to build an institutional response to child labour. However, the CTC, CUT and CGT indicate that there are inconsistencies in the SIRITI, and that it does not provide information on the number of child workers assisted and how many have had their rights restored.

***The Committee requests the Government to continue adopting measures, in collaboration with the social partners, to eliminate child labour, including child labour in dangerous conditions. To this end, the Committee requests the Government to provide information on the measures adopted in the context of the Public Framework Policy for the Prevention and Eradication of Child Labour and the Comprehensive Protection of Young Workers, 2017–2027, and their results. The Committee also requests the Government to continue providing updated statistical data on the nature, extent and trends of child labour, particularly for child workers under the minimum age of 15 years, as well as information on the number of child workers covered by the measures adopted under the new policy.***

*Article 2(3) of the Convention. Compulsory education.* The Committee has previously encouraged the Government to continue its efforts to ensure that all children attend school at least up to the age of 15 years (as provided in article 67 of the Political Constitution). The Committee notes with **interest** the detailed information provided by the Government and in particular that: (1) progress has been made in structuring a National Observatory of Educational Trajectories as an information system on the situation of students (access, repetition, those who have fallen behind or dropped out, and graduation) from pre-school to middle school, to facilitate analysis and the formulation of evidence-based public policies; (2) the Ministry of Education, in collaboration and coordination with the Certified Territorial Bodies (ETCs), is implementing a school retention strategy designed to take account of the health emergency, which includes reinforcing school retention strategies (including school meals programmes, coaching to prevent students falling behind, additional education days and flexible education, school residences and school transport); and (3) to promote retention within the education system, the Government has taken numerous measures, including providing training to 5,558 teachers and school heads in 83 ETCs in flexible education models during the second half of 2020, strengthening education services in rural areas by providing 234 educational establishments in 14 ETCs with sets of supplementary educational materials, such as libraries, laboratories and maps for use in the flexible education models.

The Committee, however, notes the Government’s indication that approximately 164,407 child workers (aged between 5 and 17 years) were without schooling in the fourth quarter of 2020. The Committee also notes, according to UNESCO statistics, that in 2019 there were 35,080 children and 106,186 young persons who were not at school; while in the same year the net primary (6 to 10 years of age) school attendance rate was at 93.9 per cent, and the secondary (11 to 16 years of age) school attendance rate was at 79.8 per cent. The Committee notes the Government’s indication that it is necessary for the Ministry of Labour, together with the various social actors and strategic partners, to continue developing innovative strategies for activities to prevent and eradicate child labour in order to make further progress in achieving this goal. ***The Committee trusts that the measures adopted will make it possible to continue promoting and ensuring compulsory schooling for children at the national level, at least up to the age of 15 years, and requests the Government to continue providing information***

**on any measures adopted and their results. The Committee also requests the Government to continue providing updated statistics on the school attendance and completion rates of children under the age of 15.**

*Article 9(1). Penalties and labour inspection.* The Committee notes the information provided by the Government on: (1) the legal instruments available to the labour inspectorate in carrying out its investigations; (2) the penalties that can be imposed (ranging from fines to the immediate stoppage of work); (3) section 113 of the Children and Young Persons Code, under which labour and social security inspectors responsible for authorizing work by young persons over the age of 15 years are required to undertake inspections to ascertain safety and working conditions for the health of the worker. For that purpose, in 2016 the Ministry of Labour issued a memorandum setting out inspection strategies and guidelines for the protection of the labour rights of children. While taking note of the functions of the labour inspectorate, the possibility of carrying out investigations and imposing penalties, the Committee observes that, according to the Government's report, the rate of child labour, as well as that of children engaged in hazardous types of work, has further increased. **Under these circumstances, the Committee trusts that the Government will continue taking all the necessary measures to give full effect to the Convention and once again requests it to provide information on the number of investigations carried out by the labour inspectorate in which penalties have been imposed for violations of the law in respect of work by persons under the minimum age of 15 years, with an indication of the type of penalty imposed and the nature of the violation.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)**

The Committee notes the observations of the National Employers Association of Colombia (ANDI) received on 31 August 2021. It also notes the joint observations of the Confederation of Workers of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT), and the General Confederation of Labour (CGT) received on 1 September 2021.

*Articles 3(a), 7(1) and (2) of the Convention. Worst forms of child labour, penalties and effective and time-bound measures. Clause (b). Direct assistance for the removal and rehabilitation of victims. 1. Sale and trafficking of children.* In reply to its request that measures continue to be taken to protect children and young persons from sale and trafficking, the Committee notes the adoption of Decree 1818 of 2020 establishing the National Strategy against Trafficking in Persons 2020–2024. It duly notes that the Strategy places coordination and cooperation between the competent authorities at the centre of strategic action for the purpose of ensuring comprehensive care for child and young victims of trafficking, including access to health, education and legal services, and regularization of migratory status, taking account of their particular conditions and the purpose of the exploitation to which they have been subjected. The Committee also notes that the Government indicates that since 2016 the Colombian Family Protection Institute (ICBF) has kept a registry of trafficking cases, disaggregated by purpose of exploitation. During the period from July 2017 to May 2021, a total of 67 children and young persons began the Administrative Process for the Restitution of Rights on the grounds of trafficking (61 for sexual exploitation and 6 for labour exploitation). The Committee further notes, from their observations, that the CTC, CUT and CGT refer to a case where six children were removed from begging in Bucaramanga and 145 others in Bogotá, a practice which according to these organizations also occurs frequently in other regions of the country. The Committee also notes that the Government reports that a number of cases of trafficking of children and young persons for sexual and labour exploitation were identified between January 2017 and May 2021. **The Committee requests the Government, in following up the identifications mentioned above, to take the necessary measures to identify, prosecute and punish the perpetrators of trafficking of children for purposes of sexual or labour exploitation and report thereon. It also requests the Government to provide information on the results obtained within the framework of the National Strategy against Trafficking of Persons 2020–2024 in providing direct**

**and adequate assistance to the child victims of trafficking in persons and in ensuring their rehabilitation and social integration.**

2. *Forced recruitment of children for use in armed conflict.* In reply to the request for information on the investigations conducted and on the penal sanctions imposed regarding the forced recruitment of children and young persons, for the most part by illegal armed groups, the Committee notes that in August 2021, the Special Jurisdiction for Peace Chamber for the Recognition of Truth, Responsibility, and Determination of Fact and Conduct issued Order No. 159 under Case No. 07 “Recruitment and use of boys and girls in armed conflict”, which set a provisional total of 18,677 child victims of recruitment and use by the FARC-EP. In its Order, the Chamber decided that it would prioritize investigation of recruitment occurring between 1 January 1996 and 1 December 2016, and that it would investigate the different impact of the recruitment and use of children belonging to ethnic groups. The Committee notes, from its 2020 concluding observations for Colombia, that the United Nations Committee on the Elimination of Racial Discrimination refers to the continuing recruitment of indigenous children and children of African descent by non-State armed groups (CERD/C/COL/CO/17-19, paragraph 12).

Furthermore, the Committee notes the information provided by the Government on the implementation of the specialized care programme on restoring rights for child and young victims of illicit recruitment by armed groups, which comprises three phases: identification, analysis and reception; intervention and outreach to reinforce the process of guaranteeing rights; and preparation for leaving the programme. The Committee duly notes that between 2017 and 2021 a total of 2,093 child and young victims were detached from the illegal armed groups. The Committee welcomes the approach taken to ensure the effectiveness of programmes providing care for demobilized young persons, involving coordination between the ICBF, the National System for Family Protection, the Public Prosecutor’s Office, the Operational Committee for Disarmament, the National Unit for Care and Overall Reparation for Victims and the Agency for Reintegration and Normalization. The Committee notes that the ANDI recognizes progress made in assistance, care and restitution of rights for children and young victims of illicit recruitment. ***The Committee requests the Government to provide information on the investigations, prosecutions and convictions imposed on those responsible for the recruitment and use of persons under 18 years of age in the armed conflict. The Committee also requests the Government to continue taking measures to ensure comprehensive care for child victims of forced recruitment by armed groups and to prepare them for their social reintegration, and to continue providing information on the number of victims that have benefited from the specialized care programme for their social reintegration.***

*Article 3(b) and 7(1). Use, procuring or offering of a child for prostitution and penalties.* The Committee takes due note that the Government, in its reply to a request for information on the development of a policy to combat the commercial sexual exploitation of children and young persons, provides information on the adoption of the Public Policy Framework for the Prevention of Commercial Sexual Exploitation of Children and Young Persons, structured around three pillars: (i) Promotion of rights, prevention, participation and social mobilization; (ii) care and restitution of rights; and (iii) prosecution, surveillance and control of sexual exploiters. It notes the detailed information provided by the Government on action undertaken under this policy from 2018 to 2021, which includes awareness-raising activities for public servants, private entities, workers in the transport and tourism sectors, teachers, students and civil society organizations. The Government indicates that the Ministry of Labour collaborated with the Ministry of Trade, Industry and Tourism in drawing up plans for different municipalities aimed at reducing the risks to which children and young persons are exposed from tourists. The Committee also notes that the ANDI highlights the action coordinated with the National System for Family Protection to ensure that the prevention and eradication of commercial sexual exploitation of children and young persons is included in departmental and municipal development plans. For their part, the CTC, CUT and CGT reiterate their concern at the high number of victims of commercial sexual exploitation reported in 2018 (a total of 1,399 cases recorded by the Public

Prosecutor's Office and the Police), and emphasize the need to have updated information on the state of the related investigations and legal proceedings. ***The Committee hopes that the implementation of the policy framework will contribute to the combat against commercial sexual exploitation of children and young persons and requests to provide information on the results obtained in this regard. The Committee also requests the Government to provide information on the number of investigations and legal proceedings instituted in relation to the commercial sexual exploitation of children and on the penal sanctions imposed on its perpetrators.***

*Articles 3(d) and 4(1). Determination of the types of hazardous work. Child domestic work.* In response to its request that measures be taken to protect children engaged in domestic work from hazardous types of work, the Committee notes that the Government refers to the adoption of Resolution No. 1796 of 2018 updating the list of hazardous work prohibited for persons under 18 years of age. It notes with ***satisfaction*** that the list includes domestic work at home of more than 15 hours a week as hazardous, as well as domestic work in third party houses. The Government indicates that it envisages updating the list to ensure effective protection of working minors in view of the new reality brought about by the COVID-19 pandemic. ***The Committee invites the Government to continue providing information on revisions, undertaken following prior consultation of the employers and workers organizations concerned, to the list of work considered hazardous for persons under 18 years of age.***

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

*Article 2(3) of the Convention. Compulsory schooling and application of the Convention in practice.* In its previous comments, the Committee noted that child labour was a visible phenomenon in the country, particularly as a result of poverty and of the low school enrolment rate in some cases. In this regard, the Committee noted that the capacity of schools was very limited and that some primary and secondary schools were obliged to refuse to enrol certain children of school age. Consequently, a large number of children, particularly from poor families and disadvantaged backgrounds, were deprived of an education.

The Committee noted the Government's indication that there had been a positive trend towards gender parity in school, standing at 0.87 at primary level. However, it was less satisfactory at secondary level, where the numbers of girls in school had fallen significantly. According to the Government, particular problems in the educational situation for girls involved late enrolment, a very high repetition rate – around 30 per cent in primary school and 23 per cent in secondary school – and a high drop-out rate, with only 32 per cent of pupils completing primary education.

The Committee notes the Government's statement in its report that it is taking steps to reduce the disparity in school enrolment rates for girls and boys. The Government indicates that the school mapping system is being revised by the Ministry of Education, in conjunction with the education offices and UNICEF, with a view to boosting educational coverage and ensuring better access to education for children living in rural areas. Moreover, the Committee notes that a UNICEF country programme has been adopted for 2015–19, which aims, among other things, to support the Government's efforts to enhance children's right to education. One of the main objectives of the programme is to ensure that all children are enrolled in and complete inclusive, high-quality education, with the focus on equity and achievement.

However, the Committee notes that section 2 of Framework Act No. 94/035/AF of 20 December 1994 provides that schooling is only compulsory from 6 to 12 years of age, which is three years earlier than the minimum age for admission to employment or work, namely 15 years. Referring to the General Survey of 2012 on the fundamental Conventions, the Committee observes that if compulsory schooling comes to an end before children are legally entitled to work, a vacuum may arise which regrettably opens the door for the economic exploitation of children (paragraph 371). The Committee therefore considers it desirable to raise the age of completion of compulsory schooling so that it coincides with the minimum age for admission

to employment or work, as provided for in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). **Recalling that compulsory education is one of the most effective means of combating child labour, the Committee strongly encourages the Government to take the necessary steps to make education compulsory until the minimum age for admission to employment, namely 15 years. Moreover, the Committee requests that the Government intensify its efforts to increase the school attendance rate and reduce the school drop-out rate, especially among girls, in order to prevent children under 15 years of age from working. The Committee requests that the Government provide information on the results achieved in this respect.**

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

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

## Congo

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

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

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that a large number of children were involved in economic activity but that no national policy had been adopted in this regard. It noted the Government's indication that there were no inspection reports providing any information on the presumed or actual employment of children in enterprises in Congo during the reporting period. However, the Committee noted that 25 per cent of Congolese children were involved in child labour, according to UNICEF statistics.

The Committee notes with **regret** that the Government's report still does not contain any information on the adoption of a national policy for ensuring the effective abolition of child labour. The Committee also observes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of 2014, noted that child labour and the economic exploitation of children remain widespread, particularly in the big cities (CRC/C/COG/CO/2-4, paragraph 74). **Expressing its deep concern at the large number of children working below the minimum age in the country, and given the lack of a national policy designed to ensure the effective abolition of child labour, the Committee once again urges the Government to take the necessary steps to ensure the adoption and implementation of such a policy as soon as possible. It requests that the Government provide detailed information in its next report on the measures taken in this respect.**

*Article 3(2) and (3). Determination of hazardous types of work and age of admission to hazardous work.* In its previous comments, the Committee noted that section 4 of Order No. 2224 of 24 October 1953, which establishes employment exemptions for young workers, determines the types of work and the categories of enterprises prohibited for young persons and sets the age limit for the prohibition, prohibits the employment of young persons under 18 years of age in certain hazardous types of work, and includes a list of such types of work.

The Committee notes the Government's indication that Order No. 2224 is no longer in force. The Committee also notes that section 68(d) of Act No. 4-2010 of 14 June 2010 concerning child protection (Child Protection Act) provides that any work which, by its nature or the conditions in which it is performed, is likely to harm the health, safety or morals of the child is prohibited. It also provides that a decree issued further to the opinion of the National Labour Advisory Committee shall determine the list and the types of work and the categories of enterprises prohibited for children and the age limit for the prohibition. **The Committee requests that the Government take the necessary steps to ensure the adoption as soon as possible of the decree determining the list of hazardous types of work, in accordance with section 68(d) of the Child Protection Act.**

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

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

## Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

The Committee notes with **deep concern** that the report of the Government, due since 2009, has not been received. In view of the urgent appeal that it launched to the Government in 2019, the Committee proceeded with the examination of the application of the Convention on the basis of the information at its disposal.

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or similar practices. Sale and trafficking of children.* In its previous comments, the Committee noted the Government's statement that there is child trafficking between Benin and Congo for the purpose of forcing children to work in Pointe-Noire in trading or domestic work. The Committee noted that sections 345, 354 and 356 of the Penal Code lay down penalties for anyone found guilty of the forcible or fraudulent abduction of persons including young persons under 18 years of age. It requested the Government to indicate to what extent sections 345, 354 and 356 of the Penal Code have been implemented in practice.

The Committee notes that, in addition to the provisions of the Penal Code, Act No. 4-2010 of 14 June 2010 on child protection in the Republic of the Congo contains provisions prohibiting and punishing the trafficking, sale and all forms of exploitation of children, including exploitation for prostitution or other forms of sexual exploitation, forced labour or services and slavery (section 60 onwards). Furthermore, the Committee takes note of the adoption of Act No. 22-2019 of 17 June 2019 on combating trafficking in persons, which contains detailed provisions on the offence of trafficking and other related offences (such as sexual exploitation, labour exploitation or exploitation of begging), as well as harsher penalties when the offence is committed against a particularly vulnerable victim, such as a child.

However, the Committee notes that in its concluding observations of 25 February 2014, the Committee on the Rights of the Child (CRC), while welcoming the local plan of action developed against trafficking in Pointe-Noire, notes with concern the persistence of cross-border trafficking of children for forced labour and sexual exploitation and internal "fostering". The CRC also expresses its concern over allegations of the complicity of some authorities in activities related to trafficking and the fact that the number of successful prosecutions remains low (CRC/C/COG/CO/2-4, paragraph 78). Furthermore, the Committee notes the concern, expressed by the Committee on the Elimination of Discrimination Against Women (CEDAW) in its concluding observations of 14 November 2018, that the Congo is a country of origin, transit and destination for trafficking in persons. The CEDAW is particularly concerned about: (i) the absence of data on the number of victims, investigations, prosecutions and convictions relating to trafficking in persons; and (ii) the low rate of prosecutions and convictions (CEDAW/C/COG/CO/7, paragraph 30). **Recalling that penalties are only effective if they are actually enforced, the Committee requests the Government to redouble its efforts to ensure that all persons who commit acts of trafficking in children and related crimes are investigated and prosecuted and that sufficiently effective and dissuasive penalties are applied. It requests the Government to provide information on the number of investigations carried out by the competent services concerning trafficking in children under 18 years of age and the number of prosecutions carried out, convictions handed down and penalties imposed under the Penal Code and/or Act No. 4-2010 of 14 June 2010 and/or Act No. 22-2019 of 17 June 2019.**

*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. Sale and trafficking of children.* Further to its previous comments, the Committee notes the concern expressed by the CRC, in its concluding observations of 25 February 2014, at the insufficiency of the information provided by the Congo on the assistance and reintegration services available to child victims of trafficking (CRC/C/COG/CO/2-4, paragraph 78). In this regard, the Committee notes that, in its national report submitted to the Human Rights Council of 14 September

2018 (A/HRC/WG.6/31/COG/1, paragraphs 71–74), the Government indicates that state and non-state actors are focusing their efforts on prevention, victim identification, reception and care, repatriation and reintegration. With regard to the identification of victims, the principal actors are: the Government, neighbourhood or village leaders, law enforcement officers (police officers, gendarmes, border guards and immigration officials) and NGOs. Child victims of trafficking are housed with foster families. The Government arranges the repatriation and reintegration of foreign victims of trafficking and organizes return assistance for this purpose.

The Committee further notes that Act No. 22-2019 of 17 June 2019 on combating trafficking in persons contains a chapter on prevention, identification, protection and assistance to victims. Among other things, the Act provides that a national committee against trafficking in persons shall be created, tasked with: (i) preventing and combating trafficking in persons in all its forms; (ii) guaranteeing the protection of victims; (iii) collecting data relating to trafficking; and (iv) promoting cooperation and collaboration for these purposes (article 34). ***The Committee requests the Government to provide detailed information on the specific measures taken to prevent and combat child trafficking and to provide child victims of trafficking with appropriate services for their rehabilitation and social integration, including through the implementation of the provisions of Act No. 22-2019 of 17 June 2019 on prevention, identification, protection and assistance to victims and, in particular, the action taken by the national committee against trafficking in persons. It also requests the Government to provide information on the number of children thus prevented from being trafficked or removed from trafficking and subsequently rehabilitated and socially integrated.***

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

## Costa Rica

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations of the Confederation of Workers Rerum Novarum (CTRN), received on 31 August 2021.

*Article 3(a) and (b) of the Convention. Worst forms of child labour. Sale and trafficking of children for commercial sexual exploitation; use, procuring or offering of a child for prostitution.* The Committee previously requested the Government to intensify its efforts to ensure the thorough investigation and robust prosecution of persons who commit criminal acts such as the sale and trafficking of children for commercial sexual exploitation, and to ensure that assistance is provided to children in all cases. The Committee requested the Government to indicate the measures taken to implement the provisions of Act No. 9095 related to child victims of trafficking, and to indicate the number of investigations, prosecutions, convictions, and the penalties imposed in this regard.

The Committee notes that, according to CTRN, despite progress in combating the trafficking of children and young persons, the efforts made by the Government are inadequate, in view of the low number of convictions in cases of trafficking of children for commercial sexual exploitation.

The Committee notes, in the Government's report, various amendments to the Penal Code concerning child victims of trafficking: (i) the amendment to Act No. 9685 of 21 May 2019, extending the limitation period for prosecutions in cases of sexual offences against minors; (ii) the amendment to sections 172 and 189 of Act No. 4573, increasing the length of prison sentences in cases of trafficking of children; and (iii) the amendment to section 5 of Act No. 9095 concerning the definition of types of trafficking to which children are subjected.

The Committee also notes that in 2018 the Office of the Deputy Prosecutor against trafficking in persons and migrant smuggling improved the institutional response at the local level, establishing "liaison prosecutors" in 23 territories in Costa Rica most affected by the trafficking of children. Local and inter-institutional teams for combating the trafficking of persons have also been set up, involving the

prosecution authorities, the criminal investigation police, the Office for the Care and Protection of the Victims of Crimes, and the administrative, border and migration police forces in certain priority areas. The Committee notes that the Ministry of Public Education, as an active member of the National Coalition against Migrant Smuggling and Human Trafficking (CONATT), has developed a programme called "Training strategy for the teaching and student community for protection against child labour and its worst forms, trafficking in persons and migrant smuggling". In 2019, a total of 553 persons were trained in these subjects by means of 20 workshops in seven regions of Costa Rica. CONATT also conducted awareness-raising courses for 500 local judiciary officials and representatives of civil society through the production of a training manual on offences related to the trafficking of persons for labour exploitation.

The Committee notes the different sources of statistical data between 2017 and 2019 concerning the trafficking of children for commercial sexual exploitation: (i) in 2017, the judiciary's Directorate of Planning recorded a total of 137 complaints filed with the Public Prosecutor's Office and the Judicial Investigation Agency, which resulted in 23 convictions and three acquittals; (ii) the 2019 report on the trafficking of persons indicates that the CONATT rapid response team recorded that there were two girls among 14 victims of trafficking for sexual exploitation; (iii) statistics for 2019 from the judiciary's Gender-Based Violence Observatory, cited in the CTRN report, indicate a total of 32 victims of human trafficking (28 girls and four boys), 48 victims of pimping (36 girls and 12 boys), including nine cases of aggravated pimping and 58 cases of paid sexual relations with minors (44 girls and 14 boys); (iv) the 2019 report from the Directorate-General for Migration and Foreigners on trafficking in persons, which is attached to the Government's report, indicates that out of 62 trafficking victims, two girls were victims of sexual exploitation and two girls were victims of domestic servitude. ***The Committee welcomes the Government's efforts to combat the trafficking and commercial sexual exploitation of children. The Committee requests the Government to continue providing detailed information on the number of investigations, prosecutions, convictions and penalties imposed in this regard.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (c). Preventing children from becoming engaged in the worst forms of child labour and ensuring access to free basic education for all children removed from the worst forms of child labour.* The Committee previously asked the Government to intensify its efforts to improve the operation of the education system through the *Avancemos* ("Let's move forward") and *Yo me apunto* ("I'm enrolling") programmes to increase the school attendance and completion rates. It also asked the Government to indicate the results achieved through these two programmes and the National Scholarship Fund (FONABE), including the number of children, disaggregated by age and gender, who have been removed from the worst forms of child labour and reintegrated into the education system as a result of these programmes.

The Committee notes the indication in the Government's report that the number of working minors aged between 5 and 17 years has decreased as a result of the coordination of different actions such as: (i) the *Puente al Desarrollo II* ("Bridge to development II") national strategy; (ii) the use of scholarships and conditional money transfers enabling students to remain in the education system; (iii) a cooperation agreement between the Joint Social Assistance Institute (IMAS) and the Ministry of Labour and Social Security; and (iv) the *Yo me apunto* programme of the Ministry of Public Education. The Government also refers to a reduction in the child employment rate, which also coincides with an increase in the integration of persons under 18 years of age in the education system, compared with 2011.

The Committee also notes that, according to IMAS data for 2019, bursary funds and items for nursery and primary schools from FONABE have been transferred to IMAS for the purpose of a conditional monetary transfer programme called *Creceamos* ("We're growing"), set up in 2019. A total of 188,960 children under 12 years of age and a total of 19,216 children between 13 and 18 years of age have been the beneficiaries of this programme. The Committee also notes the statistics of the *Avancemos* programme: the number of beneficiary children under 12 years of age was 60 in 2017; 88 in

2018; and 68 in 2019; as regards children between 13 and 18 years of age, the number of beneficiaries was 153,839 in 2017; 151,028 in 2018; and 148,696 in 2019. In 2020, a total of 157 children (48 girls and 109 boys) also benefited from this programme. **While noting the Government's efforts to improve access to free basic education for the most vulnerable children, to prevent their involvement in the worst forms of child labour, the Committee requests the Government to provide information on the school enrolment, attendance and completion rates in primary and secondary education, and also the school dropout rate, including for the most vulnerable children. The Committee also requests the Government to indicate the number of children, disaggregated by age and gender, who have been removed from the worst forms of child labour and reintegrated in the education system through these programmes.**

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

## Côte d'Ivoire

### Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted with concern the high number of children under the minimum age for admission to work of 14 years that were engaged in work, particularly under hazardous conditions (1,424,996 children aged from 5 to 17 years were engaged in types of work that are to be abolished, of which 539,177 were victims of hazardous types of work). While noting the National Plan of Action to Combat the Worst Forms of Child Labour 2015–2017 (PAN-PFTE 2015–2017), the Committee requested the Government to intensify its efforts and to take the necessary measures for the progressive elimination of child labour, particularly in rural areas.

The Committee notes the detailed information provided by the Government in its report concerning the review of the implementation of the PAN-PFTE 2015–2017. The Government indicates that considerable progress has been observed, both in terms of preventing the phenomenon and in the protection of victims, strengthening of the legal framework, prevention and monitoring. For example, grass-roots awareness campaigns, through visits to the rural communities, have made it possible to cover more than 2 million people. These awareness-raising and communication campaigns have informed the populations of the prohibition and abolition by law of child labour. As a result, parents are now able to distinguish between hazardous work prohibited for children and light work authorized for young persons. Moreover, 1,574 labour inspections were conducted by the General Labour Directorate (DGT) to monitor compliance with labour regulations and combat child labour. The Government also indicates that two child labour monitoring mechanisms are now functioning in Côte d'Ivoire, of which the observation and monitoring system for child labour in Côte d'Ivoire (SOSTECI), was launched by the Ministry of Employment and Social Protection. This mechanism makes it possible not only to identify and refer victims or children at risk of child labour, but also establishes a national database on the phenomenon.

The Committee notes with **interest** that a third National Plan of Action, the PAN-PFTE 2019–2021, was launched on 25 June 2019. It aims at contributing to the vision of a Côte d'Ivoire “free from child labour by 2025” by taking the protection of children aged between 5 and 17 years from types of work that are to be abolished as its strategic result. To that end, action has been structured around three poles: (i) access for children to basic social services; (ii) reduction of the socioeconomic vulnerability of families and communities; and (iii) the institutional, legal and programmatic framework to combat child labour. **While noting the measures taken, the Committee requests the Government to pursue its efforts to ensure the progressive elimination of child labour in the country. It also requests the Government to provide information on the measures adopted in this regard, including concrete measures taken under the PAN-PFTE 2019–2021, and on the results obtained. Finally, the Committee requests the Government to continue to provide information on the application of the Convention in practice – in**

**particular the information collected by the SOSTECI – for example, by providing statistical data related to the nature, extent and trends of work by children and young persons under the minimum age specified by the Government when it ratified the Convention, and extracts from the reports of the inspection services.**

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee noted that education is neither compulsory nor free in Côte d'Ivoire. It also noted that a bill is being drawn up to make schooling compulsory until the age of 16 years. Noting the large number of children of the age to be in primary school or the first cycle of secondary education that do not attend school (nearly 1.7 million), the Committee requested the Government to take immediate measures to ensure that the legislation introducing compulsory schooling for children aged between 6 and 16 years is introduced as soon as possible.

The Committee notes with **satisfaction** that section 2-1 of Act No. 2015-635 amending the Act of 7 September 1995 concerning education, adopted on 17 September 2015, makes school attendance for children aged between 6 and 16 years compulsory. The Committee notes further that the Government indicates in its report that, for effective application of a law introducing compulsory schooling, the State has committed to the construction of schools, school canteens, and decent housing for teachers every year, throughout the national territory, in order to enable all children, wherever they may be, to have access to free basic education of quality. The Government also announces the adoption of a decree promoting schooling for children, in particular for girls, in both urban and rural areas. This is Decree No. 2020-997 of 30 December 2020, amending Decree No. 2012-488 of 7 June 2012 on the attributions, organization and operation of the management committees of public educational establishments (COGES) which, in its new section 3(9) strengthens the mandate of the COGES, by making them responsible for "contributing to the schooling of children, in particular of girls, in both urban and rural areas".

*Articles 6 and 7. Apprenticeship and light work.* In its previous comments, the Committee noted a divergence within the legislation of Côte d'Ivoire. Section 23(8) of the new Labour Code (Act No. 2015-532 of 2015) sets the age of apprenticeship at 14 years, while under section 3 of Decree No 96-204 of 7 March 1996 on night work (Decree No. 96-204 of 1996) children under 14 years of age may be admitted to apprenticeship or pre-vocational training provided they are not engaged in work during the period defined as night work or, more generally, during the period of 15 consecutive hours between 5 p.m. and 8 a.m. In this regard, the Committee noted the Government's indication that a draft text to revise Decree No. 96-204 of 1996 is under preparation. The Committee expressed the hope that, in the context of this revision, the Government would take the necessary measures to bring the said Decree into conformity with *Article 6* of the Convention and set the minimum age for entry into apprenticeship at 14 years throughout all the legislation of Côte d'Ivoire.

The Committee takes note of the Government's indication that the revision of Decree No. 96-204 of 7 March 1996 on night work is not yet complete and that it will keep the Committee informed of the adoption of the new text. **Recalling that under Article 6 of the Convention, the age of admission to work as part of an apprenticeship programme is 14 years, the Committee again hopes that the Government will take the necessary measures to bring Decree No. 96-204 of 1996 into conformity with the Convention and thus fix the age of entry to apprenticeship at 14 years. It requests the Government to provide information in this regard in its next report.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Articles 3(d) and 7(2)(a) and (b) of the Convention. Hazardous work, preventing children from being engaged in and removing them from the worst forms of child labour. Children in agriculture, in particular the cocoa sector.* In its previous comments, the Committee noted the adoption in June 2017 of Order No. 2017-017 determining the list of hazardous types of work prohibited for children under 18 years of age, prohibiting hazardous work in several agricultural branches. The Committee nonetheless noted

that the National Plan of Action to Combat the Worst Forms of Child Labour 2015–17 (PAN-PFTE 2015–17), which refers to the 2014 report on the situation of child labour in Côte d'Ivoire, indicates that the number of children subjected to hazardous types of work in the agricultural sector is 189,427, with a total of 105,699 children between the ages of 14 and 17.

The Committee notes the review of the implementation of the PAN-PFTE 2015–2017, according to which the majority of the interventions were registered in the agriculture sector, specifically the cocoa sector, that is 64 per cent of the initiatives carried out in the context of the plan. This involves mainly programmes for supporting cocoa sustainability or productivity, certification, child labour monitoring and remediation systems, improving the living conditions of cocoa-producing communities, and improving children's access to education. Further, the Committee notes the Government's indication in its report submitted under the Minimum Age Convention, 1973 (No. 138) that the Child Labour Monitoring and Remediation System (SSRTE), implemented by the cocoa and chocolate industry, is operational in Côte d'Ivoire and enables the identification and referral of children at risk or victims of labour in the cocoa agriculture sector.

The Committee notes the Government's indication in its report that the implementation of the Third National Plan of Action to Combat the Worst Forms of Child Labour 2019–21 (PAN-PFTE 2019–21) reflects Côte d'Ivoire's firm commitment to intensify its efforts to combat child labour by tackling the root causes of the phenomenon, including the poverty of cocoa farming households. Specific objectives of the PAN-PFTE 2019–21 include strengthening the implementation of international commitments made by Côte d'Ivoire, such as those of the 2001 Harkin-Engel Protocol, which aimed to reduce child labour in cocoa sector in Côte d'Ivoire by 70 per cent by 2020, and target 8.7 of the Sustainable Development Goals, which calls for the elimination of child labour by 2025. The PAN-PFTE 2019–21 also envisages addressing new challenges that hamper the country's efforts to combat child labour, including the issue of traceability of the cocoa supply chain to track the product's route from field to market. ***While noting the efforts made by the Government, the Committee encourages it to intensify its efforts to prevent children under 18 years from engaging in hazardous work, in particular in the cocoa agriculture sector. In this regard, the Committee requests the Government to provide information on the impact of the PAN-PFTE 2019–21, particularly regarding the number of children removed from hazardous work in cocoa agriculture and subsequently rehabilitated and reintegrated into society. Lastly, the Committee requests the Government to provide any data collected by the SSRTE on the number of children engaged in this worst form of child labour, disaggregated as much as possible by age and gender.***

*Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Child HIV/AIDS orphans.* In its previous comments, the Committee noted that the 2016 estimates published by UNAIDS gave the figure of 320,000 orphans and vulnerable children (OVC) due to HIV/AIDS in the country and that the Government, with the support of UNAIDS, had established a National HIV/AIDS Strategic Plan 2016–20 covering care and support for OVC and their families.

The Committee notes the Government's information regarding the results achieved through the implementation of the National HIV/AIDS Strategic Plan 2016–20, particularly: (i) the revision of the national policy document on care and support for OVC (June 2018); and (ii) the establishment of a comprehensive package of medical, psychosocial, physical, socioeconomic, legal, food and nutrition care and support services for the well-being and survival of persons living with HIV, carers and OVC. The Government also indicates several measures and strategies adopted to combat the HIV/AIDS epidemic in the country, including free antiretroviral treatment since 2008 and all measures offered to persons living with HIV since 2019. The Committee notes, however, that, according to UNAIDS estimates, the number of OVC due to HIV/AIDS stood at 340,000 in 2020. ***Recalling that children who are orphaned because of HIV/AIDS are at particular risk of being engaged in the worst forms of child labour, the Committee requests the Government to step up its efforts to protect against the worst forms of labour, especially within the framework of the national policy on care and support for OVC, as well as other***

**measures adopted by the Government. It requests it to continue to provide information on the measures taken in this respect and the results achieved.**

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

## Democratic Republic of the Congo

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

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

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that the Committee on the Rights of the Child (CRC) expressed concern at the large number of children involved in child labour in the country. It also noted that, according to the Government's initial report to the CRC, because of the economic situation, many parents allow or even send their children to do work which they are forbidden to perform by law. The Committee observed that virtually one out of two children between 5 and 14 years of age is engaged in child labour, particularly in rural areas (46 per cent in rural areas compared to 34 per cent in urban areas).

The Committee notes the Government's indication in its report that the National Plan of Action to combat the worst forms of child labour (PAN) was adopted in 2015. However, the Committee observes that, according to the Second Demographic and Health Survey (EDS-RDC II 2013–14), 38 per cent of children between 5 and 17 years of age who were questioned had worked during the week preceding the survey, among whom 27.5 per cent had worked under dangerous conditions (pages 336–337). The Committee expresses its **deep concern** at the number of children involved in child labour, including in dangerous conditions. **The Committee urges the Government to step up its efforts to secure the elimination of child labour. It requests that the Government provide information on the application of the Convention in practice, including statistics, disaggregated by gender and age, on the employment of children and young persons, together with extracts from labour inspection reports.**

*Article 2(1). Scope of application and labour inspection.* The Committee noted previously that Act No. 015/2002 of 16 October 2002 issuing the Labour Code applies only where there is an employment relationship. It also noted that the CRC expressed concern at the prevalence of child labour in the informal economy, which frequently falls outside the protection afforded by national legislation. The Committee reminded the Government that the Convention applies to all branches of economic activity and that it covers all types of employment or work, whether or not it is performed on the basis of an employment relationship and whether or not it is remunerated. The Government indicated in this regard that it would intensify its efforts to make labour inspection more effective. The Committee noted the Government's indication that the Committee's recommendations regarding child labour in the informal economy would be taken into account when the PAN is implemented.

The Committee notes that there is no information on this subject in the Government's report. It observes that the PAN refers to the fact that labour inspection faces a particularly difficult challenge in the context of enforcing the Labour Code in certain sectors where there is a concentration of child labour, such as the informal urban economy or agriculture (page 22). In this regard, the Government plans to draw up and implement a programme whereby state law enforcement officials will collaborate in the monitoring and prohibition of child labour. It also plans to establish a community-based child labour surveillance mechanism which collaborates with the labour inspectorate and also plans to develop an institutional capacity-building programme (PAN, Part 1, actions 1.1.2 and 1.2). In this regard, referring to the General Survey of 2012 on the fundamental Conventions (paragraph 407), which indicates that the inability of the labour inspectorate to monitor outside a given area is particularly problematic when child labour is concentrated in sectors outside its coverage, the Committee emphasizes the importance of ensuring that the labour inspection system effectively monitors working children in all areas and sectors. **Recalling that the Convention applies to all forms of work or employment, the Committee once again requests that the Government take measures, in the context of the PAN, to adapt and strengthen the labour inspection services so as to ensure the monitoring of child labour in the informal economy, and to ensure that children benefit from the protection afforded by the Convention. It also requests that the Government provide information on the structure, functioning and work of the labour inspectorate in relation to child labour.**

*Article 2(3) of the Convention. Age of completion of compulsory schooling.* In its previous comments, the Committee noted that, according to the information available on the website of the Senate, a Bill establishing the fundamental principles of the national education system had been put to the vote and adopted at the ordinary session of March 2013. The Committee also noted the detailed statistics on education provided in the Government's report. It observed that the primary school completion rate is close to 65 per cent at national level. However, there are significant disparities between the regions: for example, 78.5 per cent in the Kinshasa region compared with 56.2 per cent in South Kivu. Furthermore, the primary school completion rate is much higher for boys than for girls (73.8 per cent compared with 54.7 per cent). As regards secondary education, the gross enrolment rate for the first year of secondary school is barely 47 per cent at national level. The Committee also noted that, according to the *Education for All Global Monitoring Report 2012*, published by UNESCO, although the results of household surveys suggest that the proportion of out-of-school children fell by 25 per cent between 2001 and 2010, the number of out-of-school children is probably well above 2 million, which means that the Democratic Republic of the Congo is likely to be among the five countries with the highest numbers of out-of-school children.

The Committee notes the adoption of Framework Act No. 14/004 of 11 February 2014 on the national education system (Education Act, a copy of which is attached to the Government's report), which introduces an eight-year duration for basic education. It also notes the adoption of the Sectoral Strategy for education and training for 2016–25. ***In view of the fact that compulsory schooling is one of the most effective means of combating child labour, the Committee urges the Government to step up its efforts to ensure that children below the minimum age of 14 years for admission to employment or work are integrated into the education system, with a special focus on girls. It requests that the Government provide detailed information on the measures taken and the action programmes implemented to this end, 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.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 30 August 2017, and of the International Trade Union Confederation (ITUC), received on 1 September 2017, and of the in-depth discussion on the application of the Convention by the Democratic Republic of the Congo which took place in the Conference Committee on the Application of Standards in June 2017.

#### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)***

*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.* In its previous comments, the Committee noted that section 187 of Act No. 09/001 of 10 January 2009 establishes a penalty of penal servitude of ten to 20 years for the enlistment or use of children under 18 years of age in the armed forces, armed groups or the police. The Committee noted the Government's indication that the Armed Forces of the Democratic Republic of the Congo (FARDC) does not recruit children under 18 years of age. However, the Committee observed that, according to the 2011 report of the United Nations (UN) Secretary-General on children and armed conflict, a large number of children were still being recruited and continued to be associated with FARDC units. The report indicated that armed groups and the FARDC were responsible for numerous serious violations against children, including physical and sexual violence, killings and maimings.

The Committee notes the observations of the ITUC according to which the serious violations committed by the FARDC have not given rise to criminal prosecutions. The ITUC also states that numerous witnesses have made allegations that FARDC officers played an active role in the enlistment of children and that the Government has sufficient information to open investigations and prosecute the suspected perpetrators of these atrocities. Lastly, the ITUC highlights the contradictory actions of the Government, which is carrying out reforms to prevent further recruitment, but at the same time allows the police and the armed forces not only to recruit children but also to commit physical and sexual violence against them.

The Committee also notes the IOE's statement that the adoption of legislation is insufficient without effective enforcement.

The Committee notes the Government's indication in its report that an action plan to combat the recruitment and use of children in armed conflict and other serious violations of children's rights by the armed forces and security services of the Democratic Republic of the Congo was adopted in 2012. The Government also indicates that one of the measures taken as part of the action plan was the appointment in 2015 of the Special Adviser to the Head of State on action to combat sexual violence and the recruitment of children into the armed forces. It also notes the Government's indication that 17 children's courts have been set up and are operational. The Committee observes that, according to the report of 20 April 2016 of the UN Secretary-General on children and armed conflict (A/70/836-S/2016/360) (2016 report), three new provincial joint technical working groups were established to accelerate the implementation of the action plan (paragraph 54). In this regard, it notes that, according to information from the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), a total of seven joint technical working groups were established in the provinces in 2017 (Goma, Bukavu, Kisangani, Lubumbashi, Kalemie, Bunia and Katanga), in addition to the national group. The Committee also takes note, according to the report of 24 August 2017 of the UN Secretary-General on children and armed conflict (A/72/361-S/2017/821) (2017 report of the Secretary-General), of the validation of standard operating procedures for age verification, the adoption of a Ministry of Defence directive for the dissemination of those procedures within the FARDC and the screening of new recruits. The report also indicates that the UN documented the arrest of at least 15 FARDC members and five Congolese National Police (PNC) officers, in particular for offences linked to the recruitment and use of children in armed conflict before 2016, and that 41 individuals (including 23 FARDC members and 11 PNC officers) were convicted of sexual violence against children and received sentences ranging from three years' imprisonment to the death penalty. The Government reported that perpetrators of sexual violence against children were convicted in 129 cases (paragraph 71).

While noting these measures, the Committee nevertheless observes that, according to the 2017 report of the Secretary-General, the UN verified that 492 children (including 63 girls) were recruited and used by armed groups in 2016, with 82 per cent of cases occurring in North Kivu. At the time of recruitment, 129 children were under 15 years of age (paragraph 63). In addition, the report indicates that at least 124 children were killed and 116 maimed (paragraph 65). The rape of 170 girls and one boy was verified, the FARDC being responsible for 64 cases and the PNC for 12 cases (paragraph 66). The Committee also notes that, according to the 2016 report of the Secretary-General, a total of 488 cases of new recruitment of children were recorded in 2015, 89 per cent of which involved armed groups in North Kivu, in addition to the cases of ten boys previously recruited by the FARDC (paragraph 45). The report also refers to 254 cases of sexual violence against children, including 68 perpetrated by the FARDC, 19 by the PNC, and two by the National Intelligence Agency (paragraph 48). Lastly, it states that 68 individuals, including high-ranking officers, were arrested, with 37 receiving sentences of up to 20 years' imprisonment for sexual violence against girls (paragraph 55).

The Committee further observes that the report of the Secretary-General on MONUSCO of 9 March 2016 (S/2016/233) refers to the fact that the Military Academies High Command (CGEM) screened new FARDC recruits and found among them 84 children, who were then demobilized. The CGEM called on the FARDC Joint Chiefs of Staff to impose sanctions on the recruiters (paragraph 48).

The Committee also notes that, according to the report of the Secretary-General on MONUSCO of 30 June 2017 (S/2017/565), between January and March 2017 MONUSCO documented 28 new cases of child recruitment by the Kamuina Nsapu militia in the Kasai provinces, where numerous cases of violence have been recorded. It also documented the killing of at least 59 children, including 25 girls, and the maiming of 44 children, including four girls (paragraph 48). The Committee also notes that, according to the MONUSCO report "Invisible survivors: Girls in armed groups in the Democratic Republic of Congo from 2009 to 2015", since the adoption of the Child Protection Act in 2009, which criminalizes the recruitment of children, a total of 8,546 children, including 600 girls, were documented as recruited by the armed groups in the Democratic Republic of the Congo (up to May 2015). Furthermore, the Committee observes that the UN Committee on the Rights of the Child (CRC), in its concluding observations of 28 February 2017 (CRC/C/COD/CO/3-5), noted that, despite some improvements, there have been reports of the involvement of children in the activities of the national armed forces and reports of collaboration of the armed forces with armed groups that are

known for the recruitment or use of child soldiers (paragraph 47). The Committee also observes that, according to the report of MONUSCO and the UN Office of the High Commissioner for Human Rights (OHCHR) entitled "Accountability for human rights violations and abuses in the DRC: Achievements, challenges and way forward (1 January 2014–31 March 2016)", the number of prosecutions of members of armed groups remains very low. The report states that this is mainly due to the volatile security situation in the affected areas, which complicates investigations, particularly in terms of identifying the victims and the alleged perpetrators (paragraph 47). The report also describes the obstacles that exist, such as political considerations or de facto immunities enjoyed by certain suspected perpetrators on account of their customary powers. It adds that legal proceedings against members of armed groups would send a strong signal at national level and would also have a strong impact on the vetting of the security forces, since a conviction would make an individual ineligible to join the national armed forces (paragraphs 54–55). In this regard, the Committee notes that, according to the report of the Secretary-General on MONUSCO of 30 June 2017, MONUSCO engaged in advocacy with the military prosecutor with a view to bringing to justice the perpetrators of serious children's rights violations (paragraph 48).

The Committee expresses its **deep concern** at the large number of children who are still being recruited by armed groups, especially as the persistence of this worst form of child labour leads to other violations of children's rights, such as killings and sexual violence, which have also been committed by the armed forces. **While recognizing the complexity of the situation on the ground and the existence of armed conflict and armed groups in the country, the Committee once again urges the Government to take urgent measures to ensure the full and immediate demobilization of all children in the FARDC ranks and to put a stop in practice to the forcible recruitment of children under 18 years of age into armed groups. The Committee urges the Government to take immediate and effective measures to ensure the thorough investigation and robust prosecution of all persons, including officers in the regular armed forces, who forcibly recruit 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 Act No. 09/001 of 10 January 2009, including by the 17 courts established for this purpose. The Committee requests the Government to provide information on the number of investigations conducted, prosecutions brought, convictions issued against such persons and sanctions imposed.**

*Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child labour in mines.* In its previous comments, the Committee noted the observations of the Confederation of Trade Unions of the Congo (CSC) that young persons under 18 years of age are employed in mineral quarries in the provinces of Katanga and East Kasai. It noted the UN Special Rapporteur's observation that military groups were recruiting children for forced labour for the extraction of natural resources. The Committee observed that, although the legislation is in conformity with the Convention on this point, child labour in mines was a problem in practice. The Committee noted UNICEF statistics indicating that nearly 50,000 children are working in mines in the Democratic Republic of the Congo, including 20,000 in the province of Katanga (south-east), 12,000 in Ituri (north-east) and some 11,800 in Kasai (centre).

The Committee notes the observations of the ITUC indicating that a 2016 Amnesty International report revealed that children work in the mines for up to 12 hours per day, carrying heavy sacks of rocks and earning only between US\$1 and US\$2 per day. The report also states that children work in the open air, in very high temperatures or rain, without any protective clothing and in constant contact with heavy concentrations of cobalt. The ITUC also reports that the climate of impunity that prevails regarding the employment of children in the mining sector is a direct consequence of the ineffectiveness and incompetence of the labour inspectorate. It adds that penalties for the use of forced labour remain inadequate and are not an effective deterrent.

The Committee also notes that, in the Conference Committee on the Application of Standards, the Worker member of the Democratic Republic of the Congo referred to the 2015 Amnesty International report on five mining sites in Katanga, according to which the health risks faced by children in mines include a potentially fatal lung disease, respiratory sensitization, asthma, shortness of breath and decreased pulmonary function.

The Committee also notes the observations of the IOE to the effect that if the human resources allocated to law enforcement are sparse, the revenue from these provinces and from the mining sector must be reinvested in recruiting the necessary staff, in the interests of the country and of its children.

The Committee notes the Government's indication that the economy of the Democratic Republic of the Congo is mainly based on the exploitation of natural resources, involving hazardous operations in mining and quarrying, forestry, oil and gas. It adds that children between 16 and 18 years of age are most exposed to hazardous work in small-scale mining. The Committee takes notes of the Ministerial Order No. 0058/CAB.MIN/MINES/01/2012 of 29 February 2012 issuing procedures for the classification and authorization of gold- and tin-mining sites in the provinces of Katanga, Maniema, North Kivu, South Kivu and Eastern Province, attached to the Government's report. Section 8 of the Order provides that the socio-economic situation of the region of the Great Lakes in general, and of the Democratic Republic of the Congo in particular, must be taken into account as an indicator and that steps must be taken to ensure that children are not employed on mining sites. The Committee also notes the Government's indication that an inter-ministerial committee responsible for monitoring child labour in mines and on mining sites was set up in 2016. It indicates that the mandate of this committee is to: (1) coordinate and facilitate the various initiatives for combating child labour in mines and on mining sites; (2) act as the Government's advisory, monitoring and follow-up body vis-à-vis the competent ministries and departments; and (3) engage in advocacy vis-à-vis third parties. The report also states that the abovementioned committee has drawn up a three-year action plan for 2017–20 with the general objective of coordinating actions on the ground to put an end to the presence of children in mining operations by 2020. The plan contains five specific objectives, namely: (i) monitor and evaluate the implementation of actions to combat child labour in mines and on mining sites; (ii) resolve the issue of the presence of children; (iii) step up the enforcement of measures for removing children from mineral supply chains, giving priority to "3TG" (tungsten, tantalum, tin and gold); (iv) implement corrective measures on the ground proposed by the competent ministries and departments; and (v) adopt a communication strategy. Lastly, the Committee notes that, according to information gathered by the ILO in the Democratic Republic of the Congo, a draft sectoral strategy was formulated and discussed at a workshop in September 2017 and is currently awaiting final adoption. The prime objective of this strategy is the gradual removal of children from small-scale mines and small-scale mining sites, and their social reintegration within their national community. The strategy also reproduces the objectives of the three-year action plan, with the additional objective of combating impunity. The Committee notes that the strategy states that an operational plan must be formulated as soon as possible. While noting the measures taken by the Government, the Committee once again expresses **deep concern** at the large number of children working under dangerous conditions in mines. **The Committee urges the Government to take immediate and effective measures, as a matter of urgency, to eliminate forced child labour and hazardous work for children under 18 years of age in mines. In this regard, it requests the Government to take the necessary steps to ensure the thorough investigation and robust prosecution of offenders, and to ensure that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the actions taken and the results achieved as part of the implementation of the three-year action plan for 2017–20 and of the sectoral strategy for 2017–25, once the latter has been officially adopted.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. 1. Child soldiers.* Further to its previous comments, the Committee notes the Government's indication that it is consolidating data on children who have been the beneficiaries of demobilization and social and economic reintegration programmes. The Committee notes that, according to the 2017 report of the Secretary-General, a total of 1,662 children (including 177 girls) were separated from armed groups in 2016 (paragraph 74). In 2015, a total of 2,045 children were separated from armed groups and ten boys were separated from the FARDC (2016 report of the Secretary-General, paragraph 53). The Committee also observes that, according to the report of the Secretary-General on MONUSCO of 10 March 2017 (S/2017/206), between January and March 2017, 61 boys and nine girls were separated or escaped from armed groups (paragraph 33). In addition, it notes that, according to the report of the Secretary-General on MONUSCO of 30 June 2017 (S/2017/565), between March and June 2017 at least 269 children (including 14 girls) were separated or escaped from armed groups (paragraph 47). The Committee also notes that the MONUSCO report "Invisible survivors: Girls in armed groups in the Democratic Republic of Congo from 2009 to 2015" highlights the harsh reality faced by girls, half of whom have been subjected to sexual violence and often remain behind in armed groups for fear of stigmatization. In this regard, the Committee notes that the CRC, in its concluding observations of 2017, indicates that the human and financial resources for the demobilization, rehabilitation and reintegration of child soldiers are scarce, disproportionately affecting girl soldiers who comprise up to 30 per cent of children involved with the armed

forces and armed groups (paragraph 47(e)). The CRC also refers to the fact that girl soldiers face stigmatization and rejection by their communities and thus are sometimes obliged to rejoin armed groups (paragraph 47(f)). Furthermore, the Committee observes that the CRC, in its concluding observations of 28 February 2017 relating to the sale of children, child prostitution and child pornography (CRC/C/OPSC/COD/CO/1), expresses concern at the fact that a significant number of girls remain victims of sexual exploitation and forced labour in the hands of armed groups (paragraph 40) and that there is no clear procedure or referral service for the protection and care of child victims of sexual exploitation (paragraph 36). In this regard, the Committee notes that in 2016 UNICEF supplied medical, psycho-social, economic and legal assistance to 100,000 children who were subjected to sexual and gender-based violence (2016 UNICEF annual report on the Democratic Republic of the Congo, page 1). **The Committee urges the Government to intensify its efforts and take effective and time-bound measures to remove children from the armed forces and armed groups, as well as from forced labour and sexual exploitation, and to ensure their rehabilitation and social integration, with a particular focus on the demobilization of girls. The Committee also requests the Government to provide information on the number of child soldiers who have been removed from the armed forces and armed groups and have been reintegrated through appropriate assistance with rehabilitation and social integration.**

2. *Children working in mines.* The Committee previously noted that several projects for the prevention of child labour in mines and the reintegration of these children through education were being implemented, aimed at covering a total of 12,000 children, of whom 4,000 were to be covered by prevention measures and 8,000 were to be removed from labour and reintegrated through vocational training. The Government also indicated that more than 13,000 children were removed from three mining and quarrying locations in Katanga, East Kasai and Ituri as part of the work of the non-governmental organizations Save the Children and Solidarity Centre. These children were then placed in formal and non-formal education structures and also in apprenticeship programmes. However, the report also indicated that, in view of the persistence of the problem, much remained to be done. The Committee further noted that Congolese girls were victims of forced prostitution in improvised prostitution centres, in camps, around mining sites and in markets.

The Committee notes that the Conference Committee urged the Government to step up its efforts to prevent children from working in mining and other hazardous types of work and to provide the necessary and appropriate direct assistance for their removal from the worst forms of child labour.

The Committee notes that there is no information in the Government's report on the number of children removed from mining work. However, it observes that the stated aim of part 5 of the draft sectoral strategy for combating child labour in mines – namely, providing protection and care for children – is to remove children from mines and cater for their needs in terms of protection and socio-economic reintegration. In this regard, planned actions are to identify the number of children working in informal mines, to implement alternative and sustainable solutions in educational and socio-economic terms, and to reinforce community mechanisms for prevention and for the protection and promotion of children's and women's rights. The Committee also notes that a draft plan to remove children from supply chains in small-scale mining has been adopted. **The Committee requests the Government to intensify its efforts to prevent children under 18 years of age from working in mines and from being subjected to prostitution on mining sites. It also requests the Government to provide the necessary and appropriate direct assistance for their removal from these worst forms of child labour and to ensure their rehabilitation and social integration. It further requests the Government to send information on the measures taken under the three-year action plan for 2017–20 and the sectoral strategy for 2017–25, once the latter has been officially adopted, 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.**

## Djibouti

### Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

The Committee notes with **deep concern** that the Government's report, due since 2017, has not been received. In the light of its urgent appeal to the Government in 2020, the Committee has proceeded with the examination of the application of the Convention on the basis of the information at its disposal.

*Article 1 of the Convention. National policy for the effective abolition of child labour and application of the Convention in practice.* The Committee previously requested the Government to take the necessary steps to ensure the effective implementation of the National Strategic Plan for Children (PSNED) in Djibouti and to provide information on the results achieved in the progressive elimination of child labour and the progress made in formulating a national policy to combat child labour.

The Committee notes the various legislative changes introduced by the Government between 2017 and 2021 with respect to child labour, such as: (i) Decree No. 2017-354/PR/MFF of 2 November 2017 amending Decree No. 2012-067/PR/MPF, on the establishment and organization of the National Children's Council (CNE). The CNE is the national supervisory body for the implementation of the PSNED which coordinates child protection actors by guiding and defining child rights policies; (ii) Law No. 66/AN/719/8ème L of 13 February 2020, on taking measures with a view to combating early school dropouts, including among girls; (iii) Decree No. 2021-193/PR/MEFF of 3 August 2021 on the organization and operation of the National Council for the Rights of the Child (CNDE) in the Republic of Djibouti. The CNDE is the national supervisory body for the implementation of the National Policy for Children in Djibouti and is under the authority of the Prime Minister; and (iv) Decree No. 2021-194/PR/MEFF of 3 August 2021 on the establishment and organization of the National Child Protection Platform in the Republic of Djibouti.

The Committee notes that, in the context of the International Year for the Elimination of Child Labour, the Ministry of Labour and Industrial Relations has undertaken to develop an action plan to eliminate child labour in Djibouti. The three actions to be implemented are: (i) the establishment of a national committee, (ii) the identification of a national and international consultant to develop the plan; and (iii) the organization of a workshop to approve the plan. **The Committee requests that the Government take the necessary measures for the development and adoption of the new action plan for the elimination of child labour in Djibouti. The Committee also requests the Government to provide information on the implementation of the policy of the CNE and the National Child Protection Platform.**

*Article 2(1). Scope of application and labour inspection.* The Committee previously requested the Government to take steps to ensure that the protection afforded by the Convention is secured to children under 16 years of age working in the informal economy, particularly by adapting and strengthening the labour inspectorate in order to improve the capacity of labour inspectors to identify cases of child labour. It requested the Government to provide information in this regard and on the results achieved. **Noting the absence of information on this subject, the Committee reiterates its request to the Government to take steps to ensure that the protection afforded by the Convention is secured to children under 16 years of age working in the informal economy, particularly by adapting and strengthening the labour inspectorate in order to improve the capacity of labour inspectors to identify cases of child labour. It once again requests the Government to provide information on this subject and on the results achieved.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously requested the Government to intensify its efforts to take measures that will ensure children's participation in compulsory basic schooling, or in an informal school system. In this respect, it requested the Government to provide information on the recent measures taken to increase the school attendance

rate, so as to prevent children under 16 years of age from working, and recent statistics on the primary and secondary school enrolment rates in Djibouti.

The Committee takes due note that, according to its 2021 report to the Committee on the Elimination of Discrimination against Women, the Government indicates the different measures taken with regard to education, including: (i) the Education Action Plan 2017–2020 of the Ministry of National Education and Vocational Training, which was revised in 2018; (ii) the continuation of the Blueprint 2010–2019; (iii) the development of pre-school education in collaboration with the private sector, the community and the Ministry of Women and the Family, with a focus on children from poor communities and rural areas.

The Committee also notes that, according to the Government's indications in the Education Action Plan 2017–2020, the gross primary school attendance rate increased from 78.1 to 81.5 per cent between 2015 and 2016, while the gross enrolment rate for the first year of primary school rose from 71 to 80.5 per cent. However, the Government indicates that the gender parity index has not changed and that it is much lower in rural areas, thus highlighting strong disparities between girls and boys.

The Committee also notes in the same report that, according to the latest household survey carried out in 2017, around 16 per cent of children aged between 6 and 14 had never attended school or did not attend school that year, which represents one out of six children. This figure is higher than 30 per cent in the regions of Dikhil, Obock, Arta and Tadjourah. Furthermore, according to the Country Office Annual Report 2019 Djibouti of the United Nations Children's Fund (UNICEF), the school dropout rate remains high, with a gross rate of secondary school attendance of 66 per cent. **While noting the measures taken by the Government, the Committee requests the Government to intensify its efforts and take steps to enable all children under 16 years of age to attend compulsory basic education. The Committee also requests the Government to provide information on the results of the implementation of the Education Action Plan 2017–2020, as well as recent statistical data disaggregated by age, gender and region.**

*Article 3(1) and (2). Age of admission to hazardous work and determination of hazardous types of work.* The Committee previously recalled that, pursuant to section 111 of the Labour Code, an order was adopted at the proposal of the Minister of Labour and the Minister of Health, after consultation with the National Council for Labour, Employment and Social Security, which determined the nature of the work and the categories of enterprises prohibited for women, pregnant women and young people, and the applicable minimum age. The Committee requested the Government to adopt such an order on the types of work and enterprises prohibited for young people.

The Committee also notes that, according to the report by the Ministry of Health in October 2020 concerning staff management procedures (page 54) in the context of two projects financed by a loan from the World Bank, a list of hazardous types of work was established, which considered as hazardous for children "work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of children". Work activities prohibited for children include the following types of work: (a) work which exposes children to physical, psychological or sexual abuse; (b) work underground, underwater, at dangerous heights or in confined spaces; (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; (d) work in an unhealthy environment which may expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

However, the Committee once again notes the lack of information from the Government on the order determining the nature of the work and the categories of enterprises prohibited for women, pregnant women and young people, and the applicable minimum age. **The Committee once again requests the Government to take the necessary steps to ensure that the order determining the nature**

**of the work and the categories of enterprise prohibited for young people under 18 years of age is adopted in the near future under section 111 of the Labour Code.**

**The Committee reminds the Government that it may avail itself of ILO technical assistance in order to facilitate the application of the Convention.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)**

The Committee notes with **deep concern** that the Government's report, due since 2017, has not been received. In the light of the urgent appeal made to the Government in 2020, the Committee has proceeded with the examination of the application of the Convention on the basis of the information at its disposal.

*Articles 3(b) and 7(2)(b) of the Convention. Worst forms of child labour and effective and time-bound measures. Use, procuring or offering of a child for prostitution and assistance for the removal of children from the worst forms of child labour.* The Committee previously noted the concern expressed by the Committee on the Rights of the Child (CRC) at the high number of children, particularly girls, involved in prostitution and at the lack of facilities providing services for child victims of sexual exploitation. It requested the Government to take effective and time-bound measures to remove children from prostitution, and to ensure their rehabilitation and social integration. It also requested the Government to supply information on the progress achieved in this respect. **Noting the absence of information on this matter, the Committee once again urges the Government to take effective and time-bound measures to remove children from prostitution, and to ensure the follow-up of their rehabilitation and social integration. It also requests the Government to supply information on the progress achieved in this respect.**

*Articles 3(d) and 4(1). Hazardous work and determination of these types of work.* With regard to the prohibition on employing children under 18 years of age in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, as set out in *Article 3(d)* of the Convention, and also the adoption of a list of hazardous types of work, the Committee refers to its detailed comments relating to the Minimum Age Convention, 1973 (No. 138).

*Article 6. Programmes of action to eliminate the worst forms of child labour.* The Committee previously requested the Government to take immediate and effective measures to ensure that the national plan of action for the elimination of the worst forms of child labour is formulated, adopted and implemented as soon as possible and to provide information on the progress made in this respect.

The Committee notes that, according to the National Strategic Plan for Children in Djibouti (PASNED), the adoption of a law defining and prohibiting the worst forms of child labour, and the preparation of a study on the worst forms of child labour are planned, as well as the implementation of awareness-raising campaigns on the issue. However, the Committee notes a lack of information on the activities carried out under the PASNED. It further notes a lack of information on the current status of the plan of action for the elimination of the worst forms of child labour. **The Committee once again requests the Government to take immediate and effective measures to ensure that the national plan of action for the elimination of the worst forms of child labour is formulated, adopted and implemented as soon as possible and to provide information on the progress made in this respect. It also requests the Government to provide information on the results of the action planned under the PASNED with a view to eliminating the worst forms of child labour.**

*Article 7(2)(d). Identifying children at special risk. 1. HIV/AIDS orphans.* The Committee previously emphasized the increase in the number of HIV/AIDS orphans and recalled that such children are at greater risk of involvement in the worst forms of child labour. It requested the Government to supply information on the impact of the measures, policies and plans implemented to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour, and on the results achieved.

The Committee notes that, according to the social protection assessment of January 2017, conducted by the Government with a view to developing the National Social Protection Strategy 2018–2022, there are several types of shelter institutions working with orphans. They provide a favourable environment for their development and progression, including school retention, access to technical training and the right to care and leisure. There are also financial support activities and food distribution operations for specific groups such as orphans and vulnerable children, school-age girls in disadvantaged/rural areas and persons affected by HIV/AIDS. The Government has also established a “solidarity fund for orphans and children affected by HIV/AIDS”.

The Committee also notes that, according to the PASNED, the activities planned include: (i) the development of minimum standards for care in institutions responsible for the care and education of orphaned and all other vulnerable children; (ii) the training and integration of young persons who are out of school, in difficult situations or in conflict with the law; and (iii) an analysis of the vulnerability of children, including child victims of HIV/AIDS. **The Committee requests the Government to provide information on the impact of the measures, policies and plans implemented to ensure that HIV/AIDS orphans are protected from the worst forms of child labour, and on the results achieved.**

2. *Street children.* The Committee previously noted the Government’s statement that most of the children living and working on the streets are of foreign origin and often work as beggars or shoe-shiners. The Committee requested the Government to take immediate and effective measures to protect them from the worst forms of child labour and ensure their rehabilitation and social reintegration, and also to provide information on the progress made in this respect.

The Committee notes that, in the PASNED report, one of the objectives is to develop and strengthen measures for the protection, care and integration of children in difficult situations, such as street children. However, the Committee notes that, according to the Government’s periodic report in reply to the Committee on the Rights of the Child (CRC) (CRC/C/DJI/3-5) of 6 February 2019, it does not yet have statistical data on this group of children, emphasizing that food crises and emergencies and increasing poverty are mobilizing Government efforts and resources. The Government adds that the protection of the basic social rights of street children therefore continues to be ensured by non-governmental organizations.

The Committee notes that a study on street children was to be carried out in 2018 to provide information on the socio-demographic and economic circumstances and living conditions of street children in Djibouti, including: (i) providing an indication of the number of street children, disaggregated by gender, age and origin; (ii) analysing the living conditions, activities, income and expenditure, and family relationships of street children; and (iii) identifying the causes of the presence of children in the streets and their aspirations with regard to their situation. **Recalling that street children are particularly exposed to the worst forms of child labour, the Committee once again urges the Government to take immediate and effective measures to protect them from the worst forms of child labour and ensure their rehabilitation and social integration, and also to provide information on the progress made in this respect. It also requests the Government to provide the results of the study on street children planned for 2018.**

*Application of the Convention in practice.* The Committee previously requested the Government to take steps to ensure the availability of statistics on the nature, extent and trends of the worst forms of child labour, disaggregated by age and gender, and on the number of children covered by the measures giving effect to the Convention. The Committee invited the Government to avail itself of ILO technical assistance to facilitate the implementation of the Convention.

The Committee notes Act No. 26/AN/18/8eme L of 27 February 2019, establishing the National Statistical Institute of Djibouti (INSD), which replaces the Directorate of Statistics and Demographic Studies. The INSD is responsible, inter alia, for: producing, analysing and disseminating official statistics; undertaking periodic or specific surveys of general interest in enterprises or households; and ensuring

the dissemination and publication of studies and other statistical data. **The Committee requests the Government to take measures to ensure the availability of statistics on the nature, extent and trends of the worst forms of child labour, disaggregated by age and gender, and on the number of children covered by the measures giving effect to the Convention.**

**The Committee invites the Government to avail itself of ILO technical assistance in order to facilitate the application of the Convention.**

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

## Dominica

### Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes with **deep concern** that the Government's report, due since 2014, has not been received. In light of its urgent appeal launched to the Government in 2019, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Article 2(2) and (3) of the Convention. Minimum age for admission to employment and age of completion of compulsory schooling.* In its previous comments, the Committee noted that the Government had specified a minimum age of 15 years upon ratification of the Convention. The Committee also noted that, according to section 2 of the Education Act (No. 11 of 1997), school is compulsory for all children from the age of 5 to 16 years, and that section 46(1) of the Act prohibits employing a child of school age during the school year. However, the Committee notes that pursuant to the Employment of Women, Young Persons and Children Act, Chapter 90:06, no children under the age of 14 years can be employed in industrial undertakings, other than family undertakings (section 4); or on ships, other than those in which only members of the same family are employed (section 5). **In this regard, the Committee requests the Government to clarify the relationship between sections 4 and 5 of the Employment of Women, Young Persons and Children Act and sections 2 and 46(1) of the Education Act. The Committee also wishes to recall that Article 2(2) of the Convention provides that a ratifying country may subsequently notify the Director General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified. Thus, the Committee would be grateful if the Government would consider sending a declaration of this nature to the Office, taking into consideration sections 2 and 46(1) of the Education Act, so that the minimum age for admission to employment fixed by the national legislation is harmonized with that provided for at the international level.**

*Article 3(1) and (2). Minimum age for admission to and determination of hazardous work.* In its previous comments, the Committee noted the absence of a legislative provision setting a minimum age for admission to hazardous work. The Committee also noted the Government's indication that consultations were envisaged with the social partners with a view to determining a list of types of hazardous work prohibited for children under the age of 18 years. **Noting the absence of information on progress made in this respect, the Committee once again requests the Government to take the necessary measures to ensure that children can only undertake hazardous work from the age of 18 years, as required by Article 3(1) of the Convention. The Committee also requests the Government to take measures to ensure that a list of hazardous types of work prohibited for children under 18 years of age, as required by Article 3(2) of the Convention, is adopted after consultation with the organizations of employers and workers concerned.**

*Article 7(1). Minimum age for admission to light work.* In its previous comments, the Committee noted that, according to section 3 of the Employment of Children (Prohibition) Act, Chapter 90:05, children above 12 years of age may be employed in domestic work or agricultural work of a light nature at home by the parents or guardian of the child. In this regard, the Committee recalls that *Article 7(1)* of

the Convention only permits the employment or work of children, who have reached the age of 13 and under the condition that such work is 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 or their capacity to benefit from the instruction received. **The Committee therefore requests the Government to take the necessary measures to bring section 3 of the Employment of Children (Prohibition) Act in line with the Convention by permitting employment in light work only by children who have reached the age of 13 years.**

*Article 7(3). Determination of types of light work activities. Light work during school vacations.* The Committee previously noted that section 46(3) of the Education Act permits the employment of children above 14 years of age during school vacations but observed that the Act does not indicate the types of light work permitted for these children. The Committee recalls that pursuant to *Article 7(3)* of the Convention, the competent authority shall determine the types of light work permitted to children 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 provide information on any measures taken or envisaged to determine the types of light work that children above the age of 14 years can undertake during school vacations, as well as the hours during which and the conditions in which such work can be performed.**

*Article 9(3). Keeping of registers by employers.* The Committee previously noted that section 8(1) of the Employment of Women, Young Persons and Children Act requires every employer in an industrial undertaking and every shipmaster to keep a register of all persons employed under the age of 16 years. In this regard, the Committee had recalled that *Article 9(3)* of the Convention requires the keeping of such registers for all persons employed who are less than 18 years of age. **In this respect, the Committee requests the Government to take the necessary measures to review section 8(1) of the Employment of Women, Young Persons and Children Act, so as to bring its legislation into conformity with Article 9(3) of the Convention with a view to ensuring that registers be kept and made available by the employer in respect of all working children under 18 years of age. The Committee requests the Government to provide information on any progress made in this regard.**

*Labour inspection and application of the Convention in practice.* In its previous comments, the Committee noted the Government's indication that measures would be taken to broaden the mandate of the national inspectorate to cover child labour issues, in consultation with the social partners. **In this regard, the Committee requests the Government to indicate whether the mandate of the national inspectorate has been expanded to cover child labour issues and, if so, to provide information on the activities undertaken by the national inspectorate in the area of child labour, including the number of labour inspections conducted and the number and nature of violations detected. The Committee also requests the Government to provide updated statistical data on the employment of children and young persons.**

**The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee invites the Government to consider technical assistance from the ILO to bring its legislation into conformity with the Convention.**

## Ecuador

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

*Articles 3(a) and (b) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children and use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee duly notes the amendment to section 91 of the Basic Comprehensive Penal Code (COIP) in 2021, communicated by the Government as an appendix to its report. The amendment is concerned with the prohibition of the trafficking of persons for sexual

exploitation, including forced prostitution, sex tourism and child pornography, and also for labour exploitation, including forced labour, debt bondage and child labour.

The Committee duly notes that the Government, in reply to its request to pursue efforts to ensure that the various ministries and entities responsible for monitoring the application of the COIP provisions collaborate in cases of trafficking of children, refers to: (i) the project for the elimination of child labour (PETI), which aims to prevent this practice in all its forms and encourages inter-sectoral coordination with a view to providing overall care for the victims of child labour. This collaboration includes the participation of the Ministry of Labour, the Ministry of the Interior, the Public Prosecutor, the Ministry for Economic and Social Inclusion, the Ministry of Education, the Ministry of Public Health and the Cantonal Rights Protection Councils; and (ii) the activities of the Inter-Institutional Coordinating Committee for the prevention of human trafficking and migrant smuggling and the protection of their victims; the purpose of this Committee is to supervise the application of the Human Mobility Act and monitor the issue of human trafficking, in accordance with Inter-Ministerial Decision No. 0010 of 2017. This Committee has technical working groups, in addition to the coordination team for the victims of trafficking and migrant smuggling, which includes the Technical Investigation and Justice Office, the Ministry of Foreign Affairs and Human Mobility and the Attorney-General's Office, with a view to implementing joint actions against the trafficking of persons.

The Committee notes the action taken by the Government concerning the application of the provisions of the COIP relating to the trafficking of children: (i) 16 investigations into trafficking for sexual exploitation and one investigation into labour exploitation were conducted by the unit for the investigation of trafficking of persons and smuggling of migrants; (ii) six investigations into forced labour or other forms of labour exploitation and one investigation into the trafficking of persons, labour exploitation, servitude and child labour were conducted by the National Police Department specializing in matters relating to children and young persons (DINAPEN). **The Committee requests the Government to provide detailed information on the prosecutions initiated, the convictions handed down and the penalties imposed as a result of these investigations.**

*Article 6. Programmes of action. Trafficking of children.* In its previous comments, the Committee asked the Government to take all necessary measures to complete the process of adopting a new national plan of action to combat trafficking in persons and to provide detailed information in that regard.

The Committee notes with **satisfaction** Ministerial Decision No. 194 of 25 November 2019 adopting the Plan of Action against trafficking in persons 2019–30, published in Official Journal No. 349 of 14 February 2020, with details of the Plan appended to its report, including a conceptual and strategic framework, an analysis of the situation and a specific model for management, monitoring and evaluation of the actions to be taken.

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from these forms of labour and ensuring their rehabilitation and social integration. Trafficking of children.* In its previous comments, the Committee asked the Government to continue its efforts to prevent the trafficking of children. It also asked the Government to provide information on the number of children removed from trafficking who have then been rehabilitated and socially integrated, disaggregated by age and gender.

The Committee notes Inter-institutional Decision No. 003 published in Official Journal special edition No. 425 of 10 March 2020, which adopts the protocol of actions to provide full care and protection for trafficking victims, incorporating a specific procedure vis-à-vis girls, boys and young persons. The Committee also notes the forthcoming interactive mapping of human trafficking and migrant smuggling by the Ministry of the Interior, supported by the International Organization for Migration (IOM) and the United Nations Office on Drugs and Crime (UNODC).

Furthermore, the Committee notes the statistical data on the trafficking of persons issued by the REGISTRATT system for the registration of victims of trafficking and migrant smuggling, which recorded 331 victims of trafficking, including 103 children under the age of 17 years, between 2017 and May 2021. It also notes the competencies of the Ministry for Economic and Social Inclusion with regard to providing care for girls, boys and young persons who are trafficking victims. The institutional care service caters for young persons between 12 and 17 years of age in two specialist centres, *Casa Linda* and *Casa El Nido* of the *Alas de Colibrí* foundation. A family reintegration programme catered for 19 girls and young persons in 2020 and 12 girls and young persons in 2019.

The Committee also notes the measures taken in 2019 in the context of the Human Mobility Act to direct the population in situations of human mobility towards social and legal services through the “host towns” project. This project, which exists in 14 locations, focuses on the protection of children, identifying and providing support for girls, boys and young persons who are the victims of violence, trafficking or exploitation. ***The Committee requests the Government to continue its efforts to combat the trafficking of children and to continue taking steps to protect child victims of trafficking. The Committee also requests the Government to provide information on the number of children, disaggregated by gender and age, who have been removed from trafficking and then rehabilitated and socially integrated.***

*Article 8. International cooperation and assistance. Trafficking of children.* In its previous comments, the Committee asked the Government to indicate whether the exchange of information with Peru carried out within the framework of the agreement concluded in 2016 has provided information on the identification of, and penalties imposed on, perpetrators of trafficking of children and their networks. The Committee also asked the Government to continue its efforts to detect and intercept child victims of trafficking at the borders and to provide statistical data in its next report, disaggregated by gender and age, and information on the results achieved.

The Committee notes the bilateral cooperation activities between the Ministry of the Interior and Peru in 2020, aimed at prevention, investigation and victim protection in the context of human trafficking. In this regard, a number of activities have been implemented, including the 2020–21 road map on the trafficking of persons covering: (i) the updating and exchange of contact points in the institutions responsible for the provision of care, protection and reintegration services and/or for the repatriation of trafficking victims; and (ii) the exchange of instruments for the care, protection, reintegration and repatriation of victims of human trafficking and migrant smuggling. Furthermore, an online meeting on experiences relating to the prevention of cases of trafficking originating from the Internet was held with the collaboration of rapporteurs from the UNODC, the IOM and the International Centre for Missing and Exploited Children (ICMEC), with the participation of officials from both countries. The Committee also notes the campaign to combat the trafficking of persons between the two countries, aimed at formulating a communication strategy for the prevention of human trafficking which has an impact on vulnerable groups.

Lastly, the Committee notes, according to the Government’s report, that since the agreement is recent and in view of the situation arising from the COVID-19 pandemic, it has not been possible to provide additional data on the results of the action taken since 2020. ***The Committee requests the Government to continue its efforts to detect and intercept child victims of trafficking at the borders and to provide statistical data in its next report, disaggregated by gender and age, and information on the results achieved.***

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

## Egypt

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

*Article 1 of the Convention. National policy on the effective abolition of child labour and application of the Convention in practice.* The Committee previously noted that, according to the 2016 UNICEF report “Children in Egypt 2016: A Statistical Digest”, 7 per cent of children aged from 5 to 17 years were involved in child labour or hazardous work in 2014. The Committee noted the measures taken by the Government to combat child labour in Egypt, including the finalization of a National Action Plan on Combating the Worst Forms of Child Labour, but expressed its concern at the situation and number of working children in Egypt.

The Committee notes the Government’s indication in its report according to which it places great importance on curbing the phenomenon of child labour and seeks to do this through concerted national effort. In this regard, the Committee notes with **interest** the Government’s indication that it launched the National Action Plan to Combat the Worst Forms of Child Labour 2018–2025 (NAP-WFCL), in the framework of which several actions are being undertaken, including: (i) the implementation of the Programme to accelerate the action of the elimination of child labour in global supply chains 2018–2022 (ACCEL Africa), which aims to accelerate the elimination of child labour in Africa and, in the case of Egypt specifically, in the cotton supply chain and in the textile and readymade garment sector; (ii) the holding of a number of national workshops on the topic of “Strengthening capacities for analysing data on child labour and forced labour”, in collaboration with the ILO; (iii) the launch, in coordination with the Ministry of Manpower’s offices and directorates, of intensive inspection campaigns in the quarrying and brickwork sectors throughout all governorates in order to combat child labour and hazardous work; (iv) the review of existing child labour legislation; (v) the implementation of a number of training courses for labour inspectors/civil society associations/owners of workshops in the governorates where the phenomenon of child labour is most rife; and (vi) the set-up of a helpline as a mechanism for monitoring cases of child labour.

The Government indicates that such measures have had significant effects, including protecting a large number of children against being drawn into the labour market and integrating them into non-formal education programmes or the formal schooling system. The Committee notes in particular the Government’s indication that, as a result, 47,383 children were given protection. **The Committee therefore encourages the Government to continue strengthening its efforts to ensure the progressive elimination of child labour. It requests that the Government continue providing information on the measures taken in the framework of the NAP-WFCL and the results achieved in terms of the number of children who are effectively removed from child labour. It also requests the Government to provide information relating to the application of the Convention in practice, including updated statistical data on the employment of children and young persons below the age of 15.**

*Article 6. Apprenticeship.* The Committee previously noted that sections 26 and 58 of the draft Labour Code provided for a minimum age for admission to apprenticeship or training of 13 years. The Committee recalled that *Article 6* of the Convention provides that training or apprenticeship performed in undertakings shall only be permitted for children of at least 14 years of age.

The Committee notes the Government’s information that the draft Labour Code still permits the engagement of children as of the age of 13 in apprenticeships, as long as it does not disrupt the continuity of their education. The Government indicates that measures are being taken to change the age for apprenticeship to 14 years, in accordance with international labour standards. **The Committee therefore requests the Government to finalize their measures taken with a view to ensuring that sections 26 and 58 of the draft Labour Code are amended to raise the minimum age of admission to apprenticeship or training from 13 to 14 years of age, in accordance with Article 6 of the Convention.**

*Article 7. Determination of types of light work.* The Committee previously noted the provisions of section 64 of the Child Law permitting children between the ages of 12 to 14 years, by decree of the governor concerned, with the agreement of the Minister of Education, to perform seasonal work which is not prejudicial to their health or development and does not interrupt their education. The Committee noted, at the time, that the minimum age for employment or work was 14 years in Egypt, but that it has since been raised to 15 years, in accordance with *Article 2(2)* of the Convention. The Committee observed that section 59 of the draft Labour Code maintains the ages set by the Child Law for admission to light work by referring to section 64 of the Child Law. It recalled that, in accordance with *Article 7(1)* of the Convention, light work is only permitted for persons from 13 to 15 years of age, given that Egypt has specified 15 years as the minimum age for admission to employment or work.

The Committee notes the Government's information that it is reviewing some sections of the Child Law in order to come into line with international labour standards. It notes that, in the context of a tripartite Committee meeting held in February 2021 on the legislative gaps of the Child Law, it was recommended that the provisions of section 64 of the Child Law permitting children aged 12 to 14 to perform seasonal work should be abrogated because of the lack of clarity regarding the definition of term "seasonal work". If this recommendation is implemented – and as the Government indicates in its report – section 64 of the Child Law will provide only that children may be engaged in trainings ("apprenticeships") as of the age of 14 years, and there will be no provisions permitting children under the age of 15 to perform light work (seasonal or otherwise). ***The Committee therefore requests the Government to take the necessary measures to ensure that section 64 of the Child Law is amended either to raise the minimum age of admission to light work to 13 years, in accordance with Article 7(1) of the Convention, or to remove the possibility for children under the age of 15 to perform light work altogether, in accordance with the recommendations made by the tripartite Committee in the framework of the revision of the Child Law. The Committee requests the Government to provide information, in its next report, on the progress made in this regard.***

The Committee is raising another matter in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

*Articles 3(a), 6 and 7(1) of the Convention. Worst forms of child labour, programmes of action and penalties. Sale and trafficking of children.* The Committee previously noted that a third National Plan of Action against Human Trafficking (NAP-HT) for the years 2016–21 was adopted, which aimed to maintain referral mechanisms, train law enforcement officials and combat the trafficking of street children. It requested the Government to provide information on the impact of the measures taken within the framework of the NAP-HT 2016–21, as well as on the measures taken to ensure the thorough investigation and robust prosecution of perpetrators of child trafficking for labour or sexual exploitation.

The Committee notes the Government's information in its report that it is keen to boost child protection against crimes of trafficking or sexual exploitation. The Government provides detailed information on the measures undertaken in the framework of the NAP-HT 2016–21, which include: (i) the assignment of eight specialized judicial chambers to handle human trafficking offences, and the establishment of the Department of Illegal Migration and Human Trafficking of the Anti-Drug and Organized Crime Sector within the Ministry of Interior; (ii) the holding of specialized training courses for all employees of sectors concerned with combating human trafficking, including judges, public prosecutors, police officers, social workers, members of civil society organizations and others who are engaged in child protection and the combating of human trafficking; (iii) the establishment in 2020 of child protection offices by the Public Prosecutor, which work to overcome any obstacles that the Public Prosecutor or any other body might encounter in the course of implementing the child protection mechanism against trafficking, exploitation or exposure to danger; and (iv) the preparation of a number of specialized guidance manuals for those engaged in combating human trafficking offences, including

the “Guide to Evidence Collection, Investigation and Prosecution of Human Trafficking Crimes and Protection of Victims in the Context of Law Enforcement”, intended for circulation among law enforcement authorities.

The Committee further notes, from the Government’s report under the Forced Labour Convention, 1930 (No. 29), that 154 cases of human trafficking were reported in 2019, resulting in 10 convictions. In addition, according to the replies of Egypt to the list of issues and questions raised by the Committee on the Elimination of Discrimination against Women (CEDAW) of 7 July 2021, 156 cases of trafficking were reported in 2020, affecting 365 victims, including 242 children; 30 people were accused in these cases (CEDAW/C/EGY/RQ/8-10, paragraph 59). **The Committee requests the Government to continue taking the necessary measures, within the framework of the NAP-HT 2016–21 or otherwise, to ensure the thorough investigation and prosecution of perpetrators of child trafficking for labour or sexual exploitation, and to provide information on the convictions and penalties applied. In addition, the Committee requests the Government to provide information on the penalties applied in the cases of the 30 people accused of trafficking in 2020.**

*Article 3(b). Use, procuring or offering of a child for prostitution.* The Committee previously noted that section 291 of the Penal Code provides for penalties for persons who violate the right of a child to protection against commercial sexual exploitation. It noted, however, that section 94 of the 2008 Child Law provides that the age of criminal responsibility starts at 7 years. Moreover, although section 111 of the Child Law prohibits handing down criminal sentences amounting to the death sentence, life imprisonment or hard labour to children under 18 years of age, it provides that children over 15 years of age are liable to confinement in jail for not less than three months or to the measures stated in section 101. In this regard, it noted that section 101 of the Child Law provides that a child under the age of 15 years who has committed a crime shall be subjected to the following sanctions: reprimand; being institutionalized; following a course of training and rehabilitation; carrying out specific duties; judicial testing; performing work for the public interest which is not hazardous; and placement at one of the specialized hospitals or at social welfare institutions. The Committee thus noted the provisions of the Child Law and of the Penal Code are insufficient to protect children who are used, procured or offered for the purpose of prostitution, as they allow for child victims of prostitution who are over 15 years of age to be held criminally responsible.

The Committee notes the Government’s indication that it has taken a series of measures to ensure that children below the age of 18 qualify for the definition of victims of trafficking, but notes with **regret** that the Government provides no information on measures taken to resolve the legislative gap created by section 111 of the Child Law. The Committee notes the Government’s information that it is reviewing some sections of the Child Law in order to come into line with international labour standards. It notes that, in this context a tripartite Committee meeting was held in February 2021 on the legislative gaps of the Child Law. However, it notes with **concern** that section 111 does not appear to be among the provisions being considered for amendment. The Committee once again reminds the Government that *Article 3(b)* of the Convention prohibits the procuring, offering or use of a child for prostitution, and that the child’s consent does not preclude it from the prohibition (see General Survey on the fundamental Conventions, 2012, paragraphs 508–509). Therefore, children 15 to 18 years of age who enter prostitution “on their own free will” are still victims of commercial sexual exploitation. **The Committee once again urges the Government to take the necessary measures to ensure that all child victims of prostitution who are under the age of 18 years are treated as victims rather than offenders. To this end, the Committee urges the Government to amend section 111 of the Child Law – in the framework of the current revision process – to ensure that children under 18 years of age who are victims of prostitution are not criminalized and/or imprisoned.**

*Article 7(2). Effective and time-bound measures. Clauses (b) and (d). Providing the necessary and direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration and identifying and reaching out to children at special risk. Child victims of trafficking*

*and street children.* The Committee previously noted that there were some 1 million street children in Egypt. It noted that, according to a report by the National Centre for Social and Criminological Research, at least 20 per cent of street children, most of whom were in the age group of 6–11 years, were victims of trafficking who were exploited by a third party for sexual purposes and for begging. The Committee also took note of the establishment of the El Salam Centre for the rehabilitation and reintegration of child victims of exploitation, including child victims of trafficking, which provides secure, transitional accommodation, medical and legal assistance as well as assistance for their return and reintegration into society. It requested the Government to provide information on the number of child victims of trafficking under the age of 18 years who have been received by the El Salam Centre and rehabilitated and socially integrated, as well as on the impact of the measures taken to ensure that children under 18 years of age living and working on the streets are protected from the worst forms of child labour.

The Committee notes the Government's information that protection of children against trafficking and sexual exploitation is provided for those who are taken off the streets and efforts are made to reintegrate them into society through care institutions and by providing them with the requisite psychosocial, educational, vocational and technical care, as well as consolidated psychosocial support for victims' families. With regard to work done by the El Salam Centre, the Government provides the following information: (i) 11,245 children have been reached out to by the field team responsible for supporting children working on the streets who are exposed to exploitation; (ii) by the end of 2017, 4,111 children had benefited from the services provided by the day-care reception centre which works to reintegrate children into society and provides medical and other services. Work is under way to expand the operation of the centre to include child victims of trafficking; and (iii) by the end of 2017, there were about 60 children taken off the streets and provided with temporary accommodation in the transition house, where children are prepared and rehabilitated by individual case managers for reintegration into vocational training and education befitting the child's age and circumstances.

The Government also provides other information on measures taken to protect children from the worst forms of child labour, including exploitation or trafficking, such as the establishment of four institutions throughout the country for the implementation of the "Takaful and Karama Programme (TKP)" by the Ministry of Social Solidarity, which aims to offer children aid for a decent life through several initiatives. By the end of 2020 3,072,016 children below the age of 18 had benefited from the programme, including 57,326 who had received a pension and 44,488 who had received scholarships. ***The Committee encourages the Government to continue its efforts to ensure that children under 18 years of age living and working on the streets are protected from the worst forms of child labour, particularly trafficking, commercial sexual exploitation and begging. The Committee requests the Government to continue providing information on the impact of the measures taken, including the number of children who have been removed from the streets, provided with assistance and socially integrated into education or vocational training, as well as on the number of child victims of trafficking under the age of 18 years who have been rehabilitated and socially integrated, either through the El Salam Centre or through other institutions.***

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

## Eritrea

### 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, labour inspection and application of the Convention in practice.* In its previous comments, the Committee noted the Government's indication that it had collected data and information to formulate a national policy and that an upcoming Comprehensive National Child

Policy document was expected to strengthen efforts to provide sustained services to children. However, it noted that the UN Human Rights Council (A/HRC/26/L.6 and A/HRC/26/45) in its reports of 2014, continued to highlight child labour in the country, including in hazardous activities such as harvesting and construction. The Committee therefore strongly urged the Government to intensify its efforts to implement concrete measures, such as by adopting a national plan of action to abolish child labour as well as strengthening the capacity of the labour inspection system.

The Committee notes the Government's information, in its report, that considering that a holistic approach is the best solution for the elimination of child labour, the Government has adopted a Comprehensive Child Policy in 2016. It also notes the Government's information that it is in the process of developing a national action plan for the elimination of child labour. In this regard, two members of the Ministry of Labour and Social Welfare (MLSW) have participated in the National Capacity Building Workshop on Child Labour and Forced Labour Data Analysis organized by the ILO in February 2020 in Cairo, Egypt. The Committee further notes the Government's indication that labour inspection plays a critical role in preventing child labour by conducting regular inspections of workplaces and ensuring that conditions of work are respected as prescribed by law. Several efforts are being taken to improve the number and quality of labour inspections, such as providing trainings to the inspectors. The Government indicates that more than 45 labour inspectors, including new recruits are engaged in inspection throughout the six regions of the country. The Committee further notes the Government's reference to the findings of the Eritrea Labour Force Survey 2015–16 which indicated that among the 809,670 eligible children (referred to as children within the age group of 5–13 who are eligible for study), 16.4 per cent were engaged in some work activities, of whom 71.3 per cent were then currently attending school. The average age at which children start working is 7 years. The main reasons reported for working at early age were “to help in household enterprises” (53 per cent) and “supplement family income” (33.3 per cent). The survey also indicated that while 11.7 per cent of children combined work with schooling, 4.8 per cent of children were involved in child labour either by missing some classes or without going to school at all. In this regard, the Committee notes from the Technical Advisory Mission Report on the Tripartite Inter-ministerial Workshop on the Worst Forms of Child Labour Convention, 1999 (No.182) held in Asmara in March 2019, that the tripartite constituents identified that measures are required to “Strengthen the capacity of labour inspectorate to identify children engaged in child labour with a view to removing them and providing them with assistance”. ***While noting the measures taken by the Government, the Committee urges it to intensify its efforts to progressively eliminate child labour in the country, including through the adoption and effective implementation of the National Action plan for the elimination of child labour and the Comprehensive Child Policy. In this regard, the Committee requests the Government to continue to take measures to strengthen the capacity of the labour inspection system in order to adequately monitor and detect cases of child labour in the country. It further requests the Government to provide information on the number of inspections on child labour carried out by the labour inspectors as well as on the number and nature of violations detected and penalties applied. Finally, the Committee requests the Government to continue to provide information on the application of the Convention in practice, in particular statistical data on the employment of children and young persons by age group.***

*Article 2(3) and (4). Age of completion of compulsory schooling and minimum age for admission to employment.* In its previous comments, the Committee noted the Government's indication that education is compulsory for eight years (five years of elementary school and three years of middle school), which would be completed at 14 years of age. It noted the measures taken by the Government to provide free education to all school children up to the middle school level as well as its policies, in particular the Nomadic Education Policy, to make education inclusive to all children. However, the Committee noted from the draft proposal within the Strategic Partnership Cooperation Framework (SPCF) 2013–16 between the Government and the United Nations system and from the Government's fourth periodic report to the Committee on the Rights of the Child (CRC/C/ER/4, paragraph 301 and table 28), a decline in the elementary school enrolment rates. The Committee therefore requested the Government to continue to cooperate with the UN bodies to improve the functioning of, and access to, the education system so as to increase school enrolment rates and reduce school drop-out rates for children at least up to the age of completion of compulsory education, particularly with regard to girls.

The Committee notes the Government's statement that efforts are being taken as a priority to improve the compulsory basic education in the country. In order to counter the challenges and hostilities including

capacity and resources, and to a limited extent the cultural obstacles affecting nomadic children and girl's education in some of the lowland areas, basic schools without any barriers are being introduced gradually throughout the country. According to the statistics provided by the Government, in 2017–18, 654,399 students were enrolled from pre-primary up to secondary level. In the last two decades, school enrolment rates have increased by 96.4 per cent (106.3 per cent for girls), number of teachers by 131 per cent and number of schools by 178 per cent. Moreover, alternative education through Complementary Elementary Education (CEE) has been introduced for out-of-school children as well as to address the challenges in remote and rural areas. In this regard, 8,575 out of school children (46.4 per cent girls) aged 9–14 years benefited from the CEE in 2016–17. The Committee further notes from the UNICEF Annual Report of 2016 that the ongoing measures to promote access to education resulted in 17,145 out-of-school children including (6,541 girls) from the most disadvantaged areas enrolling in primary education during the 2015–16 academic year. The Committee, however, notes that according to the UNESCO estimates for 2018, the net enrolment rates at primary and secondary level were 51.5 per cent and 41.6 per cent respectively, and the number of out-of-school children was 241,988. **Considering that compulsory education is one of the most effective means of combating child labour, the Committee encourages the Government to pursue its efforts to increase school enrolment, attendance and completion rates, and reduce drop-out rates, particularly of children up to 14 years of age. The Committee requests the Government to provide information on the measures taken in this regard and on the results achieved, including statistical data on the number of children enrolled at the primary and secondary schools.**

*Article 3(2). Determination of the types of hazardous work.* The Committee recalls that the Government has been referring to the upcoming adoption of a list of hazardous activities prohibited to young employees under section 69(1) of the Labour Proclamation since 2007. The Committee urged the Government to finalize this ministerial regulation, without delay.

The Committee notes the Government's information that child labour in Eritrea does not involve hazardous work. However, the MLSW is in the process of finalizing the regulation prescribing the list of types of hazardous work that are prohibited to young persons under 18 years of age. **The Committee accordingly expresses the firm hope that the ministerial regulation issuing the list of hazardous activities prohibited to persons under the age of 18 will be adopted in the near future. It requests the Government to provide a copy, once it has been adopted.**

*Article 9(3). Keeping of registers by employers.* The Committee previously noted the Government's indication that the requirement for employers to maintain a register of persons who are employed and are under 18 years would be addressed in an upcoming regulation and studies in this regard were ongoing.

The Committee once again notes the Government's indication that the MLSW is still undertaking studies to develop this regulation. **Noting that the Government has been referring to the adoption of this regulation since 2007, the Committee urges the Government to take the necessary measures to ensure that the regulation concerning the registers to be kept by employers is adopted without delay. It also requests the Government to provide a copy, once it has been adopted.**

The Committee encourages the Government to seek ILO technical assistance in its efforts to combat child labour.

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

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

## Ethiopia

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

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 as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations of the International Organisation of Employers (IOE), and the International Trade Union Confederation (ITUC) received on 29 August 2019 and 1 September 2019, respectively. It also notes the detailed discussion which took place at the 108th Session of the Conference Committee on the Application of Standards (CAS) in June 2019, concerning the application by Ethiopia of the Convention.

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

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the various measures taken by the Government to eliminate child labour, including the Ethiopians Fighting Against Child Exploitation (E-FACE) project; the Community Care Coalition whereby in-kind and cash support is used to prevent child labour; as well as the National Action Plan (NAP 2011–17) to prevent child labour exploitation. The Committee observed that according to the 2015 Child Labour Survey results, the number of children aged 5–13 years engaged in child labour was estimated to be 13,139,991 (page 63) with 41.7 per cent aged between 5 and 11 years (page xii).

The Committee notes the Government's information in its 2019 report that within the framework of the NAP 2011–17 to eliminate child labour, several public awareness-raising programmes were conducted on child labour through conversation and media forums reaching about 1,170,904 people in child labour affected areas and 441 labour inspectors were provided with capacity-building training on prevention of child labour. The Committee also notes the Government's indication that on an average, 39,000 inspections were carried out annually in different establishments with a focus on child labour. The Government also indicates that the grassroots community organizations known as Community Care Coalition have made significant contributions through mobilizing community resources to prevent vulnerable children from entering into child labour by supporting their families and providing shelter. Moreover, a comprehensive child labour policy has been issued in consultation with the social partners and relevant stakeholders to address child labour. The Committee further notes from the document on the E-FACE project that to date this project has impacted the lives of more than 18,000 children engaged in child labour allowing them to attend school and reducing the risk of dropout.

The Committee further notes the Government's information in its supplementary report that in December 2019, the Government launched the Alliance 8.7, the global partnership for eradicating forced labour, child labour and human trafficking around the world. In addition, in response to the COVID-19 pandemic, child protection activities were provided to vulnerable children and a significant number of street children were protected from socio-economic hazards. Moreover, close monitoring and support of community-based protection activities for families and children in need have been set in place. ***While noting the measures taken by the Government, the Committee urges the Government to continue to take the necessary measures for the progressive elimination of child labour. It requests the Government to continue to provide specific information on the concrete measures taken in this regard as well as the results achieved. The Committee also requests the Government to provide detailed information on the manner in which the Convention is applied in practice, including, for example, statistical data on the employment of children and young persons, extracts from the reports of the inspection services, and information on the number and nature of violations detected and penalties applied involving children and young persons.***

*Article 2(1). Scope of application.* The Committee previously noted that although section 89(2) of the Labour Law Proclamation No. 42 of 1993 prohibits the employment of persons under 14 years of age, the provisions of the Labour Law did not cover work performed outside an employment relationship. It noted the Government's indication that the Constitution provides for the right of children to be protected from any forms of exploitative labour, without any discrimination, whether employed or self-employed, working in the formal or informal sector. The Committee noted that according to the 2015 Child Labour Survey results, 89.4 per cent of the children engaged in child labour worked in the agricultural, forestry and fishing sectors and in wholesale and retail trade sector. The majority of children performing economic activities were working as unpaid family workers (95.6 per cent) (page xii). Noting with concern the high number of children working in the informal economy, the Committee requested the Government to take the necessary measures to ensure that all children under 14 years of age, particularly children working on their own account or in the informal economy, benefit from the protection laid down by the Convention.

The Committee notes that the Conference Committee, in its concluding observations, urged the Government to strengthen the capacity of the labour inspectorate and competent services, including human,

material and technical resources and training, particularly in the informal economy. It also notes that the IOE, in its observations, commended the Government for taking the following steps to address the gaps in the Labour Law, such as: (i) extending the labour advisory services in the informal sector; and (ii) strengthening the labour inspectorate system in the country to make it accessible to all enterprises and workplaces.

The Committee notes the Government's information in its 2019 report that measures are being taken to extend labour advisory services in the informal economy with the aim of protecting the rights of all workers, including young workers working without an employment relationship such as work on their own account or in the informal economy. The Government also indicates that efforts are being made to strengthen the labour inspectorate system in the country so as to ensure that such services are effectively accessible to all enterprises and workplaces. ***The Committee requests the Government to take the necessary measures to ensure that all children under 14 years of age, particularly children working on their own account or in the informal economy, benefit from the protection laid down by the Convention. In this regard, the Committee requests the Government to continue to take measures to strengthen the capacities and expand the reach of the labour inspectorate so that it can adequately monitor and detect cases of child labour, particularly involving children working in the informal economy, and on their own account. It requests the Government to provide information on any measures taken or progress made in this regard.***

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee noted the Government's indication that it had started the process of drafting legislation which aims at making primary education compulsory. It also noted that according to the Child Labour Survey of 2015, the school attendance rate was 61.3 per cent among children aged 5–17 years. Moreover, 2,830,842 children in the 5–17 years age group (7.6 per cent of the total number of children in the country), dropped out of school with the dropout rate higher among working children (10.9 per cent) than non-working children (4.1 per cent) and among working boys (11.6 per cent) than working girls (9.8 per cent) (pages 86 and 88). The Committee further noted that the United Nations Committee on the Rights of the Child (CRC), in its 2015 concluding observations, expressed concern at: (i) the lack of national legislation on free and compulsory education; (ii) the persistent regional disparities in enrolment rates and the high number of school-aged children, particularly girls, who remained out of school; as well as (iii) the high dropout rates and the significant low enrolment rates in pre-primary education and secondary education (CRC/C/ETH/CO/4-5, paragraph 61).

The Committee notes the statement made by the Government representative of Ethiopia to the Conference Committee that the School Feeding Programme supplemented by specific interventions have significantly improved inclusiveness, participation and achievements in education. The Government representative also stated that a rural–urban Productive Safety Net Programme to improve the income of targeted poor households in the rural and urban areas and the Ethiopian Education Development Roadmap, 2018–2030 to address the gap in access to quality education has been developed. Moreover, Alternative Basic Education modalities are being implemented, such as mobile schools for children of pastoral and semi-pastoral communities. It notes that the Conference Committee, in its conclusions, urged the Government to introduce legislative measures to provide free and compulsory education up to the minimum age of admission to employment of 14 years and ensure its effective implementation as well as to improve the functioning of the educational system through measures to increase the school enrolment rates and decrease dropout rates.

The Committee notes the observations made by ITUC that there is a close link between compulsory education and the abolition of child labour and hence it is essential that Ethiopia introduce compulsory schooling at least up to the minimum age for admission to employment.

The Committee notes the Government's information in its 2019 report that it is committed to achieving universal and quality primary education for all school-aged children. Accordingly, it is implementing the Education and Training Policy and the Education Sector Development Programme (ESD) (2016–20) which has led to the achievement of the following results: (i) the number of primary schools has increased from 33,373 in 2014–15 to 36,466 in 2017–18; (ii) the net enrolment rate has increased from 94.3 per cent in 2014–15 to nearly 100 per cent in 2017–18 with a gender parity index of 0.9 per cent; and (iii) the school dropout rates have decreased from 18 per cent in 2008–09 to 9 per cent in 2013–14. The Government further indicates that the Urban Productive Safety Net Programme which has the objective of providing access to basic nutrition

through the school feeding programme to over 300,000 marginalized school children is being implemented in selected urban areas.

The Committee notes, from the UNICEF Annual Report 2018 that while the enrolment rate in primary education has improved (which has tripled from 2000 to 2016), the transition from primary to secondary education remains a bottleneck, with children in rural areas predisposed to dropping out of school and only 25 per cent of secondary school-aged girls attending secondary school. Furthermore, according to the UNICEF report entitled *Multidimensional Child Deprivation in Ethiopia, National Estimates, 2018*, 50 per cent of children aged 5–17 years were deprived of education in 2016. The proportion of children in rural areas aged 7–17 years who are not attending school is more than double that of children residing in urban areas. The Committee finally notes that the United Nations Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in its concluding observations of March 2019 remained concerned that primary education is still not compulsory and at the high dropout and low completion rates of girls at the primary level (CEDAW/C/ETH/CO/8, paragraph 33(a)). ***Recalling that compulsory education is one of the most effective means of combating child labour, the Committee once again urges the Government to take the necessary steps to make education compulsory up to the minimum age of admission to employment of 14 years in accordance with Article 2(3) of the Convention. While noting the measures taken by the Government, the Committee strongly encourages the Government to pursue its efforts to increase school enrolment rates, decrease dropout rates and ensure completion of compulsory education with a view to preventing children under 14 years of age from being engaged in child labour.***

*Article 3. Determination of hazardous work.* The Committee previously noted that the Decree of the Ministry of Labour and Social Affairs of 2 September 1997 concerning the prohibition of work for young workers which contained a detailed list of types of hazardous work was undergoing revision. The Committee observed that, according to the Child Labour Survey, the rate of hazardous work among children aged 5–17 years was 23.3 per cent (28 per cent for boys versus 18.2 per cent for girls). The average hours of work per week performed by children engaged in hazardous work in this age group was 41.4 hours with 50 per cent of them working more than 42 hours per week. The Committee also noted that among children engaged in hazardous work, 87.5 per cent work in the agricultural sector, and 66.2 per cent are involved in other hazardous working conditions such as night work, working in an unhealthy environment or using unsafe equipment at work (page xiii). The Committee urged the Government to strengthen its efforts to ensure that, in practice, children under 18 years of age were not engaged in hazardous work. It also requested the Government to indicate whether a new list of types of hazardous work was adopted and to supply a copy.

The Committee notes the Government's information in its 2019 report that the list of activities prohibited to young persons has been revised in consultation with social partners and a directive has been issued by the Ministry of Labour and Social Affairs in 2013 in this regard. It notes the unofficial translated copy of the directive provided by the Government which contains a list of 16 activities which are harmful to the health, safety and well-being of young workers and therefore prohibited. This list includes: work in transport of passengers and goods by road, railway, air and waterways; works related to handling of heavy material; fishing at sea; underground work at mines and quarries; works connected with electric power generation plants or transmission lines; work at elevation in construction; work on production of alcoholic drinks and drugs; work in extremely hot and cold conditions; work exposed to ionizing and non-ionizing, x-rays and ultraviolet rays; work with flammable and explosive materials; work with toxic chemicals and pesticides; and all works that will have adverse effects on the physical and psychological development of young persons. The list also provides the maximum weight limits that could be carried by young persons. ***The Committee requests the Government to provide information on the application in practice of the revised list under the directive of 2013, particularly for hazardous work in agriculture, including statistics on the number and nature of violations reported and penalties imposed.***

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

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

***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(a) and 7(1) and 7(2)(b) of the Convention. Sale and trafficking of children, penalties, and rehabilitation.* The Committee notes the Government's reference in its report to the adoption in 2015 of the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909 (Anti-Trafficking Act) that has replaced the relevant sections of the Criminal Code related to trafficking in persons. The Committee notes with **interest** that section 3(2) of the Anti-Trafficking Act makes it an aggravating circumstance if the victim of any of the crimes under this Act is a child and provides for a penalty of imprisonment from 25 years to life imprisonment. The Committee also notes the Government's statement that several measures have been undertaken to combat trafficking in persons as a whole and women and children in particular, including: (i) the organization of awareness-raising campaigns within communities (to date more than 10 million community members have taken part in trainings on the issue of prevention of trafficking); (ii) the provision of training on the effects of child trafficking to law enforcement bodies; and (iii) the establishment of a control mechanism in transport services that aims to check whether children travelling in public transportation are with their parents or guardians.

The Committee observes, however, that in its 2015 concluding observations, the Committee on the Rights of the Child (CRC) expressed its deep concern about the persistence of trafficking in children abroad and within the country for the purpose of domestic servitude, commercial sexual exploitation and exploitation in the worst forms of child labour. The CRC was also deeply concerned at the lack of rehabilitation and reintegration centres to provide child victims of trafficking and commercial sexual exploitation with the adequate, age-sensitive medical and psychological assistance (CRC/C/ETH/CO/4-5, paragraph 69).

Regarding the establishment of rehabilitation centres for child victims of trafficking, the Committee observes that under section 26 of the Anti-Trafficking Act, the Government shall put in place necessary working procedures to identify, rescue, repatriate and rehabilitate victims of trafficking. Under section 39, a National Anti-Trafficking Committee aimed at coordinating the activities for victims' protection has been established, as well as an Anti-trafficking Task Force to support the rehabilitation of victims of trafficking (section 40). **The Committee encourages the Government to strengthen its efforts to ensure the effective application of the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909 of 2015 and to take the necessary measures to ensure that thorough investigations and prosecutions of persons who engage in the sale and trafficking of children are carried out and that effective and dissuasive penalties are imposed in practice. The Committee requests the Government to provide information in this regard, including statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed with regard to the trafficking of children under 18 years. The Committee also requests the Government to provide information on the number of child victims of trafficking who have been identified and rehabilitated.**

*Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child victims/orphans of HIV/AIDS and other vulnerable children (OVCs).* The Committee previously noted the Government's Orphan and Vulnerable Children programme with the involvement of relevant government bodies, NGOs and the community, as well as its small-scale OVC care and support activities throughout the country. It also noted the Government's reference to the National Plan of Action to Eliminate the Worst Forms of Child Labour (2013–15) (NPA) and requested information in this regard.

The Committee once again notes an absence of information on this point in the Government's report. The Committee notes that an ILO mission took place in Ethiopia in September 2016 as a follow-up to the March 2015 mission on implementation gaps in the application of the child labour Conventions. According to the mission report, the mapping of a new National Plan of Action to eliminate the worst forms of child labour, is ongoing.

The Committee also observes that, according to UNAIDS estimates, there are nearly 710,000 adults and children living with HIV/AIDS in Ethiopia, of whom 650,000 persons are aged 15 and over (2016 estimates). The Committee further notes that the CRC remained concerned that HIV/AIDS still remains a major challenge, particularly in the urban areas and for children in vulnerable situations, including orphans,

children in street situations, and children living in poverty and in single parent and child headed households (CRC/C/ETH/CO/4-5, paragraph 57).

The Committee expresses its **concern** at the large number of children who are HIV/AIDS orphans in the country. The Committee recalls that OVCs are at an increased risk of being engaged in the worst forms of child labour. **The Committee therefore urges the Government to take immediate and effective measures to ensure that children orphaned by HIV/AIDS and other vulnerable children do not fall into the worst forms of child labour. The Committee also requests the Government to provide information on the results of the NPA (2013–15) on protecting children orphaned by HIV/AIDS, indicating for instance, the number of OVCs who have effectively been prevented from becoming engaged in the worst forms of child labour or removed from these worst forms. Lastly, the Committee requests the Government to indicate whether a new NPA has been adopted and, if so, to indicate its major outcomes.**

*Clause (e). Special situation of girls. Domestic work.* The Committee previously noted that there were approximately 6,500–7,500 child domestic workers in Addis Ababa, who were subject to extreme exploitation, working long hours for minimal pay or modest food and shelter, and that they are vulnerable to physical and sexual abuse.

The Committee notes the Government's indication that it is working on creating awareness amongst the family and community to prevent children from being exploited and to prevent families from rendering their children to strangers or relatives living in urban areas.

The Committee observes that, in its 2015 concluding observations the CRC was seriously concerned about the situation of child domestic workers, called *seratenyas*, of orphans and children in street situations, as well as of young girls moving to foreign countries and being economically exploited and abused (CRC/C/ETH/CO/4-5, paragraph 63). The Committee recalls that children engaged as domestic workers are particularly exposed to the worst forms of child labour. **In this regard, the Committee requests the Government to take immediate and effective measures to protect child domestic workers, and girls in particular, from engaging in exploitative domestic work. The Committee requests the Government to provide information on the effective and time-bound measures taken in this regard and on the results achieved.**

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

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

## Fiji

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

*Articles 3(b) and 7(2)(b) and (e). Worst forms of child labour and effective and time-bound measures. Use, procuring or offering of a child for prostitution and direct assistance for their removal from prostitution and for their rehabilitation and social integration. Taking account of the special situation of girls.* The Committee previously noted that prostitution of children was prevalent in the country and urged the Government to take effective and time-bound measures to remove children from this worst form of child labour, taking into account the special situation of girls. The Committee notes that the Government indicates in its report that one of the actionable items of the Measurement, Awareness-raising and policy engagement project (MAP16 Project) in Fiji is to empower law enforcement bodies to remove children from the worst forms of child labour and to strengthen mechanisms for investigation and prosecution. However, the Committee notes that the Government's report does not provide information on the effective and time-bound measures taken to remove and assist child victims of commercial sexual exploitation and their results. Moreover, the Committee observes that in its 2018 concluding observations for Fiji, the United Nations Committee on the Elimination of Discrimination against Women noted that the child prostitution industry in the country was growing (CEDAW/C/FJI/CO/5, paragraph 33). **The Committee requests the Government to take all the necessary measures to ensure that thorough investigations and prosecutions are carried out for persons who engage in the use, procuring or offering of children for prostitution and that sufficiently effective and dissuasive**

**sanctions are imposed. In this regard, the Committee requests the Government to provide information on the number of investigations, prosecutions and penalties imposed. Lastly, the Committee once again urges the Government to take effective and time-bound measures to remove children from prostitution, taking into account the special situation of girls, and to provide concrete information on the number of child victims that have been effectively rehabilitated and socially integrated.**

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

## Ghana

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2021. The Committee notes the detailed discussion, which took place at the 109th Session of the Conference Committee on the Application of Standards in June 2021, concerning the application by Ghana of the Convention, as well as the Government's reports.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery. Sale and trafficking of children.* The Committee previously noted from the document on the National Plan of Action (NPA) for the Elimination of Human Trafficking in Ghana 2017–21 that the Anti-Human Trafficking Unit (AHTU) of the Ghana Police Service conducts investigations of cases of trafficking of persons and seeks to prosecute offenders; and that the Anti-Human Smuggling and Trafficking in Persons Unit (AHSTIPU) of the Ghana Immigration Service investigates and arrests human trafficking and smuggling offenders while also building the capacities of immigration officials to detect such cases. It noted, however, that according to this document, Ghana continues to be a source, transit and destination country for trafficking of persons, while trafficking of girls and boys for labour and sexual exploitation is more prevalent within the country than transnational trafficking. The document further indicated that children are subjected to being trafficked into street hawking, begging, portering, artisanal gold mining, quarrying, herding and agriculture. The Committee requested the Government to take the necessary measures to ensure that, in practice, thorough investigations and robust prosecutions are carried out for persons who engage in the trafficking of children, and that sufficiently effective and dissuasive sanctions are imposed; and to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied by the AHTU and the AHSTIPU for the offence of trafficking in persons under 18 years of age, in accordance with the provisions of the Human Trafficking Act.

The Committee notes the observations of the ITUC that the number of prosecutions and convictions for the offences related to the trafficking of children is insufficient in comparison to the scale and persistence of this worst form of child labour.

The Committee notes the Government's information, in its report, that the Ghana Police Service has introduced child friendly policing for all officers in all training institutions to effectively deal with child victims of trafficking and developed a standard operating procedure on child trafficking. It also notes from the Government's written information to the Conference Committee that a total of 556 human trafficking cases were investigated out of which 89 accused persons were prosecuted and 88 were convicted. Out of the convictions, 41 were under the Human Trafficking Act, 20 under the Children's Act, 1998 and 27 convictions were related to other offences. Out of the 88 convicts, 65 were given jail terms ranging from 5–7 years and the remaining 23 convicts were fined up to 120 penalty units each (a penalty unit is GH12 Cedis, approximately USD240). The Committee, however, notes that the number of prosecutions and convictions regarding trafficking in persons remain low, despite the

significant number of investigations initiated. ***The Committee therefore strongly urges the Government to pursue its efforts to strengthen the capacity of the law enforcement officials, including the Ghana police Service, AHTU, AHSTIPU, prosecutors and judges so as to ensure that thorough investigations and prosecutions of persons who engage in the sale and trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It also requests the Government to continue to provide information on the measures taken in this regard as well as specific information on the number of prosecutions, convictions and specific penalties applied on persons found guilty of trafficking children under 18 years of age.***

*Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously noted that section 101A of the Criminal Offences Act, 1960 (Act 29), as amended by the Criminal Offences (Amendment) Act of 2012 defines “sexual exploitation” as the use of a person for sexual activity that causes or is likely to cause serious physical and emotional injury or in prostitution or pornography and establishes penalties for sexually exploiting a child. Observing that this provision applies only to children under 16 years of age the Committee requested the Government to take the necessary measures to ensure that its legislation is amended in order to protect all persons under the age of 18 years from the production of pornography and pornographic performances.

The Committee notes the statement made by the Government representative of Ghana to the Conference Committee that section 101A(2)(b) of the Criminal Offences Act, 1960 (Act 29), as amended by the Criminal Offences (Amendment) Act 2012, covers the use of children in pornography and pornographic performances, and establishes penalties for offenders. Section 101A(2)(b) states as follows: “A person who sexually exploits another person who is a child commits an offence and is liable on summary conviction to a term of imprisonment of not less than seven years and not more than twenty-five years.” The Committee notes the Government’s information that a child in this context means a person under the age of 18 years as defined under section 1 of the Children’s Act of 1998. ***The Committee requests the Government to provide information on the application in practice of section 101A(2)(b), including the number of infringements reported, investigations, prosecutions, convictions and penalties applied for the use, procuring or offering of children under the age of 18 years for the production of pornography or for pornographic performances.***

*Clause (d) and Article 7(2)(a) and (b). Hazardous work in cocoa farming, and preventing children from being engaged in and removing them from such hazardous work.* In its previous comments, the Committee noted the Government’s information on the various measures taken by the Ghana Cocoa Board in collaboration with other social partners such as the International Cocoa Initiatives, WINROCK, and the World Cocoa Foundation to prevent child labour and hazardous work in the cocoa sector. It noted, however, from a report by Understanding Children’s Work (UCW) of 2017, entitled *Not Just Cocoa: Child Labour in the Agricultural Sector in Ghana* that the incidence of children’s employment in cocoa had increased and that almost 9 per cent of all children (about 464,000 children) in the principal cocoa growing regions were involved in child labour in cocoa, of whom 84 per cent (294,000 children) were exposed to hazardous work, resulting in injuries, including serious ones. The majority of these children were working as unpaid family workers. The Committee urged the Government to intensify its efforts to prevent children under 18 years of age from being engaged in hazardous types of work in this sector, remove them from such work and rehabilitate them, by ensuring their access to free basic education and vocational training.

The Committee notes the information provided by the Government in its written information to the Conference Committee on the various interventions made to improve school enrolment which have led to 98 per cent and 95 per cent enrolment rates at the primary and secondary school levels, respectively. In addition, measures are also been taken in collaboration with the social partners to intensify child labour awareness and sensitisation activities throughout the country. The Committee also notes the statement made by the Government representative that the interventions to address the

causes of child labour have been implemented, such as measures that contribute to improving cocoa productivity and the income of farmers. Moreover, the Governments of Ghana and Cote d'Ivoire and the representatives of the International Chocolate and Cocoa Industry initiated a public-private partnership aimed at accelerating the elimination of child labour in the cocoa sector.

The Committee notes the ITUC's observation that cocoa has a prime place in the country's economy which brings in about 40 per cent of Ghana's total earnings. The ITUC further states that child labour in its worst forms also has implications for Ghana's cocoa supply chains in the global economy.

In this regard, the Committee notes that the Trade for Decent Work Project (T4DW Project), a productive partnership project funded by the European Commission (EC) has been launched in Ghana in April 2021. This project will support Ghana at improving the application of the ILO fundamental Conventions, in particular regarding child labour and the worst forms of child labour, in sectors with high incidence such as the cocoa sector. The Committee notes that the Conference Committee deeply deplored the high number of children who continued to be involved in hazardous work in the cocoa industries. While taking note of the measures taken by the Government, the Committee must express its **concern** at the high number of children involved in hazardous work in the cocoa sector. **The Committee therefore strongly urges the Government to intensify its efforts to prevent children under 18 years of age from being engaged in hazardous types of work in this sector. It requests the Government to continue to provide information on the measures taken in this regard as well as the measures taken to ensure that child victims of hazardous types of work are removed from such work and rehabilitated, particularly by ensuring their access to free basic education and vocational training. It also requests the Government to provide information on the activities undertaken within the framework of the T4DW project, particularly with regard to child labour in the cocoa sector and the results achieved.**

*Article 4(1) and (3). Determination and revision of the list of hazardous types of work.* In its previous comments, the Committee noted the Government's statement that the process for comprehensive review on hazardous activities had begun and that measures were taken to adopt and incorporate the Ghana Hazardous Child Labour List (GHAHCL), into the Children's Act. Noting that the Government had been referring to the revision of the list of hazardous types of work since 2008, the Committee urged the Government to take the necessary measures, without delay, to ensure the finalization and adoption of the GHAHCL and its incorporation into the Children's Act.

The Committee notes the Government's information that the Hazardous Activities Framework (HAF) developed for the Cocoa sector in 2008 and the HAF covering other 17 sectors developed in 2012 are being reviewed. There has been an inception meeting of stakeholders and a technical committee meeting towards the revision of the HAF. The technical committee will identify other sectors for inclusion in the HAF and the final document will be reconciled with the hazardous list in the Children's Act. Moreover, the Government indicates that within its partnership project T4DW, a consultant has been selected to lead the discussions of the review of the HAF. In its conclusions, the Conference Committee urged the Government to adopt the GHAHCL and incorporate it into the Children's Act without delay. **The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the GHAHCL is finalized and adopted in the near future. It requests the Government to provide information on any progress made in this regard and to provide a copy, once it has been adopted.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.*

1. *Trafficking in the fishing industry and domestic service.* The Committee previously noted the information from a study carried out by ILO-IPEC that children are engaged in hazardous fishing activities and are confronted with poor working conditions. Among the children engaged in fishing

activities, 11 per cent were aged 5–9 years and 20 per cent were aged 10–14 years. Furthermore, 47 per cent of children engaged in fishing in Lake Volta were victims of trafficking, 3 per cent were involved in bondage, 45 per cent were engaged in forced labour and 3 per cent were engaged in sexual slavery. It also noted from the document concerning the National Plan of Action (NPA) for the Elimination of Human Trafficking in Ghana 2017–21 that boys and girls are trafficked into forced labour in fishing and the domestic service, in addition to sex trafficking which is most prevalent in the Volta region and in the oil-producing western region. This document also indicated that across the 20 communities in the Volta and central regions, 35.2 per cent of households consisted of children who had been subjected to trafficking and exploitation primarily in the fishing industry and domestic servitude. The Committee urged the Government to take effective and time-bound measures to prevent children from becoming victims of trafficking and to remove child victims from the worst forms of child labour and ensure their rehabilitation and social integration.

The Committee notes the statement made by the Government representative that the AHTU and the AHSTIPU, in their efforts towards the elimination of trafficking of children, have strengthened their collaboration with Civil Society Organizations (CSO) as well as international partners particularly the International Organisation for Migration (IOM). These institutions undertake monitoring and rescue exercises on the Volta Lake and in the Central Region and conduct awareness raising and sensitization activities in targeted areas. Moreover, stakeholder groups, including Community Child Protection Committees (CCPC), child rights clubs, farmer cooperative and associations, fishermen, boat owners and teachers have been formed to create awareness and to monitor trafficking of children and child labour. According to the Government representative, about 2,612 CCPCs have been formed and as a result 7,543 children in child labour and at risk of being involved in child labour have been identified through routine monitoring systems. Furthermore, under the Child Protection Compact Agreement of 2018, a total of 11 government and private shelters are functioning, with 142 children residing in various shelters.

The Committee further notes the information from a report by the IOM that in March 2021, the Ghana Police Service rescued 18 child victims of trafficking between the ages of 7 and 18 years who were exploited in the fishing industry on the Volta lake. The Committee notes that the Conference Committee noted with grave concern the information relating to the trafficking of children for labour and sexual exploitation and deeply deplored the high number of children who continued to be involved in hazardous work in the fishing industries and in domestic servitude. ***While noting the efforts made by the Government to combat trafficking of children, the Committee strongly encourages the Government to intensify its efforts to prevent children from becoming victims of trafficking and to remove child victims from the worst forms of child labour and ensure their rehabilitation and social integration. It also requests the Government to continue providing information on the measures taken in this regard and the results achieved in terms of the number of child victims of trafficking, disaggregated by age and gender, who have been removed and rehabilitated.***

2. *Trokosi system.* The Committee previously noted that, despite the Government's efforts to withdraw children from *trokosi* (a ritual in which teenage girls are pledged to a period of service at a local shrine to atone for another family member's sins), the situation remained prevalent in the country. It also noted that the United Nations Human Rights Committee in its concluding observations of 9 August 2016 (CCPR/C/GHA/CO/1, paragraph 17) expressed concern about the persistence of the *trokosi* system, notwithstanding their prohibition by law. The Committee urged the Government to indicate the measures taken or envisaged to protect children from the practice of *trokosi* system as well as to withdraw child victims of such practices and to provide for their rehabilitation and social integration.

The Committee notes the statement made by the Government representative that the *trokosi* system has been outlawed and there is no official data on this practice. The Government, in partnership

with stakeholders, has been sensitizing and educating stakeholders such as fetish priests/priestesses, family heads, traditional rulers, religious bodies and indigenes on the abolition of *trokosi*.

The Committee notes the observations made by the ITUC that the harmful practice of servitude and debt bondage is still ongoing and thousands of children are suffering its consequences. The Government must ensure that children are not subjected to this practice and must take measures to monitor the enforcement of the law and to carry out an appropriate statistical evaluation system. According to the Government's report a total of 328 children have been rescued from the *trokosi* practice over the last six years. The Committee notes that the Conference Committee noted with grave concern the information relating to the unacceptable conditions experienced by teenage girls trapped in the *trokosi* system. ***The Committee therefore once again urges the Government to strengthen its measures to protect children from the practice of trokosi system as well as to withdraw child victims of such practices and to provide for their rehabilitation and social integration. It requests the Government to continue to provide information on the measures taken in this regard as well as information on the number of children under 18 years of age who have been removed from the trokosi system and rehabilitated.***

***Referring to the recommendations made by the Conference Committee, the Committee requests the Government to accept an ILO Technical Advisory Mission, within the context of the current technical assistance provided by the ILO, to help expedite its efforts to eliminate the worst forms of child labour.***

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

## Guyana

### Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

*Article 1 of the Convention. National policy for the elimination of child labour, labour inspection and application in practice.* For a number of years, the Committee has urged the Government to strengthen its efforts to adopt a national policy for the elimination of child labour and to provide information on the measures taken in this direction. The Committee notes with **satisfaction** the adoption in 2019 of the National Child Labour Policy, that covers both the formal and informal economy, and the National Action Plan for the Elimination of Child Labour (2019–2025), as indicated in the Government's report. The objective of the National Child Labour Policy is to provide a supportive environment that fosters and enables the coordination, collaboration and cooperation of all parties concerned (including child protection, education and health sectors), to effectively prevent and eliminate child labour in all its forms. The National Action Plan has a threefold dimension (preventive, protective and rehabilitative) and focuses on ten strategic issues: (1) enhancing public awareness; (2) promoting civil engagement and children participation; (3) widening access to education; (4) ensuring security for at risk families; (5) strengthening legislation; (6) ensuring rehabilitation for children removed from child labour; (7) building capacities to combat child labour; (8) implementation of a child management information system; (9) guaranteeing adequate resources; and (10) strengthening of leadership and coordination of a multi-sectoral response. The Committee notes that a National Child Labour Prevention and Elimination Committee and a Child Labour Inspectorate will be created to ensure the implementation of the National Action Plan. In this regard, the Child Labour Inspectorate should undertake regular investigation, inspection and monitoring of child labour in collaboration with other actors. The Committee also notes that the Government indicates that the National Steering Committee on Child Labour was re-established by the Ministry of Labour in 2020 and includes representatives from different ministries, the Guyana Child Protection Agency, associations of miners and the private sector. The Committee further notes that, according to the information contained in the National Action Plan, as of 2014, 18 per cent of children aged 5–17 years were engaged in child labour activities and 13 per cent worked under hazardous conditions. ***The Committee encourages the Government to continue taking measures towards the effective elimination of child labour, including hazardous child labour, within***

**the framework of the National Child Labour Policy and National Action Plan 2019–2025, and to provide information on the results achieved. In this regard, the Committee requests the Government to provide information on the progress made towards the creation and subsequent functioning of the Child Labour Inspectorate. Finally, the Committee requests the Government to provide updated statistical information on the employment of children and young persons below the age of 15 in the country.**

*Article 3(1) and (2). List of hazardous work.* In reply to the Committee's request for information on the revision of the list of hazardous work, the Government indicates that this matter is still under consideration by the National Tripartite Committee. **The Committee requests the Government to continue providing information on the progress made towards the revision of the list of hazardous work prohibited for children under the age of 18 years and to supply a copy of the new list once adopted.**

*Article 3(3). Authorization to work in hazardous employment from the age of 16 years.* For a number of years, the Committee has observed that section 6(b) of the Employment of Young Persons and Children Act (Chapter 99:01) authorizes the Minister to regulate the employment of children between the ages of 16–18 years in hazardous work. Recalling that *Article 3(3)* of the Convention requires that any hazardous work for persons from the ages of 16–18 years be authorized only upon the conditions that the health, safety and morals of the young persons concerned are fully protected and that they, in practice, receive adequate specific vocational training, the Committee urged the Government to bring the Employment of Young Persons and Child Act into conformity with the Convention. The Committee notes the Government's indication that, in line with the National Action Plan's strategic objective of strengthening national legislation related to child labour, the Government will send the Employment of Young Persons and Children Act to the National Steering Committee on Child Labour for its consideration and action. **The Committee firmly hopes that the National Steering Committee on Child Labour will take the necessary steps to bring the Employment of Young Persons and Children Act into conformity with the Convention and requests the Government to provide a copy of the amendments to the Act once they have been finalized.**

*Article 9(3). Keeping of registers.* The Committee previously noted that section 86(a) of the Occupational Safety and Health Act, Chapter 99:06, provides for the obligation of employers of industrial establishments to keep registers of all employees under the age of 18 years and requested the Government to indicate the legislation that establishes the same obligation for employers in non-industrial undertakings. The Committee notes that the Government indicates that while section 86(a) of the Occupational Safety and Health Act only concerns industrial establishments, the practice of the Ministry of Labour is to have in the general register the particulars of persons under the age of 18 years employed outside industrial undertakings. Taking note of the practice of the Ministry of Labour, the Committee recalls that, according to *Article 9(3)* of the Convention, national laws or regulations or the competent authority shall prescribe the registers or other documents, which shall be kept and made available by the employer, of persons whom he/she employs or who work for him/her and who are less than 18 years of age. Such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of all persons employed under the age of 18 years. **Therefore, the Committee requests the Government to take the necessary measures to ensure that national legislation or regulations be adopted to ensure that all employers of non-industrial undertakings are obliged to keep registers of all persons below the age of 18 years who work for them, in conformity with Article 9(3) of the Convention and the indicated practice.**

**The Committee recalls that the Government can avail itself of ILO technical assistance in relation to the issues raised in this observation.**

## Haiti

### Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1957)

### Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1957)

While noting the difficult situation prevailing in the country, the Committee notes with **deep concern** that the Government's reports on Convention No. 77 and on Convention No. 78, both due since 2016, have 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 these Conventions on the basis of the information at its disposal.

In order to provide an overview of matters relating to the application of the main Conventions on the medical examination of young persons, the Committee considers it appropriate to examine Conventions Nos 77 and 78 in a single comment.

*Articles 2, 3 and 4 of Conventions Nos 77 and 78. Annual repetition of medical examinations, medical examination for fitness for employment in types of work with high risks to health, re-examinations until the age of 21, and determination of these types of work.* The Committee previously noted that, according to section 336 of the Labour Code, the fitness of minors for the employment in which they are engaged shall be subject to regular medical supervision until they have reached the age of 18. However, the Committee observed that the Labour Code does not require these examinations to be repeated at intervals of not more than one year, in accordance with *Article 3, paragraph 2* of both Conventions. Furthermore, the Committee noted that the Labour Code does not contain provisions concerning the medical examination for fitness of children and young persons for occupations involving high health risks, until at least the age of 21 years, as required by *Article 4* of both Conventions.

The Committee notes that, in its observations of 4 September 2019, the Confederation of Public and Private Sector Workers (CTSP) refers to the presence of working children in the informal economy carrying out activities in the sectors of transportation, mining, construction and the textile industry who are not covered by the Labour Code and, therefore, excluded from the requirement of medical examinations for fitness for employment. The Committee also notes from the 2016 Government's report to the Human Rights Council that a tripartite commission comprising representatives of employers, employees and the Government was set up to update the labour code (A/HRC/WG.6/HTI/1 paragraph 116). **The Committee requests the Government to take all the necessary measures to ensure that all children and young persons carrying out industrial and non-industrial occupations, including in the informal economy, benefit from the protection conferred by Conventions Nos 77 and 78. The Committee also requests the Government to take the necessary measures, within the framework of the ongoing revision of the Labour Code, to ensure that: (1) the continued employment of a child or young person under eighteen years of age is subject to the repetition of medical examinations for fitness for employment at intervals of no more than one year; and (2) medical examination and re-examinations for fitness for employment is required for persons until at least the age of 21 years when they carry out occupations involving high health risks, indicating the categories of occupations for which such an examination is required. The Committee requests the Government to provide information on any progress made in this regard.**

*Article 7(2)(a) and (b) of Convention No. 78. Ensuring the application of the system of medical examination for fitness for employment to children engaged either on their own account or on account of their parents.* The Committee previously noted that the Labour Code does not contain provisions 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 in itinerant trading or any other occupation carried out in the streets or in places to which the public have access.

The Committee noted the Government's indication that itinerant workers (young persons) can request from the Women and Children's Department a certificate for fitness for employment and undergo a medical examination by a doctor approved by the competent authority, according to section 336 of the Labour Code. It also noted that the Government indicated that efforts would be made to secure effective supervision of itinerant workers (young persons). **Noting the absence of information on this matter, the Committee requests the Government to take measures to ensure supervision of the application of the system of medical examination for fitness for employment to 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. The Committee requests the Government to provide information on any progress made in this regard.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2007)**

While noting the difficult situation prevailing in the country, the Committee notes with **deep concern** that the Government's report, due since 2011, 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 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children.* The Committee previously noted the adoption of the Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons, which provides for sanctions of life imprisonment for trafficking of children. The Committee also noted the observations of the Confederation of Public and Private Sector Workers (CTSP) received on 30 August 2017 and 29 August 2018 referring to the weakness of the law enforcement bodies in combating trafficking in children.

The Committee notes that in its more recent observations of 4 September 2019, the CTSP indicates that in, 2016, several people suspected of trafficking in children were arrested in a hotel with at least thirty children, but that all the suspected traffickers were quickly released. It also notes that, in its 2016 concluding observations for Haiti, the United Nations Committee on the Elimination of Discrimination against Women expressed concern about cases of trafficking of girls, especially at the border with the Dominican Republic, which are reportedly often not investigated by the police (CEDAW/C/HTI/CO/8-9, paragraph 23). The Committee further notes from the 2016 Government's report to the United Nations Human Rights Council the establishment in 2015 of a National Committee to Combat Trafficking in Persons (CNLTP) with the aim of improving the implementation of the Law No. CL/2014-0010 (A/HRC/WG.6/HTI/1, paragraph 82). In his statement on the occasion of the 2018 IOM'S International Dialogue on Migration, the President of the CNLTP indicated that a National Plan against Trafficking in Persons has been finalized and subject to approval by the Ministry of Labour and Social Affairs. **While noting the measures taken by the Government to improve the implementation of its anti-trafficking legislation, the Committee urges the Government to intensify its efforts to ensure that thorough investigations of cases of trafficking of children, particularly at the border between Haiti and the Dominican Republic, are conducted and that prosecutions of their perpetrators are carried out. In this regard, the Committee requests the Government to provide information on the number of investigations, prosecutions, convictions and sanctions imposed under the Law No. CL/2014-0010 against perpetrators of child trafficking. Finally, the Committee requests the Government to provide information on the activities carried out by the National Committee to Combat Trafficking in Persons, including information on any difficulty encountered in the discharge of its mandate.**

*Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child domestic workers (restavèk children).* In its previous comments, the Committee noted the situation of a large number of children, including 5- and 4-year-old children, carrying out domestic work (so-called *restavèk* in creole) under exploitative conditions similar to slavery and in hazardous conditions. The Committee noted that approximately the number of children working as *restavèk* represented about one in ten children in

Haiti. The Committee also took note of the 2003 Act for the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhumane treatment of children (Act of 2003), which prohibits the exploitation of children, including servitude, forced or compulsory labour and forced services. The Committee noted, however, that the Act of 2003 does not provide for penal sanctions for this practice. The Committee also observed that section 3 of the Act of 2003, according to which children can be entrusted to a host family in the context of a relationship of assistance and solidarity, allows the continuation of the practice of *restavèk* and therefore urged the Government to revise it.

The Committee notes that, according to the 2017 Report of the United Nations Independent Expert on the Situation of Human Rights in Haiti, the exploitation of children as domestic workers persists (A/HRC/34/73, paragraph 69). Likewise, the United Nations Committee on the Rights of the Child (CRC), in its 2016 concluding observations expressed concern at the fact that the number of child domestic workers remains high, noting that these children are subjected to physical, emotional and sexual abuse by their host family and are frequently malnourished and stunted. The CRC also expressed concern at the prevalence of the practice of *restavèk* among children from poor families, where parents cannot feed their children and often see sending their child away as domestic workers as their only choice (CRC/C/HTI/CO/2-3, paragraph 62). The Committee **deplores** the exploitation of children under 18 years of age in domestic work performed under conditions similar to slavery and in hazardous conditions. **Therefore, the Committee firmly urges the Government to take immediate and effective action to ensure that, in law and practice, children under 18 years of age are not engaged as domestic workers under conditions similar to slavery or in hazardous conditions. In this respect, it urges the Government to take the necessary measures to amend the provisions of the national legislation, and particularly section 3 of the Act of 2003, which allow the continuation of the practice of *restavèk*. The Committee also requests the Government to take the necessary measures to ensure, as a matter of urgency, that thorough investigations and prosecutions are conducted of persons subjecting children under 18 years of age to forced domestic work or to hazardous domestic labour, and that sufficiently effective and dissuasive penalties are imposed in practice. Lastly, the Committee requests the Government to provide information on the results achieved in this regard.**

Articles 3(c) and 7(2)(a). *Use, procuring or offering of a child for illicit activities. Preventing the engagement of children in the worst forms of child labour.* The Committee previously noted that section 2(3) of the Act of 2003 prohibits the offering, procuring, transfer or use of children for illicit activities. It also noted that well organized and well-armed criminal groups were using children for, inter alia, transporting weapons and carrying out arson attacks, or destroying public or private property. The Committee notes that pursuant to section 469 of the Penal Code, adopted in 2020, inducing a minor to commit a crime is a penal offence punishable with up to five years of imprisonment. The Committee also notes that under section 467 of the Penal Code, a person who engages a minor in the transportation or sale of drugs is liable to five to seven years of imprisonment. According to article 16.2 of the Constitution of Haiti, persons under 18 years of age are considered minors. The Committee notes from the 2021 UNICEF Humanitarian Situation Report No. 1 on Haiti that criminal gangs are increasingly gaining control over the territory of the metropolitan area of Port-au-Prince, and that due to the widespread and normalization of violence, lack of employment opportunities and access to basic social services, children and youth are joining these gangs. While observing that legislative provisions have been adopted to punish the use of children for illicit activities, the Committee notes with **deep concern** that children under 18 are increasingly exploited by criminal gangs to commit various types of illicit activities. **Therefore, the Committee urges the Government to take effective and time-bound measures to ensure that children are not used by criminal groups to commit illicit activities. In this regard, it strongly urges the Government to ensure that thorough investigations and prosecutions are carried out against the perpetrators of such acts and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee also requests the Government to provide information on the**

**application in practice of sections 467 and 469 of the Penal Code, including on the number of investigations, prosecutions, convictions and penal sanctions applied in this regard.**

Article 7(2). *Effective and time-bound measures. Clause (b). Providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Restavèk children.* The Committee previously noted the observations of the CTSP concerning the the absence of rehabilitation and reintegration measures for *restavèk* children (child domestic workers). It noted that the Social Welfare and Research Institute (IBESR) was responsible for placing *restavèk* children in families for the purposes of their physical and psychological rehabilitation. The Committee also noted the Government's indication that only few cases had been reported to the IBESR. The Committee notes that in its 2019 observations, the CTSP states that the practice of *restavèk* continues to perpetuate in the country and that no measures have been taken by the Government for the reintegration of *restavèk* children. The Committee further notes that in its 2016 concluding observations for Haiti, the *CRC expressed concern at the situation of many children* in domestic service who escape this condition but start living in the streets and are forced into prostitution, begging and street crime (CRC/C/HTI/CO/2-3, paragraph 62). **The Committee urges the Government to take all the necessary measures to ensure the physical and psychological rehabilitation and social integration of *restavèk* children. In this regard, the Committee requests the Government to provide information on the programmes undertaken by the IBESR to reintegrate *restavèk* children and the number of children who have been rehabilitated.**

Clause (c). *Access to free and basic education.* The Committee previously noted that pursuant to section 32(3) of the Constitution of Haiti, primary education is compulsory and educational materials should be provided free of charge by the State. The Committee also noted that despite the Government's efforts, the education services remained inadequate, inefficient and low quality. The Committee notes with **concern** that, the United Nations Independent Expert on the Situation of Human Rights in Haiti highlighted in his 2017 Report that the number of children not attending school and the number of school-age children who do not finish their secondary education are very high (A/HRC/34/73, paragraph 37). Moreover, according to UNESCO, some 10 per cent of Haitian students drop out before Grade 6 of basic education and 40 per cent before the end of Grade 9 (the last grade). In addition, the Committee notes that private schools account for 85 per cent of schooling in the basic education cycle, and even more at the secondary level (UNESCO, press release, 26 October 2020). In this respect, the Committee recalls that free basic education contributes to improving enrolment and attendance rates as tuition fees and other costs are viewed as a barrier for many children to receive basic education (General Survey on the fundamental Conventions, 2012, paragraph 571). **Considering that access to free basic education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to take effective and time-bound measures to facilitate access to free basic education to all children. The Committee requests the Government to provide information on the progress made in this regard.**

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

## Kiribati

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2009)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2021. The Committee notes the detailed discussion which took place at the 109th Session of the Conference Committee on the Application of Standards in June 2021, concerning the application by Kiribati of the Convention, as well as the Government's report.

## Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution.* The Committee previously noted that section 118(f) of the Employment and Industrial Relations Code, 2015 (EIRC), established penalties for the use, procuring or offering of a child for prostitution. It noted that the ILO-IPEC Rapid assessment study of 2012 identified 33 girls between 10 and 17 years who were engaged in prostitution. This study indicated that 85 per cent of these girls first engaged in prostitution between 10 and 15 years of age and that the most common place for prostitution was on foreign boats. The Committee further noted that the Committee on the Elimination of Discrimination against Women as well as the UN Country Team Fiji (which covers Kiribati) highlighted, in their reports of 2020, the existence of commercial sexual exploitation of children, in particular on foreign fishing vessels. The Committee requested the Government to take the necessary measures to ensure that persons contravening section 118(f) of the EIRC are investigated and prosecuted and to provide information on the number of violations identified as well as on the prosecutions, convictions and penalties applied.

The Committee notes from the Government's written information to the Conference Committee that the labour inspectors are working with the police department for prosecutions of more serious ongoing cases of non-compliance. The Committee also notes the statement made by the Government representative to the Conference Committee that initiatives are under way to improve monitoring of the worst forms of child labour through policy and legislative reforms, better response systems in the form of referral pathways and better coordination with stakeholders. The Committee notes that the Conference Committee urged the Government to effectively investigate and prosecute perpetrators of child prostitution, including through the establishment of formal procedures to proactively identify victims and refer them to protective services.

The Committee notes the observations made by the ITUC that there is a persistent practice of child prostitution and sexual exploitation of girls among vulnerable populations. However, there are no reported cases which points to the severe shortcomings in the enforcement of the legislation, programmes and institutional measures.

The Committee notes the Government's information in its report that currently there are no prosecutions of perpetrators of child prostitution with the Kiribati Police Service (KPS). The Government indicates that the KPS through the Domestic Violence, Child Protection and Sexual offence Unit (DCSU) provides protective measures to children at risk and support in prosecuting perpetrators involved in the worst forms of child labour. The Committee further notes the Government's statement referring to the need to (i) establish a well-coordinated approach towards the worst forms of child labour; (ii) the revision of legislative and policy measures; and (iii) to provide special training and capacity building of the labour inspectors and law enforcement bodies to attain a more successful result in prosecution. **The Committee encourages the Government to take the necessary measures to strengthen the capacities of the law enforcement bodies in order to better identify, investigate and prosecute perpetrators of the offences related to the use, procuring or offering of children under 18 years for prostitution. It requests the Government to continue providing information on the measures taken in this regard as well as information on the application in practice of section 118(f) of the EIRC, including the investigations, prosecutions and penalties applied.**

*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 of child labour and ensuring their rehabilitation and social integration. Commercial sexual exploitation.* The Committee previously noted that the Kiribati Community Police patrol carried out rounds during the night to prevent and remove child victims of commercial sexual exploitation. It also noted that the Ministry of Women, Youth, Sports and Social Affairs (MWYSSA) and the Ministry of Health and Medical Services

established new divisions responsible for providing counselling and guidance in resolving problems, including for cases of the worst forms of child labour. It further noted that the MWYSSA conducted awareness-raising activities among owners and members of kava bars who employ underage girls to work at night and also provided advice and counselling to these children and empowered them to integrate into the community, including through education and awareness-raising.

The Committee notes the Government's information that the Social Welfare Officers (SWO) are mandated to ensure the safety, welfare and well-being of children under 18 years of age pursuant to the provisions of the Children, Young People and Family Welfare Act of 2013. Accordingly, a Child Protection Referral Pathway (CPRP) which comprises the related ministries, the KPS, NGOs and communities has been established to report and refer cases of exploitation of children and provide protection and assistance to child victims. For any reports received concerning the exploitation of children, the SWO takes immediate measures to withdraw children from such situation and send them to their parents and monitor the case. The Government also indicates that it has initiated a toll-free number to report on activities considered to be the worst forms of child labour. The MWYSSA, the Ministry of Employment and Human Resource and the Ministry of Education conduct awareness raising programmes at schools on the worst forms of child labour. ***While noting the measures taken by the Government, the Committee 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. It requests the Government to provide information on the measures taken in this regard, as well as on the number of children under 18 years of age who have been removed from commercial sexual exploitation and provided with appropriate care and assistance.***

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

## Lebanon

### Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes with ***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 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 2(1) of the Convention. Scope of application.* In its earlier comments, the Committee noted that the Labour Code only applies to work performed under an employment relationship (by virtue of sections 1, 3 and 8 of the Code). The Committee recalled that the Convention applies to all branches of economic activity and covers all types of employment or work, whether they are carried out on the basis of an employment relationship or not, and whether they are remunerated or not. The Committee also noted that under Chapter 2, section 15, of the draft amendments to the Labour Code, it seemed that the employment or work of young persons would also include non-traditional forms of employment relationship. The Committee therefore requested that the Government provide information on the progress made in relation to the adoption of the provisions of the draft amendments to the Labour Code.

The Committee notes an absence of information in the Government's report on this point. ***Considering that the Government has been referring to the draft amendments to the Labour Code for a number of years, the Committee once again expresses the firm hope that the Government will take the necessary steps to ensure that the amendments to the Labour Code relating to self-employed children and children in the informal economy are adopted in the very near future. The Committee requests that the Government provide a copy of the new provisions, once adopted.***

*Article 2(2). Raising the minimum age for admission to employment or work.* In its earlier comments, the Committee noted that, at the time of ratifying the Convention, Lebanon declared 14 years as the minimum age for admission to employment or work and that Act No. 536 of 24 July 1996, amending

sections 21, 22 and 23 of the Labour Code, prohibits the employment of young persons before the age of 14. The Committee also noted the Government's intention to raise the minimum age for admission to employment or work to 15 years of age and that the draft amendments to the Labour Code would include a provision in this regard (section 19). The Committee requested that the Government provide information on the progress made in the adoption of the provisions of the draft amendments to the Labour Code on the minimum age for employment or work.

The Committee notes the Government's indication in its report that the Committee's comments have been taken into account in the draft amendments to the Labour Code. The draft has also been submitted to the Council of Ministers for its examination. **The Committee once again requests that the Government provide information on any progress made in the adoption of the provisions of the draft amendments to the Labour Code regarding the minimum age for employment or work.**

*Article 2(3). Compulsory education.* In its earlier comments, the Committee noted that the age limit for compulsory education is 12 years of age (Act No. 686/1998 relating to free and compulsory education at the primary school level). The Committee also noted the Government's indication that a draft law aimed at raising the minimum age of compulsory education to 15 years had been sent to the Council of Ministers for examination. The Committee requested that the Government indicate the progress made in this regard.

The Committee notes the Government's indication that the Ministry of Labour took into account the Committee's comments which were inserted in the draft amendments to the Labour Code. Moreover, the Committee notes that in its 2016 concluding observations, the UN Committee on Economic, Social and Cultural Rights is concerned at the number of children, especially refugee children, who are not in school or have quit school owing to the insufficient capacity of the educational infrastructure, the lack of documentation, and the pressure to work to support their families, among other reasons (E/C.12/LBN/CO/2, paragraph 62).

In this regard, the Committee recalls the necessity of linking the age of admission to employment to the age limit for compulsory education. If the two ages do not coincide, various problems may arise. If the minimum age for admission to work or employment is lower than the school leaving age, children may be encouraged to leave school as children required to attend school may also be legally authorized to work (see 2012 General Survey on the fundamental Conventions, paragraph 370). Noting the Government's intention to raise the age of completion of compulsory schooling to 15 years, the Committee once again reminds the Government that pursuant to *Article 2(3)* of the Convention, the minimum age for admission to employment (currently 14 years) should not be lower than the age of completion of compulsory schooling. **Therefore, the Committee urges once again the Government to intensify its efforts to raise the minimum age for admission to employment or work to 15 years, and to provide for compulsory education up until that age, within the framework of the adoption of the draft amendments to the Labour Code. The Committee requests that the Government provide a copy of the new provisions, once adopted.**

*Article 6. Vocational training and apprenticeship.* In its earlier comments, the Committee noted that the Government had stated that the draft amendments to the Labour Code (section 16) had set the minimum age for vocational training under a contract at 14 years. The Committee expressed the firm hope that such a provision under the draft amendments would be adopted in the near future.

The Committee notes the Government's indication that section 16 will be adopted along with the draft amendments to the Labour Code. The Government also indicates that the National Centre for Vocational Training is in charge of carrying out vocational training and apprenticeships. **The Committee once again expresses the firm hope that section 16 of the draft amendments to the Labour Code, setting a minimum age of 14 years for entry into an apprenticeship, in conformity with Article 6 of the Convention, will be adopted in the very near future.**

*Article 7. Light work.* In its earlier comments, the Committee noted that under section 19 of the draft amendments to the Labour Code, employment or work of young persons in light work may be authorized when they complete 13 years of age under certain conditions (except in different types of industrial work in which the employment or work of young persons under the age of 15 years is not authorized). The Committee also noted that light work activities would be determined by virtue of an Order from the Ministry of Labour. The Committee requested that the Government provide information on any progress made in this regard.

The Committee notes the Government's indication that it has asked for light work to be included in the ongoing ILO-IPEC Project "Country level engagement and assistance to reduce child labour in Lebanon" (CLEAR Project) and that a few meetings have been held in this regard. The Government indicates that, once the CLEAR Project is launched, it will be able to prepare a statute on light work in accordance with the relevant international standards. **The Committee once again requests that the Government take the necessary measures to ensure the formulation and adoption of a statute determining light work activities, including the number of hours during which, and the conditions in which, light work may be undertaken. It requests that the Government provide information on the progress achieved.**

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

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Articles 3, 7(1) and (2)(b) of the Convention. Worst forms of child labour, penalties and direct assistance for rehabilitation and social integration. Clause (a). All forms of slavery or practices similar to slavery. Trafficking.* In its previous comments, the Committee noted the adoption of the Anti-Trafficking Act No. 164 (2011). The Committee requested the Government to provide information on the application of this Act, in practice.

The Committee notes the statistical information related to trafficking of children provided by the Government in its report. It notes that in 2014, five child victims of trafficking for labour exploitation (street begging), and one child victim of trafficking for sexual exploitation, were identified. According to the Government's indication, all the child victims identified were referred to social and rehabilitation centres, such as the "Beit al Aman" shelter in collaboration with Caritas. The Government also indicates that in 2014 the Higher Council for Childhood drafted a sectorial Action Plan on Trafficking of Children that is still under consultations with the relevant stakeholders.

The Committee also notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended the Government to provide mandatory gender-sensitive capacity-building for judges, prosecutors, the border police, the immigration authorities and other law enforcement officials to ensure the strict enforcement of Act No. 164 to combat trafficking by promptly prosecuting all cases of trafficking in women and girls (CEDAW/C/LBN/CO/4-5, paragraph 30(a)). **The Committee requests the Government to take the necessary measures to ensure that the draft sectorial Action Plan on Trafficking of Children is adopted in the near future, and to provide information on any progress made in this regard. The Committee also requests the Government to continue to provide information on the application in practice of Act No. 164 of 2011, including statistical information on the number of investigations, prosecutions, convictions and penal sanctions applied for the offence of trafficking of children. Lastly, the Committee requests the Government to provide information on any measures adopted in order to prevent trafficking of children as well as measures taken to ensure that child victims of trafficking are provided with appropriate rehabilitation and reintegration services.**

*Clauses (b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities, in particular for the production and trafficking of drugs.* In its previous comments, the Committee noted that under section 33(b) and (c) of the draft amendments to the Labour Code, the use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities is punishable under the Penal Code, in addition to the penalties imposed by the Labour Code. It also noted that section 3 of Annex No. 1 of Decree No. 8987 of 2012 on hazardous work prohibits such illicit activities for minors under the age of 18. The Committee noted the statistical information (disaggregated by gender and age) provided by the Government on the number of children found engaged in prostitution from 2010 to 2012.

The Committee notes the Government's indication that the labour inspectorate is the body responsible for the supervision of the implementation of Decree No. 8987. The Committee notes with **concern** that according to the Government's indication no cases related to the application of the Decree have been detected so far. **The Committee urges the Government to take immediate and effective measures to ensure the application in practice of the provisions of Decree No. 8987 of 2012 prohibiting the engagement of children for prostitution or pornographic purposes or for illicit activities. The Committee requests the Government to provide statistical information on any prosecutions and convictions made with regard to the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.**

**As for the draft amendments to the Labour Code, the Committee once again requests the Government to take the necessary measures without delay to ensure the adoption of the provisions prohibiting the use, procuring or offering of persons under the age of 18 for the production of pornography or for pornographic performances, and the use, procuring or offering of persons under the age of 18 for illicit activities, as well as of the provisions providing for the penalties imposed.**

Article 7(2). *Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk.* 1. *Refugee children.* In its previous comments, the Committee requested the Government to provide information on the measures taken within the work programme of the National plan of action on the elimination of child labour (NAP-WFCL) for working Palestinian children to protect them from the worst forms of child labour.

The Committee notes the Government's indication that no new measures have been taken due to the political and security situation in the country. The Committee also notes that according to the 2016 United Nations High Commissioner Job Refugees (UNHCR) report entitled "Missing out: Refugee Education in Crisis", there are more than 380,000 refugee children between the ages of 5 and 17 registered in Lebanon. It is estimated that less than 50 per cent of primary school-age children have access to public primary schools and less than 4 per cent of young persons have access to public secondary schools. The report highlights that since 2013 the Government has introduced a two-shift system in public schools to encourage the enrolment of refugee children. About 150,000 children have entered this system. It also notes from the ILO report entitled "ILO response to the Syrian Refugee crisis in Jordan and Lebanon", of March 2014, that many refugee children are working in hazardous conditions in the agricultural and urban informal sector, street peddling or begging. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take effective and time-bound measures to protect refugee children (in particular Syrian and Palestinian) from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the number of refugee children who have benefited from any initiatives taken in this regard, to the extent possible disaggregated by age, gender and country of origin.**

2. *Children in street situations.* The Committee notes the Government's indication that the Ministry of Social Affairs has taken a series of measures to address the situation of street children, including: (i) undertaking activities to raise awareness through education, media and advertisement campaigns; (ii) training of a certain number of social protection actors/players working in child protection institutions; (iii) providing rehabilitation activities for a certain number of street children and their reintegration in their families; (iv) within the framework of the Poverty Reduction Strategy (2011–13) 36,575 families have been chosen to benefit from free basic social services, such as access to free compulsory public education as well as medical facilities. The Government also indicates that the 2010 draft "Strategy for Protection, Rehabilitation and Integration of Street Children" has not been implemented yet, but is in the process of being revised.

The Committee notes the 2015 study "Children Living and Working on the Streets in Lebanon: Profile and Magnitude" (ILO–UNICEF–Save the Children International) which provides detailed statistical information on the phenomenon of street-based children across 18 districts of Lebanon. The Committee also notes that the report comprises a certain number of recommendations, including: (i) enforcing relevant legislation; (ii) reintegrating street-based children into education and providing basic services; and (iii) intervening at the household-level to conduct prevention activities. The Committee further observes that despite street work being one of the most hazardous forms of child labour under Decree No. 8987 on hazardous forms of child labour (2012), it is still prevalent with a total of 1,510 children found to be living or working on the streets. Moreover, the Committee notes that in its 2016 concluding observations, the

UN Committee on Economic, Social and Cultural Rights recommended that the Government raise resources so as to provide the necessary preventive and rehabilitative services to street children and enforce existing legislation aimed at combating child labour (E/C.12/LBN/CO/2, paragraph 45). **Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee urges the Government to strengthen its efforts to protect these children, and to provide for their rehabilitation and social reintegration. The Committee also urges the Government to take the necessary measures to actively implement the 2010 draft strategy entitled "Strategy for Protection, Rehabilitation and Integration of Street Children", once revised and report on the results achieved. Finally, the Committee requests the Government to provide information on the number of street children who have been provided with educational opportunities and social integration services.**

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

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

## Madagascar

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes with **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 2022, 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 Christian Confederation of Malagasy Trade Unions (SEKRIMA), which were received on 17 September 2013.

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that, according to the last National Survey on Child Labour (ENTE), more than one in four children in Madagascar between 5 and 17 years of age (28 per cent) work, namely 1,870,000 children. Most working children are in agriculture and fishing, where most of them are employed as family helpers. As regards children between 5 and 14 years of age, 22 per cent are working and 70 per cent attend school. The Committee also noted the allegations of the General Confederation of Workers' Unions of Madagascar (CGSTM) that many underage children from rural areas are sent to large towns by their parents to work in the domestic sector under conditions that are often dangerous. Moreover, these children have not necessarily completed their compulsory schooling. The Committee previously noted that the National Plan of Action against Child Labour in Madagascar (PNA) was in its extension phase in terms of staffing, beneficiaries and coverage (2010–15). The Government indicated that the workplan of the National Council for Combating Child Labour (CNLTE) for 2012–13 had been adopted. The Government also reported on a number of projects, including the AMAV project against child domestic labour and the plan of action against child labour in vanilla plantations in the Sava region, which was implemented under the ILO-IPEC TACKLE project.

The Committee notes the observations of SEKRIMA stating that the practice of child labour persists in Madagascar. SEKRIMA also highlights a very high drop-out rate during the first five years of schooling.

The Committee notes the Government's indications that the PNA has partly been implemented by mobilization activities under the AMAV project, particularly in the Amoron'i Mania region, with the display of four "Red card against child labour" billboards, the distribution of flyers on combating child domestic labour and awareness-raising activities concerning revision of the *dina* (local convention) in order to incorporate the issue of child domestic labour. Moreover, a total of 125 children between 12 and 16 years of age were withdrawn from domestic labour and trained for the competition to obtain a diploma. The Government also indicates that each year it celebrates the World Day Against Child Labour as a means of mass awareness raising while continuing to display posters in working-class neighbourhoods and hold discussions with parents, local authorities and social partners. It also mentions that there are currently 12 Regional Councils for Combating Child Labour (CRLTEs). The Committee further notes that the capacities of various entities for combating child labour have been reinforced, namely 50 entities involved in vanilla production in the Sava

region and 12 in the Antalaha region, 91 members of trade union organizations, 43 journalists and three technicians of the National Institute of Statistics. Lastly, the Committee notes the Government's indication that in 2014 the CNLTE revamped Decree No. 2007-263 of 27 February 2007 concerning child labour and Decree No. 2005-523 of 9 August 2005 establishing the CNLTE, its tasks and structure. Further to a study on hazardous work, 19 types of hazardous work were officially recognized in 2013 and incorporated into the Decree under adoption. While noting the measures taken by the Government, the Committee observes that the 2012 National Survey of Employment and the Informal Sector (ENEMPSI 2012) reveals that 27.8 per cent of children are working, namely 2,030,000 children. The survey also shows that 28.9 per cent of children between 5 and 9 years of age (83,000) and 50.5 per cent of children between 10 and 14 years of age (465,000) do not attend school. **While welcoming the Government's efforts to improve the situation, the Committee urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests it to provide information on the results achieved by the implementation of the PNA and also on the activities of the CNLTE and CRLTEs. It requests the Government to provide a copy of the revised version of Decree No. 2007-263, once it has been adopted.**

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee noted that, according to UNESCO, the age of completion of compulsory schooling is lower than the minimum age for admission to employment or work. The Committee observed that the official age of access to primary education is 6 years and the duration of compulsory schooling is five years, meaning that the age of completion of compulsory schooling is 11 years. The Committee noted the CGSTM's allegation that no changes had yet been made by the Government to resolve the problem of the difference between the age of completion of compulsory schooling (11 years) and the minimum age for admission to employment or work (15 years). The Committee noted the Government's indication that the Ministry of Education was pursuing its efforts so as to be able to take measures to resolve the gap between the minimum age for admission to employment or work and the age of completion of compulsory schooling.

The Committee notes the Government's indications that the Ministry of Education organized a "national education convention" in 2014 consisting of in-depth national consultations on the implementation of inclusive, accessible and high-quality education for all. However, the Committee notes with **regret** that the question of the age of completion of compulsory schooling has still not been settled and has remained under discussion for many years. It reminds the Government that compulsory schooling is one of the most effective means of combating child labour, and underlines the need to link the age for admission to employment or work to the age of completion of compulsory schooling, as established in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). The Committee observes once again that, as stated in the 2012 General Survey on the fundamental Conventions, if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (paragraph 371). **Observing that the Government has been discussing this matter for ten years, the Committee urges the Government to take measures, as a matter of urgency, to raise the age of completion of compulsory schooling so that it coincides with the age of admission to employment or work in Madagascar. It requests the Government to provide information on the progress achieved in this respect.**

*Article 6. Vocational training and apprenticeships.* Further to its previous comments, the Committee notes the Government's indication that the Ministry of Employment, Technical Education and Vocational Training has prepared a bill on the national employment and vocational training policy (PNEFP) in collaboration with the ILO and in consultation with the social partners. The Government indicates that the bill is awaiting approval before being submitted to Parliament for adoption. **The Committee requests the Government to take the necessary measures to speed up the adoption of the bill concerning apprenticeships and vocational training. It requests the Government to provide a copy of this legislative text once it has been adopted.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes with **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 2022, 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.

***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)***

The Committee notes the Government's report, received on 25 October 2016, and the in-depth discussion on the application of the Convention by Madagascar in the Committee on the Application of Standards at the 105th Session of the International Labour Conference in June 2016.

*Articles 3(b) and 7(1) of the Convention. Worst forms of child labour and sanctions. Child prostitution.* In its previous comments, the Committee noted that section 13 of Decree No. 2007-563 of 3 July 2007 respecting child labour categorically prohibits the procuring, use, offering or employment of children of either sex for prostitution and that section 261 of the Labour Code and sections 354–357 of the Penal Code, which are referred to in Decree No. 2007-563, establish effective and dissuasive sanctions. The Committee noted the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) indicating that the number of girls under the age of majority, some as young as 12 years old, who are engaged in prostitution is increasing especially in cities, that 50 per cent of prostitutes in the capital, Antananarivo, are minors, and 47 per cent engage in prostitution because of their precarious situation. For fear of reprisals, 80 per cent of them prefer not to turn to the authorities. Furthermore, the Government has strengthened the capacity of 120 actors engaged in tourism in Nosy-Be and 35 in Tuléar in relation to sexual exploitation for commercial purposes. However, the Committee noted the absence of information on the number of investigations, prosecutions and convictions of those engaged in commercial sexual exploitation. It also noted the increase in sex tourism involving children, the insufficient measures taken by the Government to combat this phenomenon and the low number of prosecutions and convictions, all of which fosters impunity.

The Committee notes that the Conference Committee recommended the Government to strengthen its efforts to ensure the elimination of the sexual exploitation of children for commercial purposes and sex tourism.

The Committee notes the Government's indication in its report that the Ministry of Internal Security, through the Police for Morals and the Protection of Minors (PMPM), is one of the agencies responsible for the enforcement of penal laws on the sexual exploitation of children for commercial purposes, including prostitution. The PMPM centralizes criminal charges concerning children and is responsible for conducting investigations into alleged perpetrators. The Government adds that the PMPM regularly makes unannounced raids on establishments that are open at night to monitor the identity and age of the persons present, but that it is difficult to determine whether the minors who are found are prostitutes. Moreover, the Committee notes that a code of conduct for actors in the tourism industry was signed in 2013. The code of conduct seeks to raise awareness among all actors in tourism with a view to bringing an end to sexual tourism in the country. The Committee also notes the statistics provided by the Government on the cases handled by the courts of first instance in Betroka, Ambatolampy, Arivonimamo, Nosy-be, Taolagnaro, Vatamandry, Mampikony and Ankazobe. It notes that in 2015 no cases of the exploitation of minors or of sex tourism involving minors were brought before these courts. The Committee is therefore once again bound to note with **deep concern** the absence of prosecutions and convictions of perpetrators, which is resulting in the continuation of a situation of impunity which seems to persist in the country. **The Committee therefore urges the Government to take immediate and effective measures to ensure that robust investigations and effective prosecutions are carried out on persons suspected of procuring, using, offering and employing children for prostitution, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to continue providing statistical information on the number and nature of the violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect. Finally, the Committee requests the Government to provide information on the results achieved as a result of the dissemination of the code of conduct among the various actors in the tourism sector.**

*Clause (d). Hazardous types of work. Children working in mines and quarries, and labour inspection.* In its previous comments, the Committee noted that children work in the Ilakaka mines and in stone quarries under precarious and sometimes hazardous conditions, and that the worst forms of child labour are found in the informal economy and in rural areas, which the labour administration is unable to cover. The Committee also noted that the work carried out by children in mines and quarries is a contemporary form of slavery, as it involves debt bondage, forced labour and the economic exploitation of those concerned,

particularly unaccompanied children working in small-scale mines and quarries. It noted that children work from five to ten hours a day, that they are engaged in transporting blocks of stone or water, and that some boys dig pits one metre in circumference and between 15 and 50 metres deep, while others go down the pits to remove the loose earth. Children between three and seven years of age, often working in family groups, break stones and carry baskets of stones or bricks on their heads, working an average of 47 hours a week when they are not enrolled in school. Moreover, the working conditions are unhealthy and hygiene is extremely poor. All of the children are also exposed to physical and sexual violence and to serious health hazards, particularly due to the contamination of the water, the instability of pits and the collapse of tunnels.

The Committee notes that the Conference Committee recommended the Government to take measures to improve the capacity of the labour inspectorate. It also notes the Government's indication that, in the context of the National Plan of Action to Combat Child Labour (PNA), the labour inspectorate envisages conducting inspections to take preventive and protective measures with a view to combating child labour in mines and quarries in the regions of Diana, Ihorombe and Haute Matsiatra. The Committee notes that the Government representative to the Conference Committee indicated that the lack of resources is a major obstacle to the adoption of rigorous measures. For example, labour inspectors do not have means of transport, even though the Government indicates in its report that one of the main obstacles to inspections by labour inspectors is the fact that mining sites, located on the outskirts of large cities, are often difficult to access. The Committee notes with **deep concern** the situation of children working in mines and quarries under particularly hazardous conditions. **The Committee once again urges the Government to take the necessary measures to ensure that no children under 18 years of age can be engaged in work which is likely to harm their health, safety or morals. It requests the Government to provide information on the progress made in this respect, particularly in the context of the PNA, and the results achieved in removing these children from this worst form of child labour. The Committee also requests the Government to improve the capacities of the labour inspectorate, in particular by providing the necessary resources, such as vehicles, to enable labour inspectors to have access to remote sites.**

*Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Street children.* In its previous comments, the Committee noted that the Ministry of Labour and Social Legislation (MTLS) was continuing its programme of school enrolment and training for street children in the context of the Public Investment Programme for Social Action (PIP). It however noted that the number of street children has increased in recent years and that the action taken by the Government to help them is still minimal. The Government indicated that the programmes financed under the PIP have the objective of removing 40 children a year from the worst forms of child labour, or 120 children over three years. The Committee nevertheless noted that there are about 4,500 street children in the capital, Antananarivo, most of whom are boys (63 per cent) who live from begging or sorting through rubbish. Girls living on the streets are frequently victims of sexual exploitation to meet their subsistence needs, or under pressure from third parties. Others are engaged in domestic work, swelling the ranks of exploited child workers.

The Committee notes that the Conference Committee, in its conclusions, requested the Government to increase funding for the PIP with a view to removing children from the streets and for awareness-raising campaigns.

The Committee notes the Government's indication that the Ministry of the Population, Social Protection and the Promotion of Women has set up a census programme of children living and working on the streets and homeless families for the period 2015–16. The objective of this programme is to determine the number of children living and working on the streets, identify the needs of homeless families and develop a short-, medium- and long-term plan of action to deal with them. The Committee notes that studies have been carried out, data analysed and interpreted, and shelters set up. The next stages will consist of the provision of shelter, care, guidance, education, school enrolment and placement or repatriation of the persons concerned. **The Committee requests the Government to continue taking effective and time-bound measures to ensure the targeted implementation of the PIP's programmes, and requests it to intensify its efforts to ensure that street children are protected from the worst forms of child labour and are rehabilitated and integrated in society. It requests the Government to provide information on the results achieved in this respect. The Committee also requests the Government to provide information on the data collected through the census programme on children living and working in the streets and homeless families, as well as the results achieved in removing them from this situation and preventing them from becoming engaged in the worst forms of child labour.**

*Application of the Convention in practice.* The Committee previously noted that 27.5 per cent of children, or 2,030,000, are engaged in work, of whom 30 per cent live in rural areas and 18 per cent in urban areas. The Committee also noted that 81 per cent of child workers between 5 and 17 years of age, or 1,653,000 children, are engaged in hazardous types of work. Agriculture and fishing account for the majority of child labour (89 per cent), and more than six out of ten working children have reported health problems resulting from their work over the past 12 months. The Committee further noted that child domestic labour is often a feature of the lives of poor rural families who send their children to urban areas in response to their precarious situation. Child domestic workers may be forced to work up to 15 hours per day, and most of them receive no wages, which are paid directly to their parents. In some cases, they sleep on the floor, and many are victims of psychological, physical or sexual violence. The Committee expressed its deep concern at the situation and number of children under 18 years of age forced to perform hazardous types of work.

The Committee notes the Government's indication that it is intensifying its efforts to combat child labour through the Manjary Soa project. The Manjary Soa Centre, established in 2001, offers selected children second chance education. Once these children have been reinserted into the public education system, the Centre covers their school fees and provides them with the necessary school supplies. The Committee also notes the 2014–16 project to combat child labour in the regions of Diana and Atsimo Andrefana. The Government indicates that the objective of this project is to reinforce action in support of the socio-economic reintegration of 100 girls under 18 years of age, who have been removed from sexual exploitation for commercial purposes in Nosy-be, Toliara and Mangily. ***The Committee requests the Government to intensify its efforts to eliminate the worst forms of child labour, and particularly hazardous types of work, and to provide information on any progress made in this regard and the results achieved.***

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

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

## Papua New Guinea

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

*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 points in a request addressed directly to the Government.

## Saint Vincent and the Grenadines

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

*Articles 3(d) and 4(1). Minimum age for admission to, and determination of, hazardous work.* The Committee previously noted that the Employment of Women, Young Persons and Children Act (EWYPC Act), did not contain a general prohibition on the employment of children below 18 years of age in hazardous work, other than the prohibition on night work in any industrial undertaking (section 3(2)) nor a determination of hazardous types of work prohibited to children under 18 years of age. It also noted the Government's indication that consultations with stakeholders to address the issues related to hazardous work by children would be commenced shortly and a draft report would be prepared by the end of 2013.

The Committee notes the Government's information in its report that there has been no new development on this matter. It notes from the Government's report of 2021 under the Minimum Age Convention, 1973 (No.138) that the proposed consultations with the relevant stakeholders to address the issues related to hazardous work by children did not materialize due to budgetary constraints and lack of sufficient staff in the Department of Labour. The Government further states that these consultations are still on the agenda and further developments will be communicated in due course. **Noting that the Government has been referring to the consultations with the stakeholders since 2013, the Committee once again expresses the firm hope that the consultations with the stakeholders**

***including the social partners will be held in the near future and legislation relating to the prohibition on hazardous work by children under 18 years of age as well as a regulation determining the types of hazardous work prohibited to children under the age of 18 years will be adopted soon. The Committee requests the Government to provide information on any developments made in this regard.***

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

## Senegal

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the observations of the International Trade Union Confederation (ITUC) of 1 September 2021.

*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.* In its previous comments, the Committee noted that in 2019 it was estimated that in Senegal over 100,000 *talibé* children were compelled to engage in begging. The Committee noted that section 3 of Act No. 2005-06 of 29 April 2005 to combat trafficking in persons and similar practices and to protect victims prohibits the organization for economic gain of begging by others, or the employment, procuring or deception of any person with a view to causing that person to engage in begging, or the exertion of pressure so that the person engages in begging. However, section 245 of the Penal Code provides that “the act of seeking alms on days, in places and under conditions established by religious traditions does not constitute the act of begging”. In this regard, the Committee requested the Government to ensure the prohibition of begging by *talibé* children through the adoption of laws to eliminate this legislative ambiguity. The Committee also noted from the information communicated by the ITUC, and the concluding observations of the United Nations Human Rights Committee and Committee Against Torture, which both noted that investigations and prosecutions of persons engaged in forced begging by children were rare and that, far from declining, the exploitation of children by Koranic teachers for forced begging was a phenomenon that was increasing.

The Committee notes that in its written information on the application of the Convention provided to the Committee on the Application of Standards at the 109th Session of the International Labour Conference in 2021, the Government indicates that when Act No. 2005-06 was reviewed, it was finally decided to retain section 245 of the Penal Code, which supplements Act No. 2005-06. The Government indicates that section 245 of the Penal Code does not permit begging, in whatever form, and that it merely notes a reality arising out of the religious practice of requesting or giving alms. The Government emphasizes that the Penal Code formally prohibits begging by persons under 18 years of age and punishes any person who allows a child under their responsibility to engage in begging. The Government adds that the Ministry of Women, the Family, Gender and Child Protection (MFFGPE) organized a workshop in collaboration with the Special Brigade for Children to strengthen their collaboration during removal operations and to facilitate prosecutions. In this regard, 32 judicial investigations into Koranic teachers were opened between 2007 and 2019, leading to 29 prosecutions and 25 convictions for forced begging, torture or the death of children.

However, the Committee is bound to note the observations of the ITUC that, despite the generalized and visible nature of the abuses concerned, investigations and prosecutions are still extremely rare and the policy still frequently fails to investigate cases of forced begging. Charges against Koranic teachers continue to be abandoned or transmuted into less serious offences than forcing *talibé* children to engage in begging under the terms of Act No. 2005-06 or the Penal Code. The ITUC indicates that poor law enforcement and the lack of means of redress for ill-treated *talibé* children have continued. The ITUC observes that the authorities have not opened investigations against persons suspected of having forced *talibé* children to engage in begging who were identified during the programme for the removal of children from the streets implemented by the MFFGPE, and have not taken measures against

public employees who refused to investigate such cases. Moreover, during the reporting period, the Government has not prosecuted or convicted presumed traffickers engaged in the forced begging of children. Instead of launching criminal investigations, administrative penalties are often imposed upon the presumed perpetrators of forced begging, particularly due to public pressure and the social influence of Koranic teachers. Despite allegations of complicity by Government representatives who have refused to investigate cases of trafficking or have exerted pressure on magistrates for cases to be abandoned, the Government has not reported any investigation, prosecution or conviction for complicity.

While noting the Government's indication that a certain number of judicial investigations were undertaken leading to a number of prosecutions and convictions between 2007 and 2019, the Committee notes with **regret** that the Government has not provided new information on the imposition of penalties on persons engaged in the use of *talibé* children under the age of 18 for begging. With reference to the 2012 General Survey on the fundamental Conventions, the Committee recalls that, while the issue of seeking alms as an educational tool falls outside the scope of its mandate, it is clear that the use of children for begging for purely economic ends cannot be accepted under the Convention (paragraphs 483–484). The Committee therefore expresses **deep concern** at the persistence of the phenomenon of the economic exploitation of *talibé* children and **strongly deplores** the low number of prosecutions 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 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 complicit State officials who fail to investigate such allegations, are prosecuted and that sufficiently dissuasive penalties are imposed in practice on those who are convicted. Noting once again with deep regret the absence of data on this subject, the Committee once again requests the Government to provide statistics on the number of prosecutions, convictions and penalties imposed under Act No. 2005-06.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing children from being engaged in the worst forms of child labour and the provision of assistance to remove them from these forms of child labour. Talibé children. 1. Projects and programmes for the removal of children from the streets.* The Committee previously urged the Government to intensify its efforts and to take the necessary measures without delay to protect *talibé* children against sale and trafficking and forced or compulsory labour and to ensure their rehabilitation and social integration.

In its written information on the application of the Convention provided to the Committee on the Application of Standards at the 109th Session of the International Labour Conference in 2021, the Government indicates that, in addition to the measures indicated in 2019 to combat trafficking, begging and the forced or compulsory labour of children, other health measures were taken in 2020 to reinforce this action within the context of COVID-19, in which protection was strongly augmented. The Government reports the following new measures:

- The support project for the protection of child victims of violations of their rights (PAPEV): this project, launched by the Office of the United Nations High Commissioner for Human Rights in collaboration with the Ministry of Justice, is making a broad contribution to the reinforcement of the child protection system in Senegal. The National Steering Committee for the project was established by Order No. 005016 of 3 February 2020 of the Minister of Justice. In 2020, the PAPEV provided support to the State of Senegal for the family reintegration of children removed from the streets through the implementation of a programme of emergency protection for street children. The programme resulted in 5,067 children being removed and placed in reception centres, of whom 175 were from

Gambia, Guinea-Bissau and the Republic of Guinea, and 52 children being reintegrated in their families, including 34 children from Gambia and 18 from Guinea-Bissau. The PAPEV also strengthened the assistance provided in reception centres through educational and health support for children.

- The project “zero street children” is part of the programme for the “removal of children from the streets”, the third phase of which was launched in April 2020: starting off from the national contingency plan to respond to specific needs for the protection of children in the context of COVID-19, the project “zero street children” led to 5,333 street children aged between 4 and 17 years being removed and placed in shelter in reception structures with support in the form of the provision of food, hygiene and sanitary products and various types of equipment to contribute to their adequate support. The Coordination, Monitoring and Follow-up Unit of the “zero street children” project is the national body that follows the situation of *talibé* children. It brings together State structures, civil society organizations, non-governmental organizations and technical and financial partners involved in combating the problem of street children, including representatives of religious chiefs. The outcome of the implementation of the project, released on 20 November 2020, shows that 6,187 children between the ages of 4 and 17 years have been removed from the streets. The proportion of children returned to their families also rose by 37.3 per cent, increasing from 22.7 per cent in 2019 to 60 per cent in 2020.
- The Vulnerable Children Programme (PED): between 2016 and 2020, the Ministry of Health and Social Action (MSAS) benefited from a budget for vulnerable children (orphans, children with disabilities, *talibé* children, children of families suffering from leprosy). This Programme achieved the following results: the placement of 700 *talibé* children in apprenticeships in workshops or training centres; the registration of 5,950 *talibé* children in mutual health funds through universal health coverage; support for 70 pilot *daaras* in the form of food and materials; and subsidies for 140 traditional *daaras*.

The Committee also notes the information provided by the ITUC to the effect that the Government has taken positive measures in practice in relation to *talibé* children in response to the COVID-19 pandemic. According to the ITUC, the Government has worked with international organizations, civil society and local populations on the inclusion of the needs of *talibé* children in COVID-19 programmes and projects, including the “zero street children” project. The ITUC indicates that the number of children removed from the streets during the third phase of the “removal programme” clearly exceeded the first and second phases and that the Departmental Child Protection Committees (CDPEs), which include representatives of civil society, have supervised the programme at the regional level.

However, the ITUC refers to several challenges encountered during the implementation of the various projects and programmes. It indicates that the authorities have noted that children who had been removed from the streets have returned. Civil society organizations have reported that the processes for the monitoring of the removal programme were once again inadequate, particularly in relation to the lack of follow up of *talibé* children who had been returned to their families. As a consequence, in most cases, *talibé* children who were returned to their families were sent back to Koranic schools where they were forced to beg. The ITUC adds that disparities have emerged at the level of the implementation of the removal programme throughout Senegal. For example, the Prefect of Kédougou refused the request by the authorities to return the *talibé* children from a particular *daara* to their families; in Matam, the local religious authorities vigorously opposed the programme and it was not possible to remove any children; in Sédhiou, no children were removed from the streets; and in Ziguinchor and Thiès, *talibé* children were confined in *daaras* instead of being returned to their families. The ITUC adds that the resources allocated to the CDPEs were inadequate and that there was a lack of communication with the MFFGPE and the local actors responsible for removal operations, which affected the implementation of the operations and the appropriate follow-up of the *talibé* children who

had been removed. Moreover, the “removal programme” was vigorously opposed by certain Koranic teachers and only a minority of *daaras* agreed to facilitate the return of *talibé* children to their families. By way of illustration, only six of 247 *daaras* in Louga allowed the voluntary return of *talibé* children to their families. Finally, the MFFGPE was due to carry out an evaluation of the implementation of the third phase of the removal programme before proceeding with a fourth phase, but that has not been done and it is not known whether the additional phase is currently under consideration. ***While noting the measures taken by the Government, the Committee urges it to reinforce the relevant programmes so as to continue being 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 removal of children from the streets and providing the CDPEs with the necessary resources to be able to fulfil their functions effectively. The Committee requests the Government to continue providing information on the measures taken in this regard and to supply statistics on the number of talibé children removed from the worst forms of child labour and who have benefited from rehabilitation and social integration measures.***

2. *Project to modernize daaras.* The Committee previously noted the various programmes for the modernization of *daaras* and the training of Koranic teachers, as well as the various framework plans for the elimination of the worst forms of child labour, including the support project for the modernization of *daaras* (PAMOD). However, it noted that the programme for the modernization of *daaras* appeared to be more focused on the construction of new “modern *daaras*” than on the improvement of the infrastructure and practices of existing *daaras*.

The Committee notes the ITUC’s observations that the programme for the modernization of *daaras* includes two components: the PAMOD, which was launched in November 2013, and the project to improve the quality and equity of basic education (the PAQUEEB project) financed by the World Bank. The first phase of the PAQUEEB programme focused on the renovation and modernization of 100 *daaras* throughout the country. In March 2020, the Ministry of Education organized a workshop to select the *daaras* which would benefit from the second phase of the PAQUEEB programme. Subsequently, 417 additional *daaras* were selected, making a total of 517 beneficiary *daaras*. The ITUC also reports that the Ministry of Education is envisaging holding a meeting with *daaras* inspectors to discuss the best way of integrating child protection into their inspections, with the assistance of civil society organizations. The ITUC adds that there are failings in the performance of *daaras* inspection services. In overall terms, the inspectors seem to be without clear central directives and instructions and do not appear to develop plans to combat begging and the ill-treatment of children in *daaras*. Nor is it clear whether the inspection services intend to inspect all *daaras*, or only those registered as “modern *daaras*”, which gives rise to the risk that unregistered *daaras*, in which the worst abuses persist, are continuing to operate without supervision. Moreover, the ITUC indicates that the Ministry of Justice has not been sufficiently involved in the programme for the modernization of *daaras*, which limits the possibility of closing *daaras* that engage in exploitation and prosecuting abusive teachers.

The Committee notes the Government’s indications that the policy for the modernization of *daaras* in Senegal has been carried out through several reforms, including the preparation of a Bill establishing the status of *daaras*, the development of a curriculum for *daaras* including the Koran, French and science subjects and the introduction of disciplines such as reading and mathematics. However, it notes the indication by the ITUC that the Bill establishing the status of *daaras*, introduced for the first time in 2010 and then once again in 2013, has not yet been adopted. The Bill was approved by the Council of Ministers in 2018, but has remained before the National Assembly awaiting adoption for a third year. ***The Committee therefore urges the Government to intensify its efforts to ensure the implementation of the programme for the modernization of daaras, through the PAMOD and PAQUEEB programmes, in a manner that contributes to the protection of talibé children against the worst forms of child labour and ensures the rehabilitation and social integration of these children, and it requests it to provide information on the results achieved. The Committee also requests the Government to take measures***

**to reinforce the daaras inspection service and to ensure that all daaras, and not only “modern daaras”, are inspected, so that talibé children who are victims of forced begging are effectively identified and then removed and socially integrated. Finally, the Committee requests 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 it 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)

*Article 2(1). Scope of application.* The Committee previously noted that section 125 of the Child Rights Act (2007) sets the minimum age of full-time employment at 15 years in the formal and informal economies. However, according to sections 52 and 53 of the Employers and Employed Act of 1960 (as amended in 1962), children under the age of 15 years shall not be employed or work in any public or private industrial undertaking, or any branch thereof or on any vessel, other than an undertaking or vessel in which only members of the same family are employed. The Committee requested that the Government takes step to address this discrepancy with respect to the application of the minimum age provisions in the Employers and Employed Act and the Child Rights Act.

The Committee notes the response of the Government, in its report, that the Labour Bill of 2018 harmonises national legislation including the Employers and Employed Act of 1960 (as amended in 1962), the Registration of Employees Ordinance (Cap 213), and the Recruitment of Employees Ordinance (Cap 216). The Committee also observes that the Labour Bill in section 102 prohibits the employment of children below the age of 15 in any industrial undertaking, and section 1 defines an industrial undertaking to include mines, quarries and other works for the extraction of minerals from the earth; industries in which articles are produced or processed, including industries concerned with the generation and transmission of electricity and motive power of any kind; industries concerned with the construction and repair of buildings and installations; and industries concerned with the transport of passengers or goods. However, the Committee notes that section 104(2) of the Labour Bill excludes commerce and agriculture from the definition of industrial undertakings. **Noting the prevalence of child labour in Sierra Leone’s informal sector including the commerce and agricultural sectors, the Committee once again requests the Government to take the necessary measures to ensure that children working in all branches of economic activity, including the informal economy, benefit from the protection laid down in the Convention.**

*Article 3(2). Determination of the types of hazardous work.* The Committee previously requested the Government to take necessary measures to ensure that a List of Hazardous Work Prohibited to Children under the age of 18 years is adopted. The Committee notes the Government’s information that the List of Hazardous Work Prohibited to Children under the age of 18 years has been developed, adopted, disseminated and being used by Labour Officials and their partners. Recalling the previous response of the Government that the List of Types of Hazardous Child Labour would be passed by Cabinet as a Statutory Supplementary Instrument, the Committee notes that the copy of the hazardous list, which the Government has provided as a part of its report, is not formatted as a regulation prohibiting hazardous types of work.

The Committee recalls the need for the List of Types of Hazardous Work to be hinged upon national laws or regulations, in consultation with the organizations of employers and workers concerned. **The Committee therefore urges the Government to take the necessary measures without delay to ensure that the List of Types of Hazardous Work prohibited to Children under the age of 18 in**

**Sierra Leone will be adopted in the form of a regulation or statutory instrument. The Committee requests that the Government provide information on progress made in this regard.**

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* The Committee previously noted that section 54(2) of the Employers and Employed Act permits underground work in mines of male persons who have attained the age of 16 years with a medical certificate attesting fitness for such work. It also noted that there were no provisions that establish the requirement to ascertain that young persons between the ages of 16 and 18 years that are engaged in hazardous work receive adequate specific instruction or vocational training in the relevant branch of activity, as required by *Article 3(3)* of the Convention.

The Committee notes the response of the Government that it will review the Labour Bill to reflect principles enshrined in *Article 3(3)* of the Convention. The Committee further observes with **interest** that section 102(2) of the Labour Bill expressly prohibits the employment of children below the age of 18 in underground mines. **Noting the conformity of section 102(2) of the Labour Bill with the Convention, the Committee requests the Government to ensure that this provision is retained during the enactment of the Labour Bill.**

*Article 6. Vocational training and apprenticeship.* The Committee previously noted that according to section 135 of the Child Rights Act, the minimum age at which a child may commence apprenticeships, including in the informal economy (section 134), shall be 15 years or after completion of basic education, whichever is later. The Committee also noted that, according to section 59 of the Employers and Employed Act, any person of 14 years and above may apprentice himself to any trade or employment. However, according to section 57 of this Act, the father or the guardian of a child above the age of 12 years may, with the consent of that child, apprentice such child to trade or employment in which art or skill is required, or as a domestic worker. The Committee recalled that under *Article 6* of the Convention, a young person must be at least 14 years of age to undertake an apprenticeship.

The Committee notes the response of the Government that the Labour Bill 2018 would address the issue of minimum age for apprenticeship and set the same to at least 14 years. The Committee also observes that section 107 of the Labour Bill sets the minimum age at which a child may commence an apprenticeship with a Craftsman to be 15 years or after completion of basic education. **Noting the conformity of section 107 of the Labour Bill with Article 6 of the Convention, the Committee requests that the Government take steps to ensure a minimum age of 14 years for apprenticeship is retained during the enactment.**

*Article 7(1) and (3). Age for admission to light work and determination of light work.* The Committee previously noted that section 127 of the Child Rights Act determines the minimum age for the engagement of a child in light work as 13 years and defines light work as work that 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. However, the Committee also noted that section 51 of the Employers and Employed Act provides for an exception to children under the age of 12 years to be employed by a member of the family of such a child to engage in light work of an agricultural, horticultural or domestic character and which has been approved by the competent authority. The Committee recalled that, under the terms of *Article 7(1)* of the Convention, light work activities may be permitted only to persons between 13 and 15 years of age provided that such work is not likely to be harmful to their health or development and does not 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 response of the Government that the Labour Bill will address the issues raised with respect to the age for admission to light work and determination of light work in Sierra Leone. The Committee observes that section 103(1) of the Labour Bill sets the minimum age for the engagement of a child in light work at 13 years. The Committee also notes that the Bill, in section 104,

reiterates the position of the Child Rights Act and defines light work to mean any 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. **Noting the conformity of the provisions of the Labour Bill with respect to the minimum age for admission to light work, the Committee, therefore, requests the Government to take the necessary measures to ensure that these provisions are retained during the enactment of the Labour Bill. It also requests the Government to take the necessary measures to determine light work activities as well as the conditions in which light work may be permitted and the number of hours during which such employment of children may be undertaken, ensuring that children have sufficient leisure time and do not miss school.**

*Application of the Convention in practice.* The Committee previously expressed its deep concern at the large number of children involved in child labour and hazardous work. It urged the Government to pursue efforts to prevent and eliminate child labour in Sierra Leone. It also requested the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons.

The Committee notes the response of the Government that it is pursuing efforts through the review of existing legislation and conduct of inspections and ensuring collaborative partnerships between its ministries, departments and agencies to make sure that child labour is prevented and eliminated. The Committee also notes the plan of the Government to establish a labour market information system (LMIS) that would provide information to support the fight against child labour.

The Committee observes that the response of the Government does not provide current statistical data on the employment of children and young persons. However, an analysis of child economic activity and school attendance statistics from Sierra Leone's national household or child labour surveys, specifically, data from the Multiple Indicator Cluster Survey 6 (MICS 6), 2017, puts the percentage of children aged between 4–15, who are only working (without attending school) at 32 per cent. The Committee also notes that the Government did not publish any data on child labour in 2020, and thus there is limited information on the impact of COVID-19 on the campaign against child labour in Sierra Leone.

The Committee again expresses its **deep concern** at the large number of children involved in child labour and in hazardous work. **It urges the Government to continue to take the necessary measures to prevent and eliminate child labour within the country. It also requests the Government to provide information relating to the application of the Convention in Sierra Leone, including statistical data on the employment of children and young persons below the age of 15.**

**The Committee expresses the hope that the Government will take into consideration the Committee's comments while revising the Labour Bill. It further expresses the firm hope that the revised Bill will be adopted in the near future. The Committee invites the Government to avail itself of ILO technical assistance in order to bring its legislation into conformity with the Convention.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2011)**

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Trafficking in children.* The Committee previously noted that section 2 of the Anti-Human Trafficking Act (2005) penalized trafficking in persons for exploitation. Noting the limited prosecution and conviction rates under the Anti-Human Trafficking Act (2005), and the absence of a specific action plan to implement the Act, the Committee previously requested the Government to ensure that thorough investigations and robust prosecutions of offenders are carried out.

The Committee notes that the Anti-Human Trafficking Act (2005) establishes the National Task Force on Anti-Human Trafficking and empowers the task force to coordinate the implementation of the Act, especially concerning the enforcement of the law against trafficking and the prosecution of corrupt

public officials who facilitate trafficking. The Committee also notes that the National Task Force on Anti-Human Trafficking adopted a new 2021–2023 Anti-Trafficking National Action Plan, which contains a strategic objective to ensure that human trafficking and smuggling incidents are thoroughly investigated, and cases successfully prosecuted, with expected results of at least 35 trafficking cases investigated in 2021, 40 in 2022 and 45 in 2023. It further notes the information that the Government allocated 1 billion Leones (\$103,740) to anti-trafficking efforts in the fiscal year 2020.

The Committee, however, notes from the report of the Government that only four successful prosecutions of offenders in both 2020 and 2021. It also notes the absence of a report on the allocation of funds for the Government's anti-trafficking efforts in the fiscal year 2021, and the adverse effect this might have on anti-trafficking efforts including the implementation of the anti-human trafficking national action plan. ***The Committee, therefore, reiterates its request to the Government to strengthen its efforts to combat trafficking in children and to ensure that thorough investigations and prosecutions of offenders are carried out and sufficiently effective and dissuasive penalties are applied in practice. The Committee once again requests the Government to provide information on the application of the Anti-Human Trafficking 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. It also requests the Government to provide information on the implementation of the Anti-Trafficking Action Plan (2021–2023), and the results achieved.***

*Article 5. Monitoring mechanisms. 1. National Task Force on Anti-Human Trafficking.* The Committee previously noted that the Government established a National Task Force on Anti-Human Trafficking to coordinate, monitor and supervise the implementation of the Anti-Human Trafficking Act. It requested the Government to provide information on the activities of the National Task Force on Anti-Human Trafficking in preventing and combating trafficking in persons and the results achieved.

The Committee notes the response of the Government that the Task Force has conducted training for border patrol agents; created a Family Support Unit within the Sierra Leone police force; created a Fast-Track Court for Sexual Offences (Sexual Offence Mobile Court); convicted 4 offenders; criminalized the offence of the Worst Forms of Child Labour; and Developed an Anti-Trafficking Action Plan 2021–2023.

The Committee further notes that section 4 of the Anti-Human Trafficking Act (2005) empowers the National Task Force on Anti-Human Trafficking to coordinate the implementation of the Act, including the rendering of assistance to victims of trafficking, the prevention of trafficking through the adoption and encouragement of local initiatives to improve the economic well-being and opportunity for potential victims and increased public awareness of the causes and consequences of trafficking. ***The Committee, therefore, requests the Government to provide information on the role of the Task Force in the creation of the Sexual Offence Mobile Court, as well as the scope, function and operationalisation of this court. It also requests information on the scope, functions and operationalisation of the Family Support Unit of the Sierra Leone police created by the Taskforce.***

*2. National Technical Steering Committee, Child Welfare Committees and National Commission for Children.* The Committee previously noted the Government's information that a National Technical Steering Committee on Child Labour (NTSC) was established to guide policy, strategy and documentation relating to child labour in Sierra Leone. The Committee also noted that Child Welfare Committees (CWCs) were established at the national, regional, district, and community levels to coordinate all child protection activities, as well as to monitor and supervise child labour in the local communities. It requested the Government to provide information on the activities and impact of the NTSC, CWCs and the National Commission for Children on preventing and combating trafficking in persons.

The Committee notes the information that the CWCs are in operation at national, regional, district and chiefdom levels, and that members of the CWCs provide counselling services for victims of the worst forms of child labour, and report complex issues to the Ministry of Social Welfare. It further notes the

information that the CWCs have developed Standard Operating Procedures to curb cross border trafficking across the Guinea and Sierra Leone migration corridor.

The Committee also notes the response of the Government on the functions of the National Commission for Child Labour. However, it notes the lack of information on the impact of the activities of the Commission on preventing child labour and trafficking in persons in Sierra Leone. It further notes with **concern** the information provided by the Government that the National Technical Steering Committee is not functional. **While noting the measures taken by the Government, the Committee urges it to continue its efforts to strengthen national, state, district and community level monitoring mechanisms to combat trafficking in children. It also requests the Government to provide information on the impact of the activities of the National Commission for Child Labour, and the National Technical Steering Committee, once this becomes functional, 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)

*Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children.* The Committee previously noted that section 77 of the Immigration Act No. 3 of 2012 criminalizes trafficking of persons under 18 years of age (including for the purpose of sexual exploitation, forced labour or slavery), establishing as penalty for this offence a fine or imprisonment. The Committee notes that the Government indicates in its report that the Solomon Islands Immigration Division has reported three cases of trafficking of children in the period January–March 2020, which have ended in acquittals. The Committee also notes the adoption of the Penal Code (Amendment) (Sexual offences) Act (2016), which, under section 145, establishes a sanction of 25 years of imprisonment for persons engaging in internal trafficking of persons when the victim is a child. However, the Committee notes that the Government, in its report under the Minimum Age Convention, 1973 (No. 138), indicates that there is evidence of sale and trafficking of children, particularly of girls, by their parents to foreign workers. The Committee also notes that the United Nations Committee on the Rights of Child, in its 2018 concluding observations expresses its serious concern about the sale of children to foreign workers in the natural resource sector for the purpose of sex (CRC/C/SL/B/CO/2-3, 28 February 2018, paragraph 48). The Committee further notes that the *Community Health and Mobility in the Pacific, Solomon Islands Case Study* published in 2019 by the International Organization for Migration (IOM) highlights the high number of reported cases of sexual exploitation and trafficking involving children in communities near logging camps (page 46). **The Committee requests the Government to take the necessary measures to ensure that thorough investigations and prosecutions against persons who engage in the sale or trafficking of children are carried out, and that sufficiently dissuasive penalties are imposed in practice. The Committee also requests the Government to continue to provide information on the number of investigations, prosecutions, convictions and penalties imposed on the offenders on the basis of section 77 of the Immigration Act No. 3 of 2012 and section 145 of the Penal Code (Amendment) (Sexual Offences) Act of 2016, including information on the number of acquittals.**

*Clause (b). Use, procuring or offering of a child for prostitution.* The Committee previously noted that section 144 of the Penal Code, as amended up to 1990, did not criminalize procuring of male children for prostitution. It also noted that the definition of the crime of disposing of minors for immoral purposes (including prostitution), contained in section 149 of that Code, did not protect children between the age of 15 and 18. The Committee, accordingly, requested the Government to take the necessary measures to prohibit using, procuring or offering of both boys and girls under the age of 18 for the purpose of prostitution. The Committee notes with **satisfaction** that, through the adoption of

the Penal Code (Amendment) (Sexual offences) Act (2016), the Penal Code was amended to protect all children under the age of 18 from prostitution, in line with the Committee's previous comments. Section 141(2) of the Amendment stipulates that the person who procures or attempts to procure another person to provide commercial sexual services, either in Solomon Islands or elsewhere, is punishable by a penalty of up to 20 years of imprisonment if the victim is under 15 years of age, and up to 15 years of imprisonment in other cases. According to section 143, the person who obtains commercial sexual services from a child, or induces, invites, persuades, arranges or facilitates its provision is liable to up to 20 years of imprisonment if the child is under 15 years of age, or to up to 15 years of imprisonment in other cases. The same sanction applies to the parent or guardian who permits the child to be used for the provision of commercial sexual services as well as for the person who benefits from such service. ***The Committee requests the Government to provide information on the application, in practice, of sections 141(2) and 143 of the Penal Code (Amendment) (Sexual Offences) Act 2016, including the number of investigations, prosecutions, nature of the offences, convictions and types of sanctions imposed on the offenders.***

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

## Syrian Arab Republic

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

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

*Application of the Convention in practice.* The Committee previously noted that the ongoing conflict in the Syrian Arab Republic has had an alarming impact on children. It noted that the number of children affected by armed conflict in the Syrian Arab Republic has more than doubled, going from 2.3 million to 5.5 million, and the number of children displaced inside the Syrian Arab Republic has exceeded 3 million.

The Committee takes note of the Government's information in its report on the provisions of national legislation that give effect to the provisions of the Convention. However, the Committee notes that, according to the 2015 UNICEF report entitled "Small Hands, Heavy Burden: How the Syria Conflict is Driving More Children into the Workforce", four and a half years into the crisis, as a result of the war, many children are involved in economic activities that are mentally, physically or socially dangerous and which limit or deny their basic right to education. The report indicates that there is no shortage of evidence that the crisis is pushing an ever-increasing number of children towards exploitation in the labour market. Some 2.7 million Syrian children are currently out of school, a figure swollen by children who are forced to work instead. Children in the Syrian Arab Republic were contributing to the family income in more than three quarters of households surveyed. According to the report, the Syria crisis has created obstacles to the enforcement of national laws and policies to protect children from child labour, one of the reasons being that there are too few labour inspectors. In addition, there is often a lack of coherence between national authorities, international agencies and civil society organizations over the role of each, leading to a failure in national mechanisms to address child labour.

The Committee notes the Government's information in its 5th periodic report submitted to the Committee on the Rights of the Child published on 10 August 2017 (CRC/C/SYR/5, para. 203), that the Ministry of Social Affairs and Labour (MoSAL), in collaboration with the Syrian Authority for Family and Population Affairs (SAFPA) and in cooperation with other stakeholders, developed a National Plan of Action for the Elimination of the Worst Forms of Child Labour (NPA-WFCL). The Government also indicates that, in collaboration with UNICEF, the SAFPA conducted a survey on the worst forms of child labour in two industrial towns, Hassia in Homs and Haouch el Blas in Damascus.

While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee must once again express its **deep concern** at the situation of children in the Syrian Arab Republic who are affected by the armed conflict and driven into child labour, including its worst forms. ***The Committee urges the Government to take immediate and effective measures in the framework of the implementation of the NPA-WFCL to improve the situation of***

**children in the Syrian Arab Republic and to protect and prevent them from child labour. It requests the Government to provide information on the results achieved, as well as the results of the surveys conducted in Hassia and Haouch el Blas.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

The Committee notes with **concern** 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). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict.* The Committee previously noted that the Syrian Arab Republic had adopted a series of legislative reforms such as Law No. 11/2013 which criminalizes all forms of recruitment and the use of children under the age of 18 years by armed forces and armed groups. It noted, however, that numerous armed groups in the Syrian Arab Republic, including the Free Syrian Army affiliated groups (FSA), the Kurdish People Protection Units (YPG), Ahrar al-Sham, Islamic State in Iraq and Sham/the Levant (ISIS/ISIL) and other armed groups were reportedly recruiting and using children for logistics, handling ammunition, manning checkpoints and as combatants.

The Committee notes the Government's indication in its report that armed terrorist groups recruit children and involve them in violence and exploit them sexually. The Committee notes that, according to the report of the Secretary-General on the situation of human rights in the Syrian Arab Republic of 9 June 2016 (A/70/919, paragraphs 50–52), from early 2015, UNICEF verified 46 cases of recruitment (43 boys, one girl, two unknown): 21 were attributed to ISIL, 16 to non-state armed opposition groups, five to armed groups affiliated with the Government, two (including a girl) to YPG, and two to government forces. UNICEF reported that children were increasingly recruited at younger ages (some as young as 7 years old) by non-state armed groups. Children's participation in combat was widespread and some armed opposition groups forced children to carry out grave human rights abuses, including executions and torture, while government forces allegedly submitted children to forced labour or used them as human shields. The Secretary-General also refers to reports from the OHCHR, according to which ISIL publicly announced, on 11 December 2015, the already known existence of a children's section among its ranks, the "Cubs of the Caliphate". The OHCHR also received allegations that ISIL was encouraging children between 10 and 14 years of age to join, and that they were training children in military combat.

The Committee further notes that, according to the report of the Secretary-General on children and armed conflict of 20 April 2016 (2016 report of the Secretary-General on children and armed conflict, A/70/836-S/2016/360, paragraphs 148–163), a total of 362 cases of recruitment and use of children were verified (the Secretary-General indicates that the figures do not reflect the full scale of grave violations committed by all parties to the conflict), and attributed to ISIL (274), the Free Syrian Army and affiliated groups (62), Liwa' al-Tawhid (11), popular committees (five), YPG (four), Ahrar al-Sham (three), the Nusrah Front (two) and the Army of Islam (one). Of the verified cases, 56 per cent involved children under 15 years of age, which represents a significant increase compared with 2014. The Secretary-General further indicates that the massive recruitment of children by ISIL continued, and that centres in rural Aleppo, Dayr al-Zawr and rural Raqqah existed that provided military training to at least 124 boys between 10 and 15 years of age. Verification of the use of child foreign fighters increased as well, with 18 cases of children as young as 7 years of age. In addition, the recruitment and use of children as young as 9 years of age by the Free Syrian Army was also verified, as well as the recruitment of 11 Syrian refugee children from neighbouring countries by Liwa' al-Tawhid, and the YPG continued to recruit boys and girls as young as 14 years of age for combat roles. Recruitment and use by pro-government groups was also verified, with five cases of boys being recruited by the Popular Committee of Talkkalah (Homs) to work as guards and conduct patrols. In addition, there were allegations of the use of children by government forces to man checkpoints.

The Committee must once again **deeply deplore** the use of children in armed conflict in the Syrian Arab Republic, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It once again recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and

effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. **While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again strongly urges the Government to take measures, using all available means, to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups. The Committee once again urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Law No. 11 of 2013. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee previously noted that, with approximately 5,000 schools destroyed in the Syrian Arab Republic, the resulting sharp decline in children's education continued to be a matter of great concern among the population. This report also indicated that more than half of Syrian school-age children, up to 2.4 million, were out of school as a consequence of the occupation, destruction and insecurity of schools.

The Committee notes that, according to the 2016 report of the Secretary-General on children and armed conflict (paragraph 157), the number of schools destroyed, partially damaged, used as shelters for internally displaced persons or rendered otherwise inaccessible has reached 6,500. The report refers to information from the Ministry of Education, according to which 571 students and 419 teachers had been killed in 2015, and from the United Nations that 69 attacks on educational facilities and personnel were verified and attributed to all fronts, which killed and maimed 174 children. The Committee further notes that, according to the report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic of 5 April 2016 (A/HRC/32/35/Add.2, paragraphs 50–53), a further 400,000 children were at risk of dropping out of school as a direct result of conflict, violence and displacement. While basic education facilities were in place in the displacement centres visited by the Special Rapporteur, such centres, often using school buildings, offer only limited educational facilities.

According to the same report, UNICEF is working with local partners to reach some 3 million children and has implemented an informal education programme to reduce the number of children out of school. The inter-agency initiative "No Lost Generation" is a self-learning programme aimed at reaching 500,000 children who missed out on years of schooling. In areas hosting high numbers of displaced children, UNICEF is also rehabilitating 600 damaged schools and creating 300 prefabricated classrooms to accommodate 300,000 additional children. The Committee further notes that, according to UNICEF's 2016 Annual Report on the Syrian Arab Republic, UNICEF's interventions in education, focusing on quality, access and institutional strengthening, contributed to an increase in school enrolment from 3.24 million children (60 per cent of school-age population) to 3.66 million (68 per cent) between 2014–15 and 2015–16. These efforts also resulted in a decrease in the number of out-of-school children from 2.12 million (40 per cent) in 2014–15 to 1.75 million (32 per cent) in 2015–16.

Nevertheless, the Committee notes that, in his report, the Special Rapporteur on the human rights of internally displaced persons declares that the challenge of providing even basic education access to many internally displaced children is immense and many thousands of children are likely to remain out of education in the foreseeable future (A/HRC/32/35/Add.2, paragraph 53). The Committee is, therefore, once again bound to express its **deep concern** at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to strengthen its efforts and take effective and time-bound measures to improve the functioning of the educational system in the country and to facilitate access to free basic education for all Syrian children, especially in areas affected by armed conflict, and giving particular attention to the situation of girls. It requests the Government to provide information on concrete measures taken in this regard.**

*Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. 1. Children affected by armed conflict.* The Committee previously noted that the recruitment and use of children in armed conflict in the

Syrian Arab Republic had become common and that a great majority of the children recruited are trained, armed and used in combat.

The Committee notes the Government's indication that the competent authorities in the Syrian Arab Republic seek to care for children recruited in armed conflict and to help them return to ordinary life. However, the Committee notes with **deep concern** that the situation in the Syrian Arab Republic has not changed and that not only are there no reports of children having been withdrawn from armed forces and groups in the 2016 report of the Secretary-General on children and armed conflict but that, according to this report, children continue to be recruited and used in armed conflict. **The Committee, therefore, strongly urges the Government to take effective and time-bound measures to prevent the engagement of children in armed conflict and to rehabilitate and integrate former child combatants. It once again requests the Government to provide information on the measures taken in this regard and on the number of children rehabilitated and socially integrated.**

2. *Sexual slavery.* The Committee previously noted that ISIS abducted hundreds of Yazidi women and girls, most of whom were sold as "war booty" or given as "concubines" to ISIS fighters, and that dozens of girls and women were transported to various locations in the Syrian Arab Republic, including Al Raqqa, Al Hasakah and Dayr az Zawr, where they were kept in sexual slavery.

The Committee notes with **regret** the absence of information in the Government's report on this issue. It notes that, according to the report of the Independent International Commission of Inquiry on the Syrian Arab Republic of 15 June 2016 entitled "They came to destroy: ISIS Crimes Against the Yazidis" (A/HRC/32/CRP.2), ISIS has sought to destroy the Yazidis through such egregious human rights violations as killings, sexual slavery, enslavement, torture and mental harm. The report indicates that over 3,200 women and children are still held by ISIS. Most are in the Syrian Arab Republic where Yazidi girls continue to be sexually enslaved and Yazidi boys indoctrinated, trained and used in hostilities. The report reveals that captured Yazidi women and girls over the age of 9 years are deemed the property of ISIS and are sold in slave markets or, more recently through online auctions, to ISIS fighters. While held by ISIS fighters, these Yazidi women and girls are subjected to brutal sexual violence and regularly forced to work in their houses, in many instances forced to work as domestic servants of the fighter and his family. The Committee **deeply deplores** the fact that Yazidi children continue to be victims of sexual slavery and forced labour. **While acknowledging the difficult situation prevailing in the country, the Committee strongly urges the Government to take effective and time-bound measures to remove Yazidi children under 18 years of age who are victims of forced labour and sexual exploitation and to ensure their rehabilitation and social integration. It once again requests the Government to provide information on specific measures taken in this regard, and the number of children removed from sexual exploitation and rehabilitated.**

*Clause (d). Identifying and reaching out to children at special risk. Internally displaced children.* The Committee previously noted that, by early 2013, there were 3 million children displaced and in need of assistance inside the Syrian Arab Republic.

The Committee notes that, according to the report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic of 5 April 2016 (A/HRC/32/35/Add.2, paragraph 67), the extent of the conflict and displacement has had a massive impact on children, many of whom have experienced violence first-hand and/or witnessed extreme violence, including the killing of family members and/or separation from family members. The Special Rapporteur indicates that child protection concerns and issues, including child labour resulting from parents' loss of livelihood, trafficking, sexual and gender-based violence and early and forced marriage, continue to be reported. Children have also been recruited and used by different parties to the conflict, both in combat and support roles. **Observing with concern that internally displaced children are at an increased risk of being engaged in the worst forms of child labour, the Committee once again strongly urges the Government to take effective and time-bound measures to protect these children from the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.**

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

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

## Uganda

### Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice.* In its previous comments, the Committee noted that, according to the National Labour Force and Child Activities Survey 2011–12 of July 2013, a total of 2.009 million children aged 5–17 years were in child labour (approximately 16 per cent of all children). Moreover, a total of 507,000 children aged 5–17 years were found in hazardous work (25 per cent of the children in child labour). The Committee also noted that the Government acknowledged the problem of child labour in the country and recognized its dangers. It took due note of the Government's indication that the National Action Plan for the elimination of the worst forms of child labour in Uganda (NAP) was launched in June 2012. This NAP is a strategic framework that will set the stage for the mobilization of policymakers and for awareness raising at all levels, as well as provide a basis for resource mobilization, reporting, monitoring, and evaluation of performance and progress of the interventions aimed at combating child labour. The Committee requested that the Government provide detailed information on the implementation of the NAP and its impact on the elimination of child labour.

The Committee notes the Government's information in its report that the NAP is in the process of being reviewed by the Government with support from the ILO. It also notes, from the ILO-IPEC field office, that a total of 335 children (156 girls and 179 boys) have been withdrawn from child labour and were given skills and livelihood training. Moreover, the child labour agenda has been promoted through the Education Development Partners Forum, Stop Child Labour Partners Forum and other national forums within the education and social development sectors. The Committee finally notes from the 2016 UNICEF Annual Report on Uganda that 7,226 children aged 5–17 years were withdrawn from child labour (page 28). While noting the measures taken by the Government, the Committee must express its **concern** at the number of children involved in child labour in the country, including in hazardous work. **The Committee once again urges the Government to strengthen its efforts to ensure the effective elimination of child labour, especially in hazardous work. In this regard, it requests that the Government provide detailed information on the implementation of the reviewed NAP, once adopted. It also requests that the Government supply information on the application of the Convention in practice, particularly statistics on the employment of children under 14 years of age.**

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

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

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution.* The Committee previously requested the Government to take the necessary measures to ensure that the procuring or offering of boys under 18 years of age for prostitution is prohibited, to impose criminal responsibility on clients who use boys and girls under 18 years of age for prostitution, and to ensure that boys and girls under 18 years of age who are used, procured or offered for prostitution are treated as victims rather than offenders. The Committee noted that the Director of the Directorate of Public

Prosecutions had indicated that efforts were being made to amend the Children's Act of 2000 to fully comply with the Convention on the prohibition of the use, procuring or offering of children for prostitution.

The Committee notes with **satisfaction** that section 8A of the Children's (Amendment) Act of 2016 provides that a person shall not engage a child in any work or trade that exposes the child to activities of a sexual nature, whether remunerated or not. It notes that the perpetrator is liable to a fine not exceeding one hundred currency points or to a term of imprisonment not exceeding five years.

*Clause (d). Hazardous types of work. Children working in mines.* The Committee observes that, according to the UNICEF Situation analysis of 2015, the Karamoja region has a high incidence of child labour in hazardous mining conditions (page 13). The Committee also observes, from the UNICEF Annual Report of 2016, that 344 girls and 720 boys were removed from the worst forms of child labour, such as mining, as a result of the support of the Ministry of Gender, Labour and Social Development to the strategic plan for the national child helpline. Moreover, the Committee notes that section 8 of the Children's (Amendment) Act of 2016 prohibits hazardous work, and that the list of hazardous occupations and activities in which the employment of children is not permitted (first schedule of the Employment of Children Regulations of 2012) includes the prohibition of children working in mining. The Committee notes with **concern** the situation of children working in mines under particularly hazardous conditions. **The Committee urges the Government to take the necessary measures to ensure the effective application of the Children's (Amendment) Act of 2016 and of the Employment of Children Regulations of 2012, so as to prevent children under 18 years of age from working in mines, and to provide the necessary and appropriate direct assistance for their removal.**

*Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. 1. Orphans and vulnerable children.* The Committee previously noted the Government's information that a range of factors has contributed to the problem of child labour, such as orphanhood arising from the HIV/AIDS pandemic. The Committee noted that orphans and vulnerable children (OVCs) in Uganda were recognized in both the Policy on orphans and other vulnerable children and the National Strategic Plan on OVCs. The Committee also noted that the policies and activities of the National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda 2013–17 (NAP) include orphans and HIV/AIDS affected persons in its target groups. However, noting with concern the large number of children orphaned as a result of HIV/AIDS, the Committee urged the Government to intensify its efforts to ensure that such children are protected from the worst forms of child labour.

The Committee notes the absence of information on this point in the Government's report. The Committee however notes that, according to a report by the Uganda AIDS Commission, entitled: "The Uganda HIV and AIDS country progress report: July 2015–June 2016", approximately 160,000 OVCs received social support services and a mapping of OVC actors was conducted, among other achievements. The Committee also notes that the Second National Development Plan 2015/16–2019/20 outlines two programmes to support OVCs: the SUNRISE–OVC (Strengthening the Ugandan National Response for Implementation of Services for OVCs), and the SCORE (Strengthening Community OVC Response). While taking due note of the strategic plans developed by the Government and the decrease in the number of OVCs, the Committee notes with **concern** that there are still approximately 660,000 HIV/AIDS orphans in Uganda, according to UNAIDS estimates for 2015. **Recalling that children orphaned as a result of HIV/AIDS and other vulnerable children are at particular risk of becoming involved in the worst forms of child labour, the Committee urges the Government to strengthen its efforts to protect these children from the worst forms of child labour. It requests the Government once again to provide information on specific measures taken in this respect, particularly in the framework of the Policy on orphans and other vulnerable children, the National Strategic Plan on OVCs, the SUNRISE–OVC and the SCORE, and the results achieved.**

*2. Child domestic workers.* The Committee previously noted that the list of hazardous occupations and activities prohibits the engagement of children under 18 years of age in several activities and hazardous tasks in the sector of domestic work. However, the Committee noted that, according to the National Labour Force and Child Activities Survey 2011–12 of July 2013, approximately 51,063 children, that is 10.07 per cent of the number of children aged 5–17 years engaged in hazardous work in Uganda, are domestic housekeepers, cleaners and helpers. In this regard, the Committee observed that domestic workers form a group targeted by the NAP, and requested the Government to provide information on the impact of the NAP on the protection of child domestic workers.

The Committee notes the absence of information from the Government in this regard. Recalling that children in domestic work are particularly vulnerable to the worst forms of child labour, including hazardous work, the Committee once again requests the Government to provide information on the impact of the NAP on the protection of child domestic workers, particularly the number of child domestic workers engaged in hazardous work who have benefited from initiatives taken in this regard.

3. *Refugee children.* The Committee observes that, according to the UNICEF Uganda situation report of 31 May 2017, there are over 730,000 refugee children in Uganda, among more than 1.2 million refugees. The Committee also observes from the joint Updated regional framework for the protection of South Sudanese and Sudanese refugee children (July 2015–June 2017), developed by UNHCR, UNICEF and NGOs, that South Sudanese and Sudanese refugee children are subjected to child labour in Uganda (page 5). The Committee finally notes that a Uganda Solidarity Summit on Refugees took place in Kampala in June 2017 to showcase the Uganda model of refugee protection and management, to highlight the emergency and long-term needs of the refugees and to mobilize resources. ***While acknowledging the difficult refugee situation prevailing in the country and the efforts provided by the Government, the Committee strongly urges the Government to take effective and time-bound measures as a matter of urgency to specifically protect refugee children from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard.***

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

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 5** (Saint Lucia); **Convention No. 77** (Algeria, Azerbaijan, Bulgaria); **Convention No. 78** (Algeria, Azerbaijan, Bulgaria); **Convention No. 79** (Azerbaijan); **Convention No. 123** (Uganda); **Convention No. 124** (Azerbaijan, Bulgaria, Uganda); **Convention No. 138** (Afghanistan, Angola, Armenia, Bahamas, Belize, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Burundi, Chad, Chile, China, Comoros, Congo, Costa Rica, Democratic Republic of the Congo, Djibouti, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Grenada, Haiti, Lebanon, Papua New Guinea, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, Solomon Islands, South Sudan, Suriname, Uganda); **Convention No. 182** (Afghanistan, Algeria, Angola, Armenia, Azerbaijan, Bahamas, Bangladesh, Barbados, Belize, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Ghana, Grenada, Guyana, Haiti, Kiribati, Lebanon, Madagascar, Netherlands: Aruba, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, South Sudan, Syrian Arab Republic, Uganda, Vanuatu).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 6** (Bulgaria); **Convention No. 79** (Bulgaria); **Convention No. 90** (Azerbaijan); **Convention No. 138** (Azerbaijan, Netherlands: Aruba).

## Equality of opportunity and treatment

### Afghanistan

#### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

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 2022, 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. Equal remuneration for work of equal value. Legislation.* The Committee previously noted that while some of the provisions of the Labour Law (namely sections 8, 9(1), 59(4) and 93) read together provided some protection against discrimination based on sex with respect to remuneration, they did not reflect fully the principle of the Convention. The Committee takes note of the Government's indication, in its report, that the Tripartite Consultative Committee is still engaged in the revision process of the Labour Law with a view to ensuring greater conformity with the provisions of the Convention. The Committee wishes to point out that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value as it permits a broad scope of comparison, including, but going beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 673). **The Committee requests the Government to continue to provide information on the activities and recommendations of the Tripartite Consultative Committee concerning the revision of the Labour Law, and trusts that in the near future its national legislation will explicitly give full legislative expression and effect to the principle of equal remuneration for men and women for work of equal value set out in the Convention.**

*Gender pay gap.* The Committee welcomes the statistics provided by the Government and notes that, according to the Afghanistan Living Conditions Survey (ALCS) for 2013–14, women's average monthly wages were lower than those of men in all job categories, except in the public sector. Men were earning on average 30 per cent more than women in the same occupation and up to three and a half times more than women in the agriculture and forestry sector, where women represented two-thirds of the workforce. The Committee notes that, according to the ALCS for 2016–17, the situation of women has deteriorated as the labour force participation rate of women decreased from 29 per cent in 2014 to 26.8 per cent in 2017, and remained far lower than the labour force participation of men (80.6 per cent in 2017). Moreover, more women than men were in a vulnerable employment situation (89.9 per cent of women compared to 77.5 per cent of men). The Committee **regrets** that the ALCS for 2016–17 does not contain any more information on the gender pay gap. **The Committee requests the Government to provide information on the measures taken to reduce the gender pay gap and identify and address its underlying causes, as well as on the results achieved in this regard. Recalling the importance of the regular collection of statistics in order to undertake an assessment of the nature, extent and evolution of the gender pay gap, the Committee requests the Government to provide updated information on the earnings of men and women disaggregated by economic activity and occupation, both in the private and public sectors, as well as any available statistics or analysis on the gender pay gap.**

*Article 3. Objective appraisal of jobs. Civil service.* Referring to its previous comments, the Committee takes note of the salary scale annexed to the Civil Servants Law, 2008, according to which salaries are determined by reference to grades and steps. It notes that section 8 of the Law refers to the criteria used to determine employment grades according to diploma, skills and work experience. The Committee notes from the data of the national Central Statistics Organization that in 2016 women represented 22.5 per cent of all public sector employees, but only 7.5 per cent of those were placed in the third grade or higher position. **The Committee requests the Government to provide information on the practical application of section 8 of the Civil Servants Law, 2008, including on the methods and factors used to classify jobs under the different grades in order to ensure that tasks mainly performed by women are not being undervalued in comparison to the tasks traditionally performed by men. The Committee further requests the Government to provide**

**information on the distribution of men and women in the various categories and positions of the civil service with their corresponding levels of earnings.**

*Article 4. Awareness-raising activities. Cooperation with employers' and workers' organizations.* The Committee notes the Government's indication that public information campaigns and activities to raise awareness about the principle of the Convention, particularly among employers' and workers' organizations, have been continued, some of which with the assistance of the ILO. **The Committee requests the Government to continue to provide information on awareness-raising activities carried out to promote the principle of the Convention, and to indicate whether any cooperation or joint activities have been undertaken together with the employers' and workers' organizations. The Committee also requests the Government to specify whether, as a result of the awareness-raising activities already implemented, the principle of the Convention has been effectively addressed by the social partners in collective agreements and, if so, to provide information in this respect, including copies of the relevant provisions.**

*Enforcement.* The Committee notes that, in the National Labour Policy for 2017–20, the Government recognizes laxity in the enforcement of labour-related legislation and indicates that periodic inspections will be conducted to reveal quality of compliance, as well as gaps in compliance for which appropriate actions would be taken against defaulting employers. The Committee further notes that, in its last concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the fact that decisions of informal justice mechanisms are discriminatory against women and undermine the implementation of existing legislation, and recommended that women's accessibility to the formal justice system be enhanced (CEDAW/C/AFG/CO/1-2, 30 July 2013, paragraphs 14 and 15). **The Committee requests the Government to provide information as to the steps taken to ensure stricter enforcement of labour legislation as regards the application of the Convention. In particular, the Committee requests information regarding compliance with the requirements of the Convention, including the level of compliance and the identification of gaps in compliance, as well as any actions taken against defaulting employers. The Committee further requests the Government to provide information on any measures taken or envisaged to enhance women's accessibility to the formal justice system, as well as on any complaints made with regard to the principle of the Convention dealt with by the courts or any other competent authorities, including information on sanctions and remedies provided.**

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1969)

The Committee notes with **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 2022, 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. Legislation.* The Committee previously noted that the prohibition of discrimination in section 9 of the Labour Law is very general and urged the Government to take the opportunity of the Labour Law reform process, in the context of the Decent Work Country Programme and the National Action Plan for Women of Afghanistan (NAPWA) 2007–17, to amend its legislation to explicitly prohibit direct and indirect discrimination covering all the grounds listed in *Article 1(1)(a)* of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with *Article 1(1)(b)* of the Convention. The Committee notes the Government's indication, in its reports, that the Tripartite Consultative Committee is still engaged in the revision process of the Labour Law. Referring to its previous comments on section 10(2) of the Civil Servants Law, 2008, which only prohibits discrimination in recruitment based on the grounds of sex, ethnicity, religion, disability and "physical deformity", the Committee notes the Government's general statement that provisions of the Labour Law are also applicable to civil servants. **The Committee requests the Government to continue to provide information on the activities and recommendations of the Tripartite Consultative Committee concerning the revision of the Labour Law, and trusts that in a near future its national legislation will explicitly prohibit, both in the private and public sectors, direct and indirect discrimination covering all the grounds listed in Article 1(1)(a)**

**of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b) of the Convention, covering all aspects of employment and occupation. In the meantime, the Committee requests the Government to clarify the relationship between section 9 of the Labour Law and section 10(2) of the Civil Servants Law and, more generally, to indicate whether all the provisions of the Labour Law shall apply to civil servants or whether this is limited to provisions of the Labour Law which are expressly referred to by the Civil Servants Law.**

*Article 1(1)(a). Discrimination on the ground of sex. Work-related violence and sexual harassment.* The Committee takes note of the Law on the Prohibition of Harassment against Women and Children, adopted in December 2016 and approved by the President on April 2018, which defines and criminalizes physical, verbal and non-verbal harassment, and provides that harassment is punishable with a fine. On the other hand, it notes that section 30 of the Law on the Elimination of Violence against Women (EVAW), 2009, which provides that harassment is punishable by up to six months of imprisonment, was firstly incorporated into the revised Penal Code in March 2017 and then removed on the instruction of the Government in August 2017, as a result of pressure exerted by some members of the Parliament, which left the status of the EVAW Law in a state of uncertainty. The Committee also notes that several United Nations (UN) bodies expressed concern at the escalating level of targeted attacks, including killings, against high profile women, particularly those in the public sector, as well as at the prevalence of sexual harassment against women in the workplace (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 55 and Report of the UN Special Rapporteur on violence against women, its causes and consequences, A/HRC/29/27/Add.3, 12 May 2015, paragraphs 21 and 26). It notes that, according to a survey carried out in 2015 by the Women and Children's Legal Research Foundation, based in Afghanistan, 87 per cent of the women interviewed experienced harassment in the workplace. It further notes that the Afghanistan Independent Human Rights Commission (AIHRC) recently indicated that women police officers are particularly affected and that the Ministry of the Interior is currently finalizing an internal complaints mechanism to this end (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 53). The Committee notes that, pursuant to the 2015 Regulations on the Elimination of Harassment Against Women (11/07/1394), commissions aimed at addressing complaints have been established in several provinces, but that the UN High Commissioner for Human Rights recently highlighted that the mechanisms to combat sexual harassment against women in the workplace remained largely ineffective owing to underreporting, which is mainly due to the social stigma attached to the issue (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 54). **The Committee requests the Government to provide information on any concrete measures (such as, for example, campaigns addressed to the general public to promote gender equality) and specific programmes taken or envisaged to combat violence against women (and more particularly high-profile women), and sexual harassment at the workplace, both in the private and public sectors, including any social stigma attached to this issue. It further requests the Government to provide information on the number, nature and outcome of any complaints or cases of work-related violence or sexual harassment in the workplace handled by the commissions established under the 2015 Regulations, the labour inspectorate and the courts. The Committee also requests the Government to clarify the relationship between the Law on the Elimination of Violence against Women, 2009, and the Law on the Prohibition of Harassment against Women and Children, 2016, as well as the current status of both legislations. Please provide a copy of the Law on the Prohibition of Harassment against Women and Children, 2016, and of the 2015 Regulations on the Elimination of Harassment Against Women (11/07/1394).**

*Article 2. Equal access of men and women to vocational training and education.* The Committee notes the Government's indication that girls represent 45 per cent of total school enrolment. Referring to the discussion held at the Conference Committee on the Application of Standards at its 106th Session (June 2017) on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), the Committee notes that non-state groups deliberately restricted the access of girls to education, including attacks and closure of girls' schools, and that 35 schools were used for military purposes in 2015. It further notes the low 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 written threats warning girls to stop going to school by non-state armed groups. The Committee notes that, in the Afghanistan Living Conditions Survey (ALCS) for 2016–17, the Central Statistics Organization indicates that, in 2016, girls' access to primary education was in decline, and female gross attendance rates in primary, secondary and tertiary education represented only 0.71, 0.51 and 0.39 per cent of the corresponding male rates, respectively. Furthermore, it

is estimated that only 37 per cent of adolescent girls are literate, compared to 66 per cent of adolescent boys and that 19 per cent of adult women are literate compared to 49 per cent of adult men. **While acknowledging the difficult situation prevailing in the country, the Committee requests the Government to step up its efforts to encourage girls' and women's access and completion of education at all levels, and to enhance their participation in a wide range of training programmes, including those in which men have traditionally predominated. It requests the Government to provide updated statistics disaggregated by sex, on participation and completion rates of the different levels of education, as well as in the various vocational training programmes. The Committee again requests the Government to provide information on any measures taken as a result of the affirmative action policy in education envisaged by the NAPWA 2007–17.**

*Article 5(1). Special measures of protection. Work prohibited for women.* The Committee previously noted that the list of physically arduous or harmful work prohibited for women to be established under section 120 of the Labour Law was still under preparation. **Noting the absence of updated information provided by the Government in that respect, the Committee again urges the Government to ensure that, in the process of the Labour Law reform, any restrictions on the work that can be done by women are strictly limited to maternity protection and are not based on stereotyped assumptions regarding their capacity and role in society that would be contrary to the Convention. It requests the Government to provide a copy of the list of work that is prohibited for women, once adopted.**

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

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

## Barbados

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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. Equal remuneration for work of equal value. Legislation.* In previous comments, the Committee noted the absence of a legislative framework supporting the right to equal remuneration for men and women for work of equal value. Having noted also that the existing mechanisms for collective bargaining and wage councils for wage determination did not seem to promote and ensure effectively this right, the Committee requested the Government to take measures to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee notes from the Government's report on Discrimination (Employment and Occupation) Convention, 1958 (No. 111) that the draft National Gender Policy, which includes a section on employment, is currently being reviewed by the relevant ministries but that the Employment (Prevention of Discrimination) Bill is yet to be adopted. The Committee once again recalls the particular importance of capturing in legislation the concept of "work of equal value" in order to address the segregation of men and women in certain sectors and occupations due to gender stereotypes. **In light of the ongoing legislative and policy developments on gender equality and non-discrimination, the Committee asks the Government to take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value will be fully reflected in the National Gender Policy and in the Employment (Prevention of Discrimination) Bill, and to provide a copy of the policy and the new legislation, once adopted.**

*Gender earnings gap and occupational segregation.* The Committee notes from the statistics published by the Barbados Statistical Service (Labour Force Survey) that of all women employed in 2015, 52.4 per cent earned less than 500 Barbadian dollars (BBD) per week compared to 41.8 per cent of all men employed in that same year. Among those earning between BBD500 and BBD999 per week, men represented almost 56 per cent and women only 44 per cent. Among those earning between BBD1,000 and BBD1,300, women represented 46.6 per cent and men 53.1 per cent. Men also account for a little more than half of the workers (52.5 per cent) in the highest earnings group (over BBD1,300). The Committee further notes from the Labour

Force Survey data for 2015 the persistent occupational gender segregation of the economy with women mostly employed as service workers and clerks while men are mostly employed as craft and related workers or plant and machine operators. When looking at economic sectors, women workers are highly represented in "Accommodation and Food Services", and their numbers sometimes more than doubles or triples the number of male workers in "Finance and Insurance", "Education" and "Human Health and Social Work". Women are also over-represented among household employees. In contrast, men largely predominate in the "Construction" and "Transportation and Storage" sectors. The Committee further refers to its comments on Convention No. 111. ***The Committee asks the Government to take measures to reduce the earnings gap between men and women and to increase the employment of women in jobs with career opportunities and higher pay. Recalling that wage inequalities may arise due to the segregation of men and women into certain sectors and occupations, the Committee also asks the Government to provide information on the results achieved under the National Employment Policy and the National Gender Policy, once adopted, to address occupational gender segregation and to increase the employment of women and men in sectors and occupations in which they are under-represented.***

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

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

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1974)

The Committee notes with ***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 2022, 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 1–3 of the Convention. Legislative protection against discrimination.* The Committee had previously noted that the Employment Rights Act 2012, while protecting workers against unfair dismissal on all the grounds enumerated in *Article 1(1)(a)* and certain additional grounds under *Article 1(1)(b)* of the Convention, did not ensure full legislative protection against both direct and indirect discrimination for all workers in all aspects of employment and occupation. The Committee previously asked the Government to address the protection gaps in the legislation. The Committee notes that the Government in its report merely restates the constitutional provisions on equality, and the protections afforded by the Employment Rights Act 2012. The Government also maintains that no distinctions, exclusions, or preferences based on the prohibited grounds set out in *Article 1(1)(a)* or on any additional grounds determined in accordance with *Article 1(1)(b)* exist in the country, and that no discrimination cases have been reported. Regarding the presumed absence of discrimination, the Committee considers that it is essential to acknowledge that no society is free from discrimination, and that continuous action is required to address discrimination in employment and occupation, which is both universal and constantly evolving (see 2012 General Survey on the fundamental Conventions, paragraphs 731 and 845). ***Noting that the Employment (Prevention of Discrimination) Bill 2016 is still in draft form, the Committee urges the Government to take steps, without further delay, to address the protection gaps in the legislation, and to ensure that the anti-discrimination legislation expressly defines and prohibits direct and indirect discrimination in all aspects of employment and occupation, for all workers, and on all the grounds set out in the Convention. The Committee also repeats its request to the Government to provide information on the steps taken to ensure that all workers are being protected in practice against discrimination not only with respect to dismissal but with respect to all aspects of employment and occupation, on the grounds set out in the Convention. Such measures could include public awareness raising aimed at, or in cooperation with, workers and employers and their organizations, or the development of codes of practice or equal employment opportunities guidelines to generate broader understanding on the principles enshrined in the Convention. Noting with regret that for several years the Government has not provided any information on the action taken to promote and ensure equality of opportunity and treatment with respect to race, colour and national extraction, and to eliminate discrimination in employment and occupation on these grounds, the Committee urges the Government to***

**provide such information without delay, including any studies or surveys on the labour market situation of the different groups protected under the Convention.**

*Article 1(1)(a). Discrimination on the grounds of sex. Sexual harassment.* The Committee previously noted the absence in the Employment Rights Act 2012 of provisions protecting workers against sexual harassment. The Committee notes the Government's indication that the proposed Sexual Harassment in the Workplace Bill will define and prohibit both quid pro quo and hostile environment sexual harassment and provide for a tribunal to hear complaints and determine matters related to sexual harassment. **The Committee urges the Government to take steps to ensure that the draft Sexual Harassment in the Workplace Bill is adopted speedily and that it will define and prohibit sexual harassment (both quid pro quo and hostile environment harassment) in all aspects of employment and occupation, and asks that the Government provide a copy of the latest version of the Bill, or as enacted, with its next report.**

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

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

## China

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2006)

With reference to its previous comments, the Committee recalls the observations by the International Trade Union Confederation (ITUC) received on 16 and 28 September 2020 and notes that additional observations by the ITUC were received on 6 September 2021 reiterating and supplementing its previous observations. The Committee also notes the Government's reply received on 19 November 2020 and the additional information communicated by the Government on 30 August 2021 in reply to the Committee's direct request.

*Article 1(1)(a) and (3) of the Convention. Definition and prohibition of discrimination in employment and occupation. Prohibited grounds of discrimination. Legislation.* The Committee recalls that the English translation of section 12 of the Labour Law of 1994 provides that "[w]ith regard to employment, the workers shall not be discriminated in aspects of nationality, race, sex and religious beliefs" and the English translation of section 3 of the Employment Promotion Law of 2007 provides that "[i]n seeking employment, the workers shall not be subject to discrimination because of their ethnic backgrounds, races, gender, religious beliefs, etc." The Committee notes that, in its report, the Government refers to: (1) the revised "Regulation on Religious Affairs", which took effect on 1 February 2018 and provides that "no organization or individual ... may discriminate against citizens who believe in any religion ... or citizens who do not believe in any religion ..."; and (2) the Labour Law and the Employment Promotion Law that contain provisions on the prohibition of employment discrimination and the promotion of fair employment. The Committee notes nonetheless that these laws and regulations do not provide for a definition of discrimination, whether direct or indirect, and both do not seem to cover all aspects of "employment and occupation" as defined in *Article 1(3)* of the Convention. **The Committee therefore asks the Government to take steps to: (i) include a clear and comprehensive definition of discrimination (both direct and indirect) in its labour legislation; and (ii) clarify whether the provisions of the Labour Law of 1994 also cover access to employment and vocational training. With respect to the anti-discrimination legal provisions in force, the Committee also asks the Government to confirm that: (i) the Labour Law of 1994 covers only the grounds of nationality, race, sex and religious beliefs; and (ii) the Employment Promotion Law of 2007 provides for an open list of prohibited discrimination grounds and therefore also covers discrimination based on colour, national extraction, social origin and political opinion (even if such grounds are not explicitly mentioned). It further asks the Government to indicate whether any interpretation concerning the wording "etc." in the Employment Promotion Law of 2007 has been handed down by the judicial authorities and, if so, to provide a copy of the given decisions.**

*Articles 1(1)(a), 2 and 3. Allegations of discrimination based on race, religion, national extraction and social origin affecting ethnic and religious minorities in Xinjiang.* The Committee refers to its comments on the application of the Employment Policy Convention, 1964 (No. 122). In the interest of coherence and transparency in its comments, considering that both the allegations and the information in reply raise a close connection between employment policy, the free choice of employment of ethnic and religious minorities and their protection against discrimination in employment and occupation, the Committee presents the same synopsis of the information available in both comments.

In its observations of 2020 and 2021, the ITUC alleges that the Government of China has been engaging in a widespread and systematic programme involving the extensive use of forced labour of the Uyghur and other Turkic and/or Muslim minorities for agriculture and industrial activities throughout the Xinjiang Uyghur Autonomous Region (Xinjiang), in violation of the right to freely chosen employment set out in *Article 1(2)* of Convention No. 122. The ITUC maintains that some 13 million members of the ethnic and religious minorities in Xinjiang are targeted on the basis of their ethnicity and religion with a goal of social control and assimilation of their culture and identity. According to the ITUC, the Government refers to the programme in a context of “poverty alleviation”, “vocational training”, “re-education through labour” and “de-extremification”.

The ITUC submits that a key feature of the programme is the use of forced or compulsory labour in or around internment or “re-education” camps housing some 1.8 million Uyghur and other Turkic and/or Muslim peoples in the region, as well as in or around prisons and workplaces across Xinjiang and other parts of the country.

The ITUC indicates that, beginning in 2017, the Government has expanded its internment programme significantly, with some 39 internment camps having almost tripled in size. The ITUC submits that, in 2018, Government officials began referring to the camps as “vocational education and training centres” and that in March 2019, the Governor of the Xinjiang Uyghur Autonomous Region described them as “boarding schools that provide job skills to trainees who are voluntarily admitted and allowed to leave the camps”. The ITUC indicates that life in “re-education centres” or camps is characterized by extraordinary hardship, lack of freedom of movement, physical and psychological torture, compulsory vocational training and actual forced labour.

The ITUC also refers to “centralized training centres” that are not called “re-education camps” but have similar security features (e.g. high fences, security watchtowers and barbed wire) and provide similar education programmes (legal regulations, Mandarin language courses, work discipline and military drills). The ITUC adds that the “re-education camps” are central to an indoctrination programme focused on separating and “cleansing” ethnic and religious minorities from their culture, beliefs, and religion. Reasons for internment may include persons having travelled abroad, applied for a passport, communicated with people abroad or prayed regularly.

The ITUC also alleges prison labour, mainly in cotton harvesting and the manufacture of textiles, apparel and footwear. It refers to research according to which, starting in 2017, the prison population of Uyghurs and other muslim minorities increased dramatically, accounting for 21 per cent of all arrests in China in 2017. Charges typically included “terrorism”, “separatism” and “religious extremism”.

Finally, the ITUC alleges that at least 80,000 Uyghurs and other ethnic minority workers were transferred from Xinjiang to factories in Eastern and Central China as part of a “labour transfer” scheme under the name “Xinjiang Aid”. This scheme would allow companies to: (1) open a satellite factory in Xinjiang; or (2) hire Uyghur workers for their factories located outside this region. The ITUC alleges that the workers who are forced to leave the Uyghur Region are given no choice and, if they refuse, are threatened with detention or the detention of their family. Outside Xinjiang, these workers live and work in segregation, are required to attend Mandarin classes and are prevented from practicing their culture or religion. According to the ITUC, state security officials ensure continuous physical and virtual surveillance. Workers lack freedom of movement, remaining confined to dormitories and are required

to use supervised transport to and from the factory. They are subject to impossible production expectations and long working hours. The ITUC adds that, where wages are paid, they are often subject to deductions that reduce the salary to almost nothing. ITUC adds that, without these coercively arranged transfers, Uyghurs would not find jobs outside Xinjiang, as their physical appearance would trigger police investigations.

According to the ITUC's allegations, to facilitate the implementation of these schemes, the Government offers incentives and tax exemptions to enterprises that train and employ detainees; subsidies are granted to encourage Chinese-owned companies to invest in and build factories near or within the internment camps; and compensation is provided to companies that facilitate the transfer and employment of Uyghur workers outside the Uyghur Region.

In its 2021 observations, the ITUC supplements these observations with information, including testimonies from the Xinjiang Victims Database, a publicly accessible database which as of 3 September 2021 had allegedly recorded the experience of some 35,236 ethnic minority members forcibly interned by the Government since 2017.

The Government states that the right to employment is an important part of the right to subsistence and development, which constitute basic human rights. The Government indicates that, under its leadership, Xinjiang has made great progress in safeguarding human rights and development. It adds that people of all ethnic groups voluntarily participate in employment of their own choice, and that the ITUC has ignored the progress made in economic development, poverty alleviation, improvement of people's livelihood and efforts to achieve decent work in Xinjiang.

With respect to the ITUC observations in relation to the use of forced labour, the Government emphasizes that these allegations are untrue and politically motivated.

The Government indicates that, pursuant to the Constitution, the State creates conditions for employment through various channels. The Employment Promotion Law (2007) stipulates that workers have the right to equal employment and to choose a job on their own initiative, without discrimination. Under the Vocational Education Law of 1996, citizens are entitled to receive vocational education and the State takes measures to develop vocational education in ethnic minority areas as well as remote and poor areas.

The Government indicates that residents of deeply poverty-stricken areas in southern Xinjiang have suffered insufficient employability, low employment rates, very limited incomes and long-term poverty. It states that eliminating poverty in Xinjiang has been a critical part of the national unified strategic plan to eradicate poverty by the end of 2020. The Government adds that it has eliminated absolute poverty, including in southern Xinjiang, thanks to government programmes such as the Programme for Revitalizing Border Areas and Enriching the People during the 13th Five-Year Plan Period (GUOBANFA No. 50/2017) and the Three-Year Plan for Employment and Poverty Alleviation in Poverty-stricken Areas in the four prefectures of Southern Xinjiang (2018-2020). The Programme for Revitalizing Border Areas and Enriching the People had set development targets for nine provinces and autonomous regions, including Xinjiang, such as the lifting out of poverty of all rural poor and the continuous expansion of the scale of employment combining individual self-employment, market-regulated employment, government promotion of employment and entrepreneurship, and vocational training to increase the employability of workers. The Three-Year Plan laid the foundation for the Xinjiang government to provide dynamic, categorized and targeted assistance to people with employment difficulties and families where no one is employed, and create structured conditions for people to find jobs locally, to seek work in urban areas, or to start their own businesses.

The Government reports that the task of relocating the poor for the purpose of poverty relief has been completed, and that the production and living conditions of poor people have been greatly improved: the poverty incidence rate in the four poverty-stricken prefectures of Xinjiang dropped from 29.1 per cent in 2014 to 0.21 per cent in 2019. Between 2014 and 2020, the total employed population

in Xinjiang grew from 11.35 million to 13.56 million, representing an increase by 19.4 per cent. In the same period, an average of 2.8 million urban job opportunities were provided annually to the “surplus rural workforce”.

The Government is firm in its view that it fully respects the employment wishes and training needs of Xinjiang workers, including ethnic minorities. The Xinjiang Government regularly conducts surveys of labourers' willingness to find employment and keep abreast of their needs in terms of employment location, job positions, remuneration, working conditions, living environment, development prospects and training needs. These surveys demonstrate that more urban and rural “surplus” workers hope to go to cities in northern Xinjiang or other more developed provinces and cities in other parts of the country, which offer higher wages, better working conditions and a better living environment. Ethnic minorities count on the government to provide more employment information and other public employment services to their members. The fact that ethnic minority workers go out to work is entirely voluntary, autonomous and free. According to the Government, the Three-Year Plan for Southern Xinjiang explicitly refers to the “willingness for employment” and states that the wishes of individuals “who are unwilling to work due to health and other reasons” shall be fully respected, and that they will never be forced to register for training.

The Government stresses that language training for ethnic minority workers in Xinjiang is necessary to increase their language ability, and enhance their employability, and does not deprive them of the right to use their own language.

The Government also replies to the ITUC allegations that the Uyghur and other ethnic minorities in Xinjiang are not paid the applicable local minimum wage, indicating that the Labour Law of the People's Republic of China stipulates that the minimum wage system applies across the country, although minimum wage standards may vary across administrative regions. As of 1 April 2021, the minimum wage in Xinjiang is divided into four grades: 1,900 yuan, 1,700 yuan, 1,620 yuan and 1,540 yuan. The Government considers reports that the wages of some migrant workers in Xinjiang are as low as US\$114 (approximately 729 yuan) per month to be groundless, stating that the overwhelming majority of this information is taken from individual interviews and lacks clear sources of data or statistical information. In addition, the Government points out that the reports do not fully clarify whether the workers concerned are working less than the statutory working hours, in which case they would be paid less. The Government states that by going out to work, the actual income of many people is much higher than the minimum wage of Xinjiang.

The Government also reports that the local government of Xinjiang has put in place labour inspection systems for protecting the rights and interests of workers and addressing their reports and complaints concerning wage arrears, failure to sign labour contracts and other infringements. The Government indicates that it will take steps to further strengthen the supervision and inspection of employer compliance with minimum wage provisions, call on employers to respect the minimum wage standards and address violations.

The Government provides detailed information on its laws, regulations and policies regarding freedom of religion; equality among the 56 ethnic groups in China and for consolidating and developing unity between and within these groups.

The Government reports that China adopts policies securing freedom of religious belief; manages religious affairs in accordance with the law; adheres to the principle of independence from foreign countries and self-management; and actively guides religions to adapt to the socialist society so that religious believers may love their country and compatriots, safeguard national unity and ethnic solidarity, be subordinate to and serve the overall interests of the nation and the Chinese people. The Law of the People's Republic of China on the Administration of Activities of Overseas Non-Governmental Organizations within China prohibits overseas NGOs from illegally engaging in or sponsoring religious activities. China's Criminal Law, National Security Law, and Counter-Terrorism Law provide for the

protection of citizens' freedom of religious belief. The Counter-Terrorism Law of the People's Republic of China states that China opposes all extremism that seeks to instigate hatred, incite discrimination and advocate violence by distorting religious doctrines or through other means, and forbids any discriminatory behaviour on the grounds of region, ethnicity and religion. The Regulations on Religious Affairs prohibit any organization or individual from advocating, supporting or sponsoring religious extremism, or using religion to undermine ethnic unity, divide the country, or engage in terrorist activities. According to the Government, China takes measures against the propagation and spread of religious extremism, and at the same time, carefully avoids linking violent terrorism and religious extremism with any particular ethnic group or religion.

The Committee takes due note of all the allegations and information communicated by both the ITUC and the Government on the application of Convention Nos 111 and 122, which appear interrelated, as well as stated government policy as it transpires from various regulatory and policy documents.

The Committee takes note of the Government's explanation of its various regulations and policies, including on the eradication of poverty without discrimination. However, the Committee expresses **concern** in respect of the methods applied, the impact of their stated objectives and their (direct or indirect) discriminatory effect on the employment opportunities and treatment of ethnic and religious minorities in China.

The Committee recalls that Convention No. 111 requires the formulation and the adoption of a national equality policy, with a view to eliminating any discrimination (*Article 2*) and defines discrimination as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation" (*Article 1(1)(a)*). Under the Convention, the term "race" includes any discrimination against linguistic communities or minority groups whose identity is based on religious or cultural characteristics or national or ethnic origin (see General Survey on the fundamental Conventions, 2012, paragraph 762). It further recalls that racial harassment, which is a serious form of discrimination, occurs where a person is subject to physical, verbal or non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient (see the general observation of 2018 on the application of the Convention).

The Committee recalls that freedom from discrimination is a fundamental human right and is essential for workers in order to choose their employment freely, to develop their full potential and to reap economic rewards on the basis of merit. As such, the promotion of equality of opportunity and treatment in employment and occupation should be mainstreamed in relevant national policies, such as education and training policies, employment policies, poverty reduction strategies, rural or local development programmes, women's economic empowerment programmes, and climate mitigation and adaptation strategies (see the 2018 general observation).

The Committee also recalls that the Convention aims to provide protection against religious discrimination in employment and occupation, which often arises as a result of a lack of religious freedom or intolerance towards persons of a particular faith, a different faith, or towards those who profess no religion. The expression and manifestation of religion is also protected. Appropriate measures need to be adopted to eliminate all forms of intolerance (see 2012 General Survey, paragraph 798).

The Committee observes that discrimination on the basis of actual or perceived religion, combined with exclusions and distinctions based on other grounds such as race, ethnicity or national extraction continues to acquire greater significance, especially in the context of increasing global movements of people looking for better opportunities, and concerns about countering and preventing terrorism. Measures to promote tolerance and coexistence among religious, ethnic and national minorities and awareness-raising on the existing legislation prohibiting discrimination are therefore

more than ever essential to achieving the objectives of the Convention (2012 General Survey, paragraph 801).

The Committee recalls that, in its previous comment, it referred to the concluding observations by the United Nations Committee on the Elimination of Racial Discrimination (CERD) regarding the situation in the Xinjiang Uyghur Autonomous Region. It notes that the CERD was alarmed, inter alia, by: (1) “numerous reports of the detention of large numbers of ethnic Uighurs and other Muslim minorities, held incommunicado and often for long periods, without being charged or tried, under the pretext of countering religious extremism”; (2) “reports of mass surveillance disproportionately targeting ethnic Uighurs”; and (3) “reports that all residents of the Xinjiang Uyghur Autonomous Region are required to hand over their travel documents to police and apply for permission to leave the country, and that permission may not come for years”. The CERD recommended that action be taken in this regard, in particular halting “the practice of detaining individuals who have not been lawfully charged, tried and convicted for a criminal offence in any extra-legal detention facility” and immediately releasing “individuals currently detained under these circumstances, and allow those wrongfully held to seek redress”; undertaking “prompt, thorough and impartial investigations into all allegations of racial, ethnic and ethno-religious profiling” and eliminating “travel restrictions that disproportionately affect members of ethnic minorities”. The Committee further notes the concern expressed by the CERD regarding “reports that ethnic Uighurs ... often face discrimination in job advertisements and recruitment processes” (CERD/C/CHN/CO/14-17, 19 September 2018, paragraphs 40, 42 and 47).

In addition, the Committee refers to its comments on the application of Convention No. 122 for the concern expressed by UN human rights experts mandated by the Human Rights Council about the forceful relocation of minority workers, especially Uyghur, across the country and the vocational training policy with the stated objective of combatting terrorism and religious extremism.

The Committee recalls that *Article 3* of Convention No. 111 establishes a number of specific obligations with respect to the design of a national policy to promote equality of opportunity and treatment and eliminate discrimination in respect of employment and occupation. In particular, it requires parties to the Convention to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with such policy; to pursue the policy under the direct control of a national authority; and to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority.

The Committee notes that in its white paper on vocational education and training in Xinjiang (2019), the government describes Xinjiang, which is home to the Uyghur people and other muslim minorities, as a “key battlefield in the fight against terrorism and extremism in China”. In accordance with the law, the government has established “a group of vocational centres” to offer systematic education and training in response to “a set of urgent needs”: to curb frequent terrorist incidents; to eradicate the breeding ground for religious extremism; to help trainees acquire better education and vocational skills, find employment, and increase their incomes; and, most of all, to safeguard social stability and long-term peace in Xinjiang. Article 33 of the Decision of 10 October 2018 to revise the Xinjiang Uyghur Autonomous Region regulation on de-radicalization (the “XUAR decision”) introduced a new provision defining the responsibility of the vocational education and training centres and other education and transformation bodies in de-radicalization efforts as follows: to carry out education and training efforts on the national spoken and written language, laws and regulations, and occupational skills; to organize and carry out de-radicalization ideological education, psychological rehabilitation, and behavioural corrections; and to promote ideological conversion of those receiving education and training, returning them to society and to their families.

The Decision read jointly with the white paper provide the basis to authorize the administrative detention for the purpose of ideological conversion, including of “people who participated in terrorist or extremist activities that posed a real danger but did not cause actual harm, whose subjective

culpability was not deep, who acknowledged their offences and were contrite about their past actions and thus do not need to be sentenced to or can be exempted from punishment, and who have demonstrated the willingness to receive training" (White Paper on vocational education and training in Xinjiang). The white paper considers that education and training is not a measure to limit or circumscribe the freedom of the person but is rather an important measure to help trainees to break free from ideas of terrorism and religious extremism.

The Committee notes that the XUAR decision also lays down de-radicalization responsibilities for enterprises (article 46) and trade unions (article 34). Enterprises failing to perform their de-radicalization duties are subject to "criticism and education" by the unit they are located at or by their higher-ranking competent department and ordered to reform (article 47).

The Committee shares the concerns expressed by the Special Rapporteurs to the UN Human Rights Council (see commentary on the Counter-Terrorism Law of the People's Republic of China (2015) and its Regional Implementing Measures; and the Xinjiang Uyghur Autonomous Region Implementing Measures of the Counter-Terrorism Law (2016)) about terrorist profiling practices based on a person's ethnicity, national origin or religion in as much as they generate a climate of intolerance, which is conducive to discrimination in employment and occupation and forced labour practices such as those alleged in the observations of the ITUC.

In this regard, the Committee recalls that under *Article 4* of the Convention, any "measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice". However, the mere expression of religious, philosophical or political beliefs is not a sufficient basis for the application of the exception. Persons engaging in activities expressing or demonstrating opposition to established political principles by non-violent means are not excluded from the protection of the Convention by virtue of *Article 4*.

***Having duly considered the information provided by the Government in response to these serious allegations, the Committee expresses its deep concern in respect of the policy directions expressed in numerous national and regional policy and regulatory documents and requests therefore the Government to:***

- (i) review its national and regional policies with a view to eliminating all distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation;***
- (ii) repeal provisions in the XUAR decision that impose de-radicalization duties on enterprises and trade unions and prevent enterprises and trade unions from playing their respective roles in promoting equality of opportunity and treatment in employment and occupation without discrimination based on race, national extraction, religion or political opinion;***
- (iii) revise national and regional policies with a view to ensuring that the activities of vocational guidance, vocational training and placement service serve the purpose of assisting ethnic and religious minorities in the development and use of their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society;***
- (iv) amend national and regional regulatory provisions with a view to re-orienting the mandate of vocational training and education centres from political re-education based on administrative detention towards the purpose set out in (iii);***
- (v) provide information on the measures taken to ensure observance of the policy to promote equality of opportunity and treatment in vocational training activities carried out in Xinjiang's vocational training and education centres; and***

**(vi) provide information on the measures taken to ensure observance of the policy to promote equality of opportunity and treatment for the Uyghurs and other ethnic minority groups when seeking to access employment outside the Xianjing Autonomous Province.**

Articles 2 and 3. *Equality of opportunity and treatment of ethnic and religious minorities, including in the civil service.* Further to its request, the Committee notes the information provided by the Government regarding: (1) increased efforts on training programmes for skilled personnel in ethnic areas (more than 30 advanced training programmes in ethnical areas such as Inner Mongolia, Guangxi, Yunnan, Qinghai, Tibet, Guizhou, Ningxia, and Xinjiang), with a number of trained personnel reaching 10,000 people per year; (2) special training programmes for skilled personnel in Xinjiang and Tibet (selection of 200 ethnic talents selected from Xinjiang and 120 from Tibet); (3) the effective recruitment of a total of 25,000 ethnic civil servants nationwide in 2016 (13.3 per cent of the newly recruited civil servants) and 23,000 in 2017 (11.75 per cent of the newly recruited civil servants); and (4) the continuation of the workforce capacity building in ethnic areas, through intensified efforts to support the training targeted at civil servants in ethnic areas, thematic training sessions and on-site training workshops (14 sessions, with more than 870 civil servants engaged, since 2016) and active engagement in bilingual programmes. **Noting these developments, the Committee requests the Government to continue to provide information on the measures taken, and their results, to promote equality of opportunity and treatment for ethnic and religious minorities, indicating if, and how, the social partners and the groups concerned are consulted when designing and implementing such measures. The Committee also requests the Government to provide information on the current employment situation of various ethnic and religious minorities inside and outside the autonomous regions, including employment data disaggregated by sex and ethnicity in the civil service.**

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

**[The Government is asked to supply full particulars to the Conference at its 110th Session and to reply in full to the present comments in 2022.]**

## Congo

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1999)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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(a) of the Convention. *Principle of equal remuneration for men and women workers for work of equal value. Laws and regulations.* The Committee recalls that, since 2005, it has been drawing the Government's attention to the need to amend sections 80(1) and 56(7) of the Labour Code, which limit the application of the principle of equal remuneration to the existence of "equal working conditions, qualifications and output" (section 80(1)) or to "equal work" (section 56(7)), and do not reflect the notion of "work of equal value". The Committee notes that the Government reaffirms that amendments to sections 80(1) and 56(7) of the Labour Code are envisaged to ensure that the concept of "work of equal value" is binding. **Noting the Government's commitment, the Committee requests it to ensure, within the framework of the ongoing revision of the Labour Code, that the principle of equal remuneration for men and women workers for work of equal value set out in the Convention is set out in the Labour Code.**

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

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

## Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

The Committee notes with **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 2022, 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 1–3 of the Convention. Protection against discrimination. Legislation.* For many years the Committee has been emphasizing the shortcomings in the Labour Code and the General Civil Service Regulations regarding the protection of workers against discrimination, since these texts do not cover all of the grounds of discrimination or all the aspects of employment and occupation set out in the Convention. The Committee recalls that the Labour Code only covers the grounds of "origin", gender, age and status in relation to wage discrimination (section 80) and the grounds of opinion, trade union activity, membership or not of a political, religious or philosophical group or a specific trade union in relation to dismissal (section 42). The General Civil Service Regulations prohibit any distinction between men and women in relation to their general application and any discrimination on the basis of family situation in relation to access to employment (sections 200 and 201). The Committee notes the Government's indication that a preliminary draft of a new Bill amending and supplementing certain provisions of the Labour Code will take into account the grounds of discrimination set out in *Article 1(1)(a)*. **The Committee asks the Government to ensure that, within the framework of the ongoing revision of the Labour Code, discrimination on all of the grounds set out in the Convention is explicitly prohibited, as well as discrimination on any other grounds which it considers appropriate to include in the Code, at all stages of employment and occupation, including recruitment. The Committee also asks the Government to take the necessary measures to amend the provisions of the General Civil Service Regulations in order to ensure that civil servants are protected as a minimum in relation to the grounds set out in Article 1(1)(a) in respect of all aspects of employment, including recruitment and promotion. The Committee also requests the Government to provide information on any legislative developments in this respect.**

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Committee notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed deep concern at the high prevalence of violence against women and girls, especially sexual harassment at school and at work, the delay in adopting a comprehensive law to combat all forms of violence against women and the lack of awareness regarding this issue and of reporting of gender-based violence (CEDAW/C/COG/CO/6, 23 March 2012, paragraph 23). The Committee notes the Government's indication that, since 2011, the new draft Bill amending and supplementing certain provisions of the Labour Code has contained provisions against sexual harassment. **The Committee once again asks the Government to ensure that provisions covering both quid pro quo harassment and sexual harassment which creates a hostile, intimidating or offensive environment are adopted and that they protect the victims of sexual harassment and establish penalties for the perpetrators. The Committee also asks the Government to take steps, in collaboration with employers' and workers' organizations, to prevent and combat sexual harassment, such as awareness-raising measures for employers, workers and educators as well as for labour inspectors, lawyers and judges, and to establish information systems and complaints procedures which take into account the sensitive nature of this issue in order to bring an end to these practices and allow victims to exercise their rights without losing their jobs.**

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

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

## Ghana

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

*Article 1 of the Convention. Prohibited grounds of discrimination. Legislation.* In its previous comment, after noting that consultations to review the Labour Act of 2003 were ongoing, the Committee asked the Government to seize this opportunity to ensure that the new Labour Act includes as a minimum the seven prohibited grounds of discrimination listed in *Article 1(1)(a)* of the Convention. Specifically, the Committee had stressed that the expressions “social status”, “politics” and “political status”, set out as prohibited grounds of discrimination in sections 14 and 63 of the Labour Act, appeared to be narrower than the terms “social origin” and “political opinion” enumerated in the Convention. **Noting that the Government reports that the review of the Labour Act of 2003 is still ongoing at the National Tripartite Committee, the Committee reiterates its request that the new provisions adopted in the Labour Act cover, as a minimum, all the prohibited grounds listed in Article 1(1)(a).**

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* Previously, the Committee asked the Government to provide information on: (1) any developments concerning the expansion of the definition of sexual harassment in the Labour Act (to explicitly cover hostile environment sexual harassment); and, in the meantime, (2) the number, nature and outcome of any complaints or cases of violence or sexual harassment at work handled by the labour inspectorate and the courts. The Government indicates that the expansion of the definition of sexual harassment is part of the ongoing review of the Labour Act. The Government further indicates that there has not been any report or complaints in respect of sexual harassment at work to the Labour inspectorate, the National Labour Commission, or the courts. The Committee recalls in this regard that the absence of complaints regarding sexual harassment does not necessarily indicate that this form of sex discrimination does not exist; rather, it is likely to reflect the lack of an appropriate legal framework, the lack of awareness, understanding and recognition of this form of sex discrimination among government officials, and workers and employers and their organizations, as well as the lack of access to or the inadequacy of complaints mechanisms and means of redress, or fear of reprisal (General Survey on the fundamental Conventions, 2012, paragraph 790). **The Committee therefore asks the Government to take steps to raise awareness on sexual harassment among labour inspectors and other officials in charge of detecting and addressing the issue, as well as among workers and employers and their respective organizations. The Committee also asks the Government to provide detailed information on the complaints mechanisms in place to address cases of sexual harassment at work and their use in practice (number of cases treated and outcome of these cases). Lastly, the Committee asks the Government, once again, to provide information on any legislative developments concerning the expansion of the definition of sexual harassment with a view to explicitly covering hostile environment sexual harassment.**

*Article 2. Equality of opportunity and treatment irrespective of race, colour, religion or national extraction.* In its last comment, the Committee noted that the report of the Government was silent on the issue of discrimination on the grounds of race, colour, religion and national extraction. It also drew the Government’s attention to its 2018 general observation on discrimination on the grounds of race, colour and national extraction and requested information in response to the questions raised therein. The Committee notes that the Government expresses its commitment to fighting against discrimination on the grounds of race, colour, religion and national extraction. The Government refers to section 17(2) and (3) of the 1992 Constitution which prohibits discrimination on the grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status (section 17(2)); and defines discrimination as giving “different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed,

whereby persons of one description are subjected to disabilities or restrictions to which persons of another description are not made subject or are granted privileges or advantages which are not granted to persons of another description" (section 17(3)). The Government also reports that the grounds of race, colour, religion and national extraction are covered by the protection afforded by the Labour Code (sections 14 and 63). While taking note of the provisions in the national legislation referred to by the Government, the Committee recalls that when reviewing the situation and deciding on the measures to be taken in the context of a national equality policy, it is essential that attention be given to all the grounds protected under the Convention. The Committee also recalls that the implementation of a national equality policy presupposes the adoption of a range of specific measures, which often consist of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes, and awareness raising (2012 General Survey, paragraphs 848 and 849). ***The Committee therefore asks the Government to provide information on the measures adopted in practice to promote the principle of equality of opportunity and treatment in employment and occupation irrespective of race, colour, religion or national extraction and to address instances of discrimination on these grounds. In particular, the Committee asks the Government to provide information on: the adoption and implementation of specific administrative measures; collective agreements; public policies; affirmative action measures; dispute resolution and enforcement mechanisms; specialized bodies; practical programmes; and awareness raising activities; directed at addressing discrimination on the grounds of race, colour, religion or national extraction in employment and occupation.***

*Enforcement.* The Committee asked the Government to provide: (1) concrete examples of measures taken to enhance the capacity of law enforcement agencies and institutions to identify and address discrimination in employment and occupation; (2) a copy of the new labour inspection form when adopted, as well as information on any cases of discrimination in employment and occupation identified by or reported to labour inspectors; and (3) copies of any decisions by the courts, the National Labour Commission, the Commission on Human Rights and Administrative Justice or any other competent body. The Government indicates that more officers have been recruited by the law enforcement agencies and institutions. In collaboration with the European Union, ILO, the United Nations Children's Fund (UNICEF), the World Bank and the German Corporation for International Cooperation (GIZ), the Government has trained labour inspectors and provided logistics to enhance inspections in workplaces. The Committee notes, however, that the Government does not specify whether the training delivered to law enforcement agencies, including to labour inspectors, was designed to enhance their capacity to identify and address cases of discrimination in employment and occupation. The Committee also notes the indication by the Government that the new inspection form referred to in its previous report is at its final stage for validation and that there has been no reported complaints about discrimination during the reporting period. In this regard, the Committee recalls that, as stated above, the absence of complaints does not necessarily indicate that discrimination does not exist. It also recalls that the supervision of the provisions against discrimination in employment and occupation often rests in the first instance with the labour inspection services (2012, General Survey, paragraphs 790 and 872). ***The Committee therefore asks again that the Government provide concrete information on any training undergone by labour inspectors, court officials or other authorities to identify and address cases of discrimination in employment and occupation. The Committee also asks that the Government provide a copy of the new labour inspection form when it has been adopted. Lastly, the Committee asks the Government to provide detailed information, if possible disaggregated by sex, 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).***

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

## Guinea

### Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1995)

*Articles 3, 6 and 8 of the Convention. National non-discrimination policy. Information and education. Protection against dismissal.* In its previous comment, the Committee emphasized that there was still no national policy concerning workers with family responsibilities and it asked the Government to take the necessary measures, in law and practice, to ensure that men and women workers with family responsibilities who so wish are able to access employment or be engaged in employment without discrimination and, if possible, without conflict between their employment and family responsibilities. It also recalls that it previously highlighted the absence of a provision prohibiting dismissal on the basis of family responsibilities in the Labour Code and it asked the Government to indicate the measures taken or envisaged to ensure that family responsibilities do not constitute a valid reason for terminating the employment relationship. The Committee notes the Government's brief indications in its report that it will take account of the Committee's concerns in the context of the forthcoming revision of the Labour Code and requests ILO technical assistance in the process of revision of the Code. The Committee also notes the Government's general reference to the formulation of "national policies on children and welfare, the family and social values". **While recognizing the difficult situation prevailing in the country, the Committee requests the Government to formulate and implement a genuine national policy having the objectives, inter alia, of eliminating all discrimination in law and practice against workers with family responsibilities and promoting the principle of equal opportunities and treatment for these workers in all areas of employment and occupation. To this end, the Committee requests the Government to take steps to: (i) prohibit explicitly in the Labour Code any discrimination on the basis of family responsibilities in all areas of employment and occupation, including recruitment and dismissal; (ii) allow workers with family responsibilities to be informed of their rights and to assert them; and (iii) support these workers, particularly through the setting up of suitable structures and mechanisms and the implementation of public awareness-raising and information campaigns on the problems faced by workers with family responsibilities. The Committee requests the Government to provide information on each of the points raised above and to send copies of the national policies to which it refers in its report.**

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

## Guyana

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)

*Articles 1(b) and 2 of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee observes that, for years, it has been referring to the need to amend section 2(3) of the Equal Rights Act No. 19 of 1990, which provides for "equal remuneration for the same work or work of the same nature" to bring it into conformity with the provisions of the Convention and align it with the Prevention of Discrimination Act No. 26 of 1997 (section 9(1)). In its report, the Government indicates that it has recently constituted the Law Reform Commission and that both the Equal Rights Act, Cap. 38:01, and the Prevention of Discrimination Act, Cap. 99:08, are currently under review. With respect to "work of equal value", the Committee recalls that 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. It further 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 supervisor (predominantly women) and garden and park supervisors (predominantly men)

(see General Survey of 2012 on the fundamental Conventions, paragraph 675). ***The Committee asks the Government to ensure that the legislation duly reflects the principle of equal pay for men and women for jobs that are of a different nature, but are of equal value, and requests the Government to provide information in this regard. The Committee also recalls the importance of consultations with the social partners in the process of labour law reform and hopes that the Government will ensure this occurs in relation to any measures implementing the principle of the Convention. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in connection with the revision of the legislation relating to the application 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: 1975)

*Article 1(1)(a). Multiple discrimination, including discrimination based on race. Persons of African descent, in particular women.* In its previous comments, the Committee asked the Government to provide information on: (1) the steps taken in practice to address discrimination faced by persons of African Descent, in particular women and girls, with respect to access to and advancement in education and employment and occupation; and (2) the situation of men and women of African descent in employment and occupation, in particular in rural areas. The Committee notes the Government's indication that the Ethnic Relations Commission (ERC), which is a constitutional body, was re-established on 22 February 2018 with the swearing in of ten new Commissioners. According to the 2020 ERC report, from the 164 complaints received, although 8 of those were submitted by women of African descent, none of those complaints dealt with racism in the workplace or unequal advancement in education. Moreover, the Government states that the ERC has not received complaints from men and women of African descent resident in the rural areas in relation to discrimination in employment or advancement in education. The Committee notes however that, according to the Government, these complaints related to hateful remarks made by persons of other ethnic origins that seek to incite hostility or ill will against women of African descent. None of these complaints were forwarded to the Ministry of Labour. In that regard, the Committee wishes to point out that "hateful remarks made by persons of other ethnic origins that seek to incite hostility or ill will against women of African descent" could in certain circumstances amount to racial discrimination or harassment, and that it has the potential to create tensions in the workplace. It recalls that, in its general observation on discrimination based on race, colour and national extraction adopted in 2018, the Committee indicated that "racial harassment occurs where a person is subject to physical, verbal or non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient. Moreover, the intersection of factors such as race, religion, gender or disability increases the risk of harassment, particularly in respect of young women from an ethnic or racial minority".

The Committee notes the Government's statement that, in its view, the legal framework adequately supports protection for persons of African descent from discrimination including women and girls, as it gives victims of such discrimination a right to seek redress in courts. The Committee observes however that, in its 2020 report on the national-level review of the implementation of the Beijing Declaration and Platform for Action, 1995 (Beijing +25 national report), the Government indicates that: (1) "There is a wide perception that the legal system is a bottleneck, is ineffective in protecting the rights of the population in general, and specifically in protecting women's and girls' rights against discrimination and violence. Enforcement appears to be weak, particularly in relation to discrimination and gender-based violence offences"; (2) "The [United Nations Committee on the Elimination of Discrimination Against Women (CEDAW)] and other consulted sources noted that women's ability to exercise their rights and to bring cases before the courts is greatly limited by the absence of permanent magistrates' courts in all regions and the lack of knowledge and awareness of the anti-discrimination

laws among the population at large and the women themselves, particularly in the rural and hinterland areas"; and (3) "In many cases concerning women and gender related issues, officials tend to base their judgments on their own gender-biased beliefs and not on the existing legal provisions. Another great limitation, particularly for the poorest of the population, is the absence of free public legal assistance. So far, the less-resourced people, and particularly women, are limited to seeking legal advice from non-governmental organisations, such as The Guyana Legal Aid Clinic, which provides free or subsidized legal advice and representation to people who cannot afford to pay for an attorney" (Beijing+25 report, page 7). In this regard, the Committee wishes to recall that it is an obligation for member States to make the provisions of a ratified Convention effective in law and in practice. It is therefore necessary, though not sufficient in itself, for the provisions of the national law to be in conformity with the requirements of the Convention. Certain forms of discrimination based on race, national or social origin, sex-based occupational segregation and sexual harassment are not, on the whole, caused by an intention to discriminate or by legislative provisions or regulations, but are rather the result of behaviour, attitudes or an expression of prejudice, in respect of which positive measures should be adopted. ***In light of the challenges mentioned above, the Committee urges the government to take steps: (i) to carry out awareness-raising activities for workers, employers and their organizations, labour inspectors, judges and society in general, in order to combat gender stereotypes and occupational gender segregation; (ii) to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of discrimination and to secure compliance with the provisions of the applicable labour law; (iii) to examine whether the applicable substantive and procedural provisions allow claims to be brought successfully in practice; (iv) to ensure that victims of discrimination based on race, colour or national extraction, in particular women of African descent, have effective access to legal assistance; (v) to consider promoting the development of workplace policies or race relations awareness training sessions to prevent racial and ethnic harassment; and (vi) to provide information on any court or administrative decisions regarding discrimination based on race, colour, national extraction and gender.***

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

## Islamic Republic of Iran

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1964)

*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 2012 General Survey 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 on the fundamental Conventions, 2012, 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 (2012 General Survey, 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.**

## Iraq

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2021. The ITUC acknowledges in its observation that the country has been through a series of extremely painful events over the last three decades; that violence and armed conflicts have caused significant displacement of the population and that the political and social tensions in the country have certainly impacted on the Government's ability to deal with all the forms of discrimination covered by the Convention. The ITUC considers, however, that this situation does not relieve the Government of the need to meet its obligations under the Convention, which is an integral part of the reconstruction process. **The Committee asks the Government to provide its comments in this respect.**

The Committee is aware of the process of transition and reconstruction being undertaken in the country. In this regard, it takes note of the ILO technical assistance mission to Erbil/Iraq (16–18 August 2021), following the request by the Conference Committee on the Application of Standards (CAS) to the Government to avail itself of technical assistance to effectively implement its conclusions.

### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the detailed discussion which took place at the 109th Session of the Conference Committee on the Application of Standards (CAS) in June 2021 concerning the application of the Convention by Iraq, as well of the conclusions adopted.

*Article 1(1)(a) of the Convention. Discrimination based on race, colour, religion or national extraction.* In its previous comments, the Committee noted that ethnic and religious minorities in the country have long faced discrimination and exclusion from certain labour markets, including employment in the public sector. The Committee also noted that bills on diversity protection and anti-discrimination and on the protection of the rights of religious and ethnic minority groups were under consideration. The Committee notes that the CAS urged the Government to take the necessary measures to ensure the adoption without delay of the draft bills on diversity protection and anti-discrimination and on the protection of the rights of religious and ethnic minorities. The Government has informed the Committee of the adoption of Law No. 8 of 2021 on Yazidi women survivors, which provides for financial support and other forms of redress as compensation for what they endured during the armed conflict. Consequently, a General Directorate for the welfare of female Yazidi Survivors has recently been established, which is attached to the Ministry of Labour and Social Affairs. The ITUC recalls that the two

bills aimed at combating discrimination and protecting minorities have been pending before Parliament for several years. While recognizing the difficult situation prevailing in the country, the Committee notes with **regret** that the Government's report does not provide information on any progress made in the adoption of the two bills mentioned above. It is therefore bound to reiterate its request. **The Committee asks the Government to provide information on: (i) the measures taken or envisaged regarding the adoption of the draft bills on diversity protection and anti-discrimination bill and on the protection of the rights of religious and ethnic minority groups; and (ii) the strategy it intends to develop to overcome the obstacles encountered in the adoption of these bills. In the meantime, it once again asks the Government to: (i) strengthen its efforts and adopt proactive measures to address discrimination against ethnic and religious minority groups, such as measures to promote tolerance and coexistence among religious, ethnic and national minorities, awareness-raising on the existing legislation prohibiting discrimination, setting quotas or targets for the representation of minorities; (ii) report on a regular basis on the results of these measures in terms of increasing the access of these groups to employment and occupation; and (iii) provide any available statistical information, disaggregated by sex, on the employment of ethnic minority groups and the sectors and occupations in which they are employed.**

*Articles 2 and 3. National policy to promote equality of opportunity and treatment in employment and occupation.* The Committee notes that the authorities of the Ministry of Labour and Social Affairs: (1) formalized a request to the ILO technical assistance mission held in August 2021 for the development of a National Equal Employment Opportunity Policy with a plan of action for a period of three–five years; and (2) requested the ILO to include a specific component on the Convention in the Iraqi Decent Work Country Programme 2019–23 (DWCP). The Committee welcomes this information. **It hopes that the technical assistance requested will be provided in the near future to assist the Government in declaring and pursuing a national equality policy by methods appropriate to national conditions and practice, as set out in Article 2 of the Convention, and asks the Government to report on the progress achieved in this regard.**

*Articles 2 and 5. Equality of opportunity and treatment for men and women. Situation of women, including women migrant workers.* The Committee notes the Government's indication, in response to the CAS conclusion on the situation of women workers in the country, that a Working Group has been established under the presidency of the Director General of the Women's Empowerment Department (one of the structures of the General Secretariat of the Council of Ministers) to supervise the implementation of the Women's Economic Empowerment Plan (hereinafter the Plan) developed with the support of the World Bank Group. The Plan is composed of several components, including one on implementing legislative reforms to reduce gender gaps. The Committee also notes that the National Development Plan (2018–22) recognizes that traditional stereotypes concerning women's roles influenced by the dominance of male culture deeply rooted in social structures explain the low participation of women in economic, social and political activities and their limited role in legislative and political institutions. It identifies the gender gap as one of the main social challenges for the development of the country. In that regard, the Committee notes the Government's statement in its 2019 National Report on the implementation of the Beijing Declaration and Platform for Action (Beijing +25) that it aims to increase the number of women participating in the labour force by 5 per cent over the next five years. It also notes some of the statistical data provided in the above report: (1) the percentage of female workers aged 15 years and above was 12.6 per cent in 2017, while for male workers it was 72.7 per cent; (2) the overall unemployment rate of 13.8 per cent is distributed as follows, 10.9 per cent for men compared by 31.0 per cent for women; (3) the percentage of women who held the post of director general in ministries was 36 per cent of total general manager's positions, while the percentage of women in senior management was 37 per cent; and (4) the number of women judges reached 113 in 2017 compared with 18 in 2003. The Committee further notes that equal opportunities for men and women is a cross-cutting requirement of the three priorities identified by Iraq constituents

during the formulation of the current DWCP (job creation, social protection coverage and governance). Moreover, according to the 2020 World Bank report entitled “Women’s economic participation in Iraq, Jordan and Lebanon”: “Women face additional barriers related to social norms, legal constraints and market failures. Several factors have disproportionate effects on women’s ability to effectively participate in the labour market, including more limited access to capital (human, physical, and financial) than men, lack of affordable and adequate childcare and of safe public transportation, and laws and societal preferences for men that result in their taking the few available jobs. Although girls get an equal start with boys [...] in terms of school attendance at early ages, completing education is a challenge for Iraqi girls, particularly in rural areas. In addition, gender gaps associated with certain fields of study may, in turn, be shaped by society’s expectations” (page 16). ***In light of the above, the Committee asks the Government to: (i) step up its efforts to address the obstacles that exist in practice, including cultural and stereotypical barriers, to women’s equality of opportunity and treatment in employment and occupation; (ii) promote the participation of women in the labour market and decision-making positions on an equal footing with men; and (iii) communicate any available statistics, disaggregated by sex, concerning the participation of men and women in the various sectors of economic activity in both the private and public sectors.***

*Women migrant workers.* In its conclusions, the CAS asked the Government to pay particular attention to the situation of women migrant workers. The Committee notes the Government’s reminder that the Labour Law applies to all workers without discrimination (section 3). The Government indicates in addition that: (1) an Employment Resource and Workers Migration Centre was inaugurated in collaboration with the International Organization for Migration (IOM); (2) it is in the process of establishing a Centre for Jobs, Migration and Reintegration with the assistance of the German Agency for International Cooperation to develop the private sector within the framework of a migration programme; and (3) a hotline dealing with migrant workers’ complaints has been established. While taking note of the information provided by the Government on the situation of migrant workers in general, the Committee wishes to recall that women migrant workers are particularly vulnerable to prejudices and differences in treatment in the labour market on grounds such as race, colour and national extraction, often intersecting with other grounds such as gender and religion (General Survey on the fundamental Conventions, 2012, paragraph 778). ***The Committee therefore asks the Government to ensure that women migrant workers are protected against all the forms of discrimination prohibited by the Convention and to provide any information available in this regard.***

*Legal obstacles faced by women.* The Committee recalls that in its conclusions the CAS asked the Government to review and adapt relevant provisions to lift the legal obstacles faced by women in the country, including concerning their civil status. In its observations, the ITUC states that: (1) in practice, women in Iraq remain largely under-represented in the world of work and suffer a great deal of discrimination in accessing employment; (2) these obstacles are aggravated by a series of legal conditions and provisions, which literally place them under supervision; and (3) the obstacles concerning the situation of women in the labour market are based in part on the legal provisions relating to their civil status, thus it is crucial that these aspects are also examined and modified. The Committee notes that no specific information was provided by the Government on a possible strategy to lift the legal obstacles faced by women, including concerning their civil status. ***The Committee asks the Government to consider launching a gender audit or analysis of its current legal framework to ensure that any gender discrimination is removed.***

*Special protection measures.* The Committee recalls that section 85(2) of Labour Law No. 37/2015 prohibits women from working in jobs deemed hazardous or arduous and also prohibits women from performing night work (sections 85(2) and 86(1)). The Committee wishes to recall in this regard that protective measures for women may be broadly categorized into those aimed at protecting maternity in the strict sense (that is during pregnancy or childbirth and its consequences or nursing) which come within the scope of *Article 5*, and those aimed at protecting women generally because of their sex or

gender, based on stereotypical perceptions about their capabilities and appropriate role in society, which are contrary to the Convention and constitute obstacles to the recruitment and employment of women (2012 General Survey, paragraph 839). Provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific health risks. Therefore, any restrictions on women's access to work based on health and safety considerations must be justified and based on scientific evidence and, when in place, must be periodically reviewed in the light of technological developments and scientific progress to determine whether they are still necessary for protection purposes. The Committee also emphasizes the need to adopt measures and put in place facilities to enable workers with family responsibilities, in particular women, who continue to bear the unequal share of family responsibilities, to reconcile work and family life. With a view to repealing discriminatory protective measures applicable to women's employment it may be necessary to examine what other measures are necessary to ensure that women can access these types of employment on an equal footing with men, such as improved health protection of both men and women, adequate transportation and security, as well as social services (General Survey, 2012, paragraph 840). **The Committee asks the Government to take the necessary measures to review section 85(2) and section 86(1) of Labour Law No. 37/2015 in light of the principle of equality for men and women workers with a view to ensuring that protective measures applicable to women's employment in certain jobs or industries are still necessary and are not based on stereotypes regarding women's professional abilities and capabilities and are strictly limited to maternity protection.**

*Technical assistance.* **The Committee reminds the Government of the possibility of availing itself of the technical assistance of the Office on all the questions raised above.**

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

## Lebanon

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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. Gender pay gap.* The Committee recalls its previous comments in which it noted that, according to statistics published in October 2011 by the Central Statistics Office, in 2007 the gender pay gap was an estimated 6.2 per cent in services; 10.8 per cent in commerce; 21 per cent in agriculture; 23.8 per cent in manufacturing; and 38 per cent in transport and communications. **In the absence of updated information in this regard in the Government's report, the Committee once again requests it to take the necessary steps to gather, analyse and communicate data on the remuneration of men and women and wage gaps in the different sectors of economic activity, including the public sector, and for different professional categories. The Committee once again requests the Government to adopt specific measures to rectify gender pay gaps, including raising awareness among employers, workers and their organizations of the principle of equal remuneration for men and women for work of equal value, and to provide information on any action taken to this end and on any obstacles encountered.**

*Article 2. Legislation. Equal remuneration for men and women for work of equal value.* For more than 40 years the Committee has been requesting the Government to ensure that the principle of equal remuneration for men and women for work of equal value is given full legal expression. The Committee notes with **regret** that the Government's report merely indicates that the new draft Labour Code is still under examination. **The Committee is therefore bound to urge the Government to ensure that the draft Labour Code gives full legal expression to the principle of equal remuneration for men and women for work of equal value, in order to facilitate a broad scope of comparison encompassing not only equal or similar work, but also work of an entirely different nature that is of equal value overall. Expressing the firm hope that the**

**Government will be in a position to report progress on this matter in the near future, the Committee asks the Government to provide a copy of the relevant provisions when they have been adopted.**

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

**The Committee 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: 1977)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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. Protection of workers against discrimination, including sexual harassment. Law and practice.* For more than 20 years the Committee has been requesting that the Government introduce a definition and a general prohibition of direct and indirect discrimination on the grounds set out in *Article 1(1)(a)* of the Convention, within the framework of the Labour Code reform, applicable to all aspects of employment and occupation. The Committee recalls that the Labour Code currently in force (the Labour Code of 1946, as amended) only covers discrimination between men and women in certain aspects of employment (section 26) and does not provide effective protection against all forms of sexual harassment, namely *quid pro quo* and hostile working environment sexual harassment. Indeed, the only section of the Code that could be applied in cases of sexual harassment is a provision that authorizes employees to leave their jobs without notice when "the employer or his representative commits the offence of molestation of the worker" (section 75(3)). The Committee recalls in this regard that legislation under which the sole redress available to victims of sexual harassment is the possibility to resign, while retaining the right to compensation, does not afford sufficient protection for victims of sexual harassment since it punishes them and could therefore dissuade victims from seeking redress (see 2012 General Survey on the fundamental Conventions, paragraph 792). The Committee notes with **regret** that the Government's report does not contain any information on the progress or content of the ongoing reform of the Labour Code. However, the Committee observes that, according to the third annual report (2015) on the implementation of the National Strategic Plan for Women in Lebanon (2011–21), the Ministry of Labour has prepared a bill criminalizing sexual harassment in the workplace. **Consequently, the Committee urges the Government to take the necessary steps to ensure that the new Labour Code contains provisions defining and prohibiting direct and indirect discrimination on at least all of the grounds set out in Article 1(1)(a) of the Convention, in all aspects of employment and occupation, as defined in Article 1(3), and all forms of sexual harassment (quid pro quo harassment and the creation of a hostile working environment). The Committee once again asks the Government to provide information on any progress made with a view to adopting the draft Labour Code. In the absence of full legislative protection against discrimination, the Committee also once again requests the Government to adopt specific measures to ensure, in practice, the protection of workers against discrimination on the grounds of race, colour, religion, political opinion, national extraction and social origin, and against sexual harassment in employment and occupation, including measures to raise awareness of these issues among workers, employers and their respective organizations, in order to improve prevention.**

*Foreign domestic workers. Multiple discrimination.* For more than ten years, the Committee has been examining the measures taken by the Government to address the lack of legal protection for domestic workers, most of whom are women migrants, since these workers are excluded from the scope of the Labour Code and are particularly vulnerable to discrimination, including harassment, on the basis of sex and other grounds such as race, colour and ethnic origin. The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) noted with concern that "abuse and exploitation of migrant domestic workers continues to occur in spite of the measures taken by the State party". The CERD also noted with concern that "victims are often not able to seek assistance when they are forcibly confined to the residence of their employers or when their passports have been retained". The CERD recommended the following measures: "abolish the conditions that render migrant domestic

workers vulnerable to abuse and exploitation, including the sponsorship system and the live-in setting”; “extend the coverage of the Labour Code to domestic work, thereby granting domestic workers the same working conditions and labour rights as other workers, including the right to change occupation, and subjecting domestic work to labour inspections”; “ensure that any specific legislation on domestic employment is aimed at tackling migrant domestic workers’ increased vulnerability to abuse and exploitation”; and “conduct campaigns to change the population’s attitudes towards migrant domestic workers and to raise awareness of their rights” (CERD/C/LBN/CO/18–22, 5 October 2016, paragraphs 41–42). The Government reports that domestic workers are covered by the Code of Obligations and Contracts, and once again refers to the model contract and the Bill on the employment of domestic workers. The Government also indicates that a Bill to ratify the Domestic Workers Convention, 2011 (No. 189), was submitted to the Council of Ministers and that the national steering committee of the Ministry of Labour, which is responsible for examining relations between employers and domestic workers, is currently developing significant measures to guarantee compliance with contracts and abolish the sponsorship system. However, the Government states that this process will take time. In this regard, the Committee notes the Government’s indication that the Ministry of Labour and official bodies have not established restrictions regarding changes of employer and that this is an issue that only concerns the worker and the employer. **Recalling its previous comments and noting with regret that the situation remains unchanged, the Committee urges the Government to take the necessary measures, in cooperation with the social partners, to ensure genuine protection for migrant domestics workers, in law and practice, against direct and indirect discrimination on all of the grounds set out in the Convention, including against sexual harassment, and in all areas of their employment, either through the adoption of a bill on the employment of domestic workers or, more generally, within the framework of the labour legislation. The Committee asks the Government to supply information on any progress made in this regard and on any legislative changes to abolish the sponsorship system. The Committee asks the Government, in particular, to ensure that any new regulations envisaged on the right of migrant workers to change employers do not impose conditions or restrictions likely to increase these workers’ dependence on their employer and thus increase their vulnerability to abuse and discriminatory practices.**

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

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

## Madagascar

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

The Committee takes note of the observations of the Autonomous Trade Union of Labour Inspectors (SAIT) received on 9 March 2021, which address issues related to the application of the Convention. **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 2022, 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. Equal remuneration for work of equal value. Legislation.* For several years, the Committee has been emphasizing that the provisions on equal remuneration of section 53 of the Labour Code are more restrictive than those of the Convention, as they limit the application of the principle of equal remuneration for work of equal value to persons engaged in the same job and with the same vocational qualifications. The Committee notes the Government’s indication in its report that in March 2016 the National Conference of Labour Inspectors raised the issue of the amendment of certain provisions of the Labour Code, including section 53, and that a draft text to amend this provision will soon be submitted to the National Labour Council (CNT) to seek the views of the social partners on this subject. **While recalling that it considers that the full and complete incorporation into the legislation of the principle of equal remuneration for men and women for work of equal value is essential to ensure the effective application of**

*the Convention, the Committee trusts that the Government will take the opportunity of the draft amendment of the Labour Code to achieve the full integration of the principle of the Convention in the new Labour Code, in cooperation with employers' and workers' organizations, and that it will ensure that the new provisions encompass not only equal work or work performed under equal conditions, but also work which is of an entirely different nature, but nevertheless of equal value. It requests the Government to provide information on any progress achieved in this regard and on any other measures adopted or envisaged to promote and ensure equal remuneration for men and women for work of equal value in practice.*

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

***The Committee 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: 1961)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 1 of the Convention. Protection against discrimination.* For several years, the Committee has been emphasizing that neither the Labour Code nor the Civil Service Regulations prohibit discrimination on all the grounds covered by the Convention and has been asking the Government to take the necessary measures to bring the legislation into conformity with the Convention. The Committee noted that the Labour Code does not prohibit discrimination on the basis of colour and social origin (section 261), and that the Civil Service Statute does not prohibit discrimination on grounds of race, colour and social origin (section 5). The Committee notes the Government's indication in its report that, in March 2016, the National Labour Inspectors Conference (SAIT) raised the issue of amending the Labour Code provisions concerning prohibited grounds for discrimination and that a draft to introduce colour and social origin into the list of these grounds and expressly prohibit all discrimination, including indirect discrimination, will be transferred shortly to the National Labour Council (CNT) in order to gather the opinions of the social partners in this regard. With regard to the public service, the Committee notes the Government's indication that, while it considers that the term "colour" is not appropriate to the reality of Malagasy society, it is currently studying the possibility of including this motive in the list of grounds of prohibited discrimination. The Government adds that it also plans to introduce the provisions defining and prohibiting all discrimination, including indirect discrimination, and that all these issues will be raised during the forthcoming revision of the Civil Service Regulations. ***The Committee requests the Government to provide information on progress made regarding the revision of the Labour Code and the Civil Service Regulations to harmonize and supplement national legislative provisions in order to prohibit, in both the public and the private sectors, any discrimination on all of the grounds listed in the Convention, including race, colour and social origin, and to include a definition of discrimination which explicitly covers indirect discrimination. The Committee requests the Government to indicate any measures taken or envisaged in this respect, in cooperation with workers' and employers' organizations. The Committee also requests the Government to provide information on the interpretation and application in practice of section 261 of the Labour Code and section 5 of the Civil Service Regulations, and to provide copies of any administrative or judicial decisions issued in accordance with these provisions.***

*Discriminatory job vacancy announcements.* In its previous comments, the Committee noted the allegations of the General Confederation of Workers' Unions of Madagascar (FISEMA) concerning the fact that vacancies for jobs as guards, domestic employees or workers in export processing zones advertised on the radio or through notices in the street, impose affiliation to a certain religion as a condition for recruitment or specify that the job is solely for men or women. The Committee notes the Government's statement that some advertisements for vacancies on radio or through notices in public places, are discriminatory in nature with regard to religion or sex. Given that the advertisement of job vacancies on the radio or on public notices has become common practice, the Government indicates that it envisages adopting legislation to regulate

this practice in line with the provisions of the Convention. ***The Committee trusts that the Government will adopt, in cooperation with the workers' and employers' organizations, measures aimed at enforcing national legislation and prohibiting in practice all forms of direct and indirect discrimination on all the grounds listed in the Convention, including religion and sex, in job vacancies advertised on the radio or on public notices. It requests the Government to provide information on any progress made in this regard.***

*Domestic workers.* In its previous comments, the Committee noted that the Christian Confederation of Malagasy Trade Unions (SEKRIMA) highlighted the precarious nature of the conditions of employment of domestic workers, some being employed without an employment contract. The Committee notes the Government's indication that domestic workers enjoy the same rights as other workers, as labour legislation is applicable to them and they can lodge complaints with the labour inspectorate in cases of violations of their rights. The Committee notes, however, that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern about the precarious situation of women and girls in domestic work in private households and recommended that the Government strengthen the capacity of labour inspectors to monitor workplaces, including in private households (CEDAW/C/MDG/CO/6-7, 24 November 2015, paragraphs 30–31). ***The Committee trusts that the Government will take the necessary measures to ensure that domestic workers enjoy, in practice, the protection set out in the provisions of the Labour Code, particularly those relating to non-discrimination and employment conditions. It requests the Government to provide detailed information on the number and outcomes of checks conducted by labour inspectors to ensure the effective application of the provisions of the Labour Code for domestic workers, by sending extracts from inspection reports or relevant studies.***

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

***The Committee expects 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)

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) received on 30 August 2021 concerning women workers on tea plantations and in agriculture.

*Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment.* In its previous observation, the Committee asked the Government to: (1) amend section 6(1) of the Gender Equality Act (GEA) of 2013 to ensure that the term "reasonable person" in the definition of sexual harassment no longer refers to the harasser, but to an outside person; (2) provide information on the measures adopted pursuant to section 7 of the GEA to ensure that employers have developed and are implementing appropriate policies and procedures aimed at eliminating sexual harassment in the workplace; and (3) take steps to address sexual harassment in the public service, including the provision of adequate reporting procedures, remedies and sanctions. In addition, the Committee encouraged the Government to consider conducting awareness-raising campaigns, in cooperation with workers' and employers' organizations, focusing specifically on sexual harassment in employment and occupation. The Committee notes that in its report the Government indicates that the Department of Human Resource Management and Development (DHRMD), in partnership with Ministry of Gender, is in the process of developing a Sexual Harassment Workplace Policy pursuant to section 7 of the GEA. In addition, the DHRMD has conducted awareness-raising campaigns on sexual harassment in some ministries, departments and agencies, such as agriculture, defence, competition and fair trade, and district councils. The Committee also notes from the submissions of the Working Group on the Universal Periodic Review (UPR) carried out under the auspices of the United Nations, that the National Human Rights Commission stated that violence against women continues to resurface in the county (A/HRC/WG.6/36/MWI/3, 28 February 2020, paragraph 6).

The Committee notes from the observations of the IUF that, on 6 April 2021, the National Human Rights Commission announced that it would embark on an exercise to audit all public and private institutions on their compliance with the provisions of the GEA and ensure that they have workplace policies on sexual harassment. The IUF also states that, in December 2019, a London-based law firm filed a case on behalf of 36 Malawian women alleging that they had been subjected to gender-based violence and harassment (including rape and sexual harassment) while working on tea estates in Mulanje and Thyolo districts. In March 2021, the same law firm filed another complaint in London's High Court concerning 22 instances of sexual harassment, 13 instances of sexual assault, 11 instances of coerced sexual relations and 10 instances of rape on tea plantations and macadamia nut orchards in southern Malawi. These alleged cases happened between 2014 and 2019. The IUF states that the Malawian tea industry is the country's biggest private sector employer, employing 50,000 workers, of whom 30 per cent are women, who are mainly employed as seasonal workers. It emphasizes that the fact that the workers' complaint was made public and dealt with through a law firm based in the United Kingdom indicates that the established procedures in Malawi at the local and national levels are inadequate for victims of gender-based violence in the workplace who are seeking to achieve justice and to ensure an end to sexual harassment on tea estates.

The IUF refers to a meeting convened on 7 April 2021 with its affiliates in Malawi to discuss these cases. Subsequently, an IUF affiliate, the Plantations and Agricultural Workers Union (PAWU), met the Tea Association of Malawi Limited (TAML) and agreed to investigate cases of sexual harassment on tea plantations. Eleven managers and supervisors who were found to be involved in sexual harassment cases were dismissed. The IUF also states that its affiliates are currently working on awareness-raising activities to tackle sexual harassment on tea plantations. According to the IUF, the existing legal framework, as well as current initiatives that aim to stop gender-based violence, are not sufficient to eradicate the systemic problem of gender-based violence and sexual harassment on tea plantations. The IUF reports that male supervisors abuse their position of power (for example, hiring rights, allocation of tasks) and use it to demand sexual favours from women and/or to commit violence, especially on women employed under seasonal, and hence precarious, contracts. The IUF believes that women workers in agriculture and other sectors are also subject to sexual harassment. **Noting with serious concern the gravity of these allegations, the Committee requests the Government to provide its comments in this respect and expresses the firm hope that the Government will consider requesting technical assistance to address the matters raised by the IUF. The Committee urges the Government to: (i) undertake, in cooperation with the organizations of workers and employers, an evaluation of the existing legal framework on sexual harassment and, in particular, to amend the definition of sexual harassment in section 6(1) of the Gender Equality Act of 2013 to explicitly include hostile work environment harassment; (ii) identify the initiatives taken to date to prevent and address sexual harassment in the public and private sectors, and the procedures and remedies available to victims, with a view to identifying existing gaps and risk factors and designing effective interventions to strengthen the protection of women workers against sexual harassment; (iii) provide information on the results of the evaluation and the actions envisaged as a follow-up; (iv) increase the capacity of the competent authorities, including labour inspectors, to prevent, identify and address cases of sexual harassment in employment and occupation, including on tea plantations; (v) continue undertaking awareness-raising campaigns in collaboration with the social partners; (vi) provide information on the adoption of the Sexual Harassment Workplace Policy pursuant to section 7 of the Gender Equality Act and its implementation; and (vii) consider amending section 6(1) of the Gender Equality Act to ensure that the term "reasonable person" in the definition of sexual harassment no longer refers to the harasser, but to an outside person.**

The Committee 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 110th Session and to reply in full to the present comments in 2022.]**

## Mongolia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

*Articles 1 and 2 of the Convention. Definition of remuneration. Equal remuneration for men and women for work of equal value. Legislation.* The Committee recalls that, in its previous comments, it emphasized the lack of reference to the principle of equal remuneration for work of equal value in the Labour Law and in the Law on the Promotion of Gender Equality (LPGE), and stressed the importance of seizing the opportunity provided by the Labour Law reform to incorporate the concept of “work of equal value” into the national legislation and adopt a broad definition of “remuneration”. The Committee notes with **satisfaction** that, in the new Labour Law adopted on 2 June 2021, the definition of “salary” includes the “basic salary, allowances, additional wages and vacation pay and bonuses” (section 101.1) and that, pursuant to section 102.1.1, the salary of employees “performing jobs of equal value shall be the same”. In addition, the Committee welcomes the explicit prohibition of salary discrimination on the basis of sex or other grounds (section 102.1.4). ***In light of these positive legislative developments, the Committee asks the Government to take steps to raise awareness of the principle of equal remuneration for men and women for work of equal value enshrined in the new Labour Law among workers, employers and their organizations as well as among labour inspectors and officials. It also asks the Government to clarify whether section 101.1 of the Labour Law applies also to the additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment and to provide examples of application in practice of this provision. The Committee asks the Government to consider the inclusion of the principle of equal remuneration for men and women for work of equal value in the Law on the Promotion of Gender Equality (LPGE) to align its provisions on equal pay with the provisions of the Labour Law.***

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

*Articles 1, 2 and 3(c) of the Convention. Legislative developments. New Labour Law.* The Committee notes that the new Labour Law was adopted on 2 June 2021 and will enter into force on 1 January 2022. The Committee notes with **satisfaction** that the Labour Law: (1) defines and prohibits both direct and indirect discrimination; (2) limits the exceptions to discrimination to the inherent requirements of the work or duty performed and special protective measures; (3) broadens significantly the list of prohibited grounds of discrimination, including “political opinion” and many additional grounds such as “ethnicity”, “language”, “age”, “marital status”, “trade union membership”, “health status”, “pregnancy or childbirth”, “sexual orientation”, “sexual expression”, “disability” and “appearance”; (4) removes the provisions that allowed for the adoption of a general prohibition on the employment of women in specified jobs; (5) extends rights to fathers of children under 3 years of age, including the right to parental leave; (6) defines and prohibits sexual harassment and includes provisions regarding awareness-raising, prevention and the resolution of complaints; and (7) introduces provisions regarding violence and harassment “in employment and labour relations”. ***Emphasizing the importance of these significant positive legislative developments, the Committee asks the Government to take steps to ensure the wide dissemination of the new Labour Law across the country and raise awareness concerning the practical application of the new provisions regarding non-discrimination, workers with family responsibilities, violence, harassment and sexual harassment for workers, employers and their respective organizations, as well as labour inspectors and officials and judges.***

*Article 1(2). Inherent requirements of the job. Legislation.* The Committee recalls that the provisions of the Law on Promotion of Gender Equality of 2011 (LPGE) regarding exceptions to gender discrimination are overly broad in permitting sex-based distinctions (in particular sections 6.5.1, 6.5.2 and 6.5.6) and go beyond what is permitted under *Article 1(2)* regarding inherent requirements of a

particular job. With reference to the above, the Committee notes that in the new Labour Law the exceptions to discrimination are limited to the inherent requirements of the work or duty performed and special protective measures (sections 6.3.1 and 6.3.2). **Welcoming this development, the Committee once again urges the Government to review sections 6.5.1, 6.5.2 and 6.5.6 of the Law on Promotion of Gender Equality in order to ensure that they do not in practice deny men and women equality of opportunity and treatment in respect of their employment, and that they are consistent with the provisions of the Labour Law in this respect.**

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

## Namibia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received by the Office on 1 September 2021. **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, 109th Session, June 2021)

The Committee notes the detailed discussion which took place at the 109th Session of the Conference Committee on the Application of Standards (CAS) in June 2021 concerning the application of the Convention by Namibia. The Committee notes with **interest** that, following the CAS conclusions, an ILO Technical Advisory Mission was undertaken – virtually, due to the prevailing pandemic situation – from 14 September to 27 October 2021 to review the progress made and discuss a possible road map of future measures to be taken in consultation with the social partners. The Committee hopes that the road map will allow all the issues raised to be dealt with in a tripartite manner, setting deadlines for discussion. **The Committee asks the Government to provide information on the outcome of this mission and its follow-up.**

*Article 1(1)(b) of the Convention. Prohibited grounds of discrimination: HIV status, disability and family responsibilities. Legislation.* In its previous comments, the Committee requested the Government to take steps to ensure coherence between the general non-discrimination provision of the Labour Act (section 5) and section 33 of the Act which prohibits unfair dismissal, so as to prohibit dismissals on the grounds of HIV status, the degree of physical or mental disability, and family responsibilities. The Committee notes that, in its observation, ITUC recalls that, despite the Committee raising this issue for a number of years, the Labour Act still does not explicitly prohibit dismissal based on HIV status, physical or mental disability, or family responsibilities. The Committee notes that the Government indicates in its report that it will consult the tripartite Labour Advisory Council on a proposed amendment to add these three prohibited grounds of discrimination to section 33 of the Labour Act so as to ensure consistency with section 5, and will pursue the necessary steps to table the amendment before the National Assembly. **In view of the above, the Committee asks the Government to provide information on the progress made in the adoption of the amendment to section 33 of the Labour Act so as to prohibit dismissals on the grounds of HIV status (actual or perceived), the degree of physical or mental disability, and family responsibilities.**

*Articles 2 and 5. Implementation of the national equality policy.* The Committee recalls that the CAS, in its conclusions, requested the Government to: (1) provide detailed information on the concrete measures taken to implement the National Human Rights Action Plan (NHRAP) for the period 2015–19 and following and in particular the review of the legislative and regulatory framework, and report on the results achieved; and (2) report on the implementation of the recommendations of the Office of the

Ombudsman's Special Report on Racism and Discrimination submitted to the National Assembly in October 2017, including with regard to the review of recruitment procedures, training to detect discrimination, and the establishment of procedures to deal with discrimination claims. The Committee recalls that the following actions were envisaged in the NHRAP: (1) a comprehensive review of the regulatory framework to assess its compliance with the principle of non-discrimination; (2) the development of a White Paper on Indigenous Peoples' Rights; (3) research into comparable legal instruments protecting the rights of persons with disabilities and the development of benchmarks (i.e. building design standards); (4) research and review of laws and policies to identify and rectify provisions that discriminate against "vulnerable groups" (i.e. women, children, elderly persons, sexual minorities, persons with disabilities and indigenous peoples); (5) the review of the Affirmative Action (Employment) Act (Act No. 29 of 1998) with a view to establishing the continued relevance of race as part of affirmative action criteria; and (6) the review of the current Racial Discrimination Prohibition Act (Act No. 26 of 1991) with a view to enacting new legislation against discrimination. The Committee notes the ITUC's observations in this regard in which it: (1) notes that despite being designed to be delivered by 2019, the NHRAP has not led so far to concrete results; and (2) recalls that persons with disabilities are almost absent from the Namibian labour market. Regretting that the only action taken by the Government regarding the recommendations contained in the Special Report on Racism and Discrimination was to disseminate them to employers, the ITUC also calls for concrete and proactive action appropriate to national conditions and practice. The Committee notes the Government's indication that the two key interventions in order to implement the NHRAP recommendations are: (1) research on current discriminatory practices in recruitment in the public service; and (2) a review of the Affirmative Action (Employment) Act. Furthermore, the Government indicates that the Ministry of Labour, Industrial Relations and Employment Creation (MLIREC) and the Office of the Ombudsman agreed to: (1) conduct thorough research in the public sector in order to establish the existence of discrimination in employment pertaining to racism, ethnicity and inequality; (2) design a research proposal on discrimination that would include the component of race and ethnicity; and (3) mobilize funds for these research projects. The Committee also notes that, in the information that it submitted to the CAS on 20 May 2021, the Government indicated that the Prohibition of Unfair Discrimination, Hate Speech and Harassment Bill, which repeals the Racial Discrimination Prohibition Act of 1991, has been circulated for comments and that a stakeholders' consultative meeting was scheduled for 28 May 2021. Regarding specifically the recommendations contained in the Ombudsman's Special Report on Racism and Discrimination, the Government indicates that the measures it has identified to address these recommendations are as follows: (1) review the recruitment process in the public service; (2) introduce a code of good practice on the elimination of discrimination in employment; (3) disseminate information on the elimination of discrimination in employment; (4) train arbitrators to adjudicate cases of discrimination and labour inspectors to detect "victimization" in employment and occupation; and (5) train affirmative action reports review officers and ombudsman officials on the concepts of discrimination. The Committee notes the list of measures identified by the Government as necessary to implement the NHRAP and the recommendations contained in the Ombudsman's Special Report on Racism and Discrimination. ***The Committee therefore asks the Government to provide detailed information on the progress achieved regarding: (i) the review of the recruitment process in the public service; (ii) the development and adoption of a code of good practice on the elimination of discrimination in employment in consultation with employers' and workers' organizations; (iii) the dissemination of information on the elimination of discrimination in employment; (iv) capacity building for judges, arbitrators, labour inspectors, affirmative action reports review officers and Ombudsman officials; and (v) the adoption of the Prohibition of Unfair Discrimination, Hate Speech and Harassment Bill.***

*Designated groups. Persons disadvantaged on the ground of race, women and persons with disabilities. Affirmative action.* The Committee notes that, in its conclusions, the CAS requested the

Government to: (1) report on the actions taken to promote access to employment and occupational training for groups disadvantaged because of race, gender or disability, pursuant to the Affirmative Action (Employment) Act, 1998; (2) report on the planned legislative review, including the final legislative changes to the Affirmative Action (Employment) Amendment Act 6 of 2007; (3) reinforce the mandate of the Employment Equity Commission (EEC) to deal with cases of discrimination, strengthen its capacity and clarify how its decisions affect the employers' filling of certain job positions; and (4) report on the reform to the New Equitable Economic Empowerment Framework Bill 2015. In its observations, the ITUC noted that the Government reported a number of planned affirmative action measures but did not indicate the results expected through these initiatives, such as, for example, setting specific targets on improving the representativity of different groups in workplaces. ITUC considers that the Government must step up its efforts to implement effectively its national equality policy. The Committee notes the Government's statement that section 17(3)(a) and (b) of the Affirmative Action (Employment) Act – which empowers the EEC to determine whether a designated group is equitably represented in the various positions of employment offered by a “relevant employer” – is the legislative framework on which the EEC relies regarding the issue of access to training and employment opportunities for designated groups. Regarding the amendments to this Act, the Government, in the information it submitted to the CAS in May 2021, indicated that the final draft amendment Act, including the inputs provided by the Labour Advisory Council, was submitted to the Employment Equity Commissioner on 11 May 2021 and that the EEC was now conducting a desk review with a view to align it with international law and best practices on several issues. As regards the definition of “relevant employer”, the EEC is of the view that it is time to reduce the threshold (which stands since 2007 at 25 or more employees) in order to cover more employers (and employees). The Committee takes note of the Government's undertaking to share the final legislative changes with the ILO before they are adopted into law. The Committee also notes the pamphlet annexed to the Government's report issued by the Division of Marginalized Communities of the Ministry of Gender Equality, Poverty Eradication and Social Welfare and refers, in that regard, to the direct request it addresses to the Government on this issue under the Convention. ***The Committee asks the Government to continue to provide information on: (i) the actions taken to promote access to employment and occupational training for designated groups and the measures put in place in order to review regularly the affirmative action measures to assess their relevance and impact; (ii) the progress made towards the revision of the Affirmative Action (Employment) Act 1998, amended in 2007; and (iii) any measure taken to reinforce the mandate of the EEC to deal with cases of discrimination.***

The Committee refers to the CAS request to the Government to report on the adoption of the New Equitable Economic Empowerment Framework Bill 2015, which aims to promote the achievement of the constitutional right to equality and to bring about socio-economic transformation in order to enhance equity, social justice and empowerment of the previously disadvantaged majority, and to promote a higher economic growth rate, increased employment and more equitable income distribution. In this respect, the Committee notes that the Government, in the information it submitted to the CAS in May 2021, indicated that the draft bill was “almost ready for Cabinet consideration before it is tabled in the National Assembly in the third or fourth quarter of the 2021–22 financial year”. However, it notes that, in its report, the Government declares that it is premature to report on the Bill as there is no consensus with stakeholders. The Committee takes note of this information.

***Enforcement.*** The Committee notes that, in its conclusions, the CAS asked the Government: (1) to adopt specific measures to ensure that workers who are victims of discrimination on the basis of any of the prohibited grounds have effective access to legal remedies; and (2) to provide information on the number of cases of discrimination dealt with by labour courts and on their outcome. In this regard, the Committee takes note of ITUC's concerns vis à vis the shortcomings of the labour inspections and labour courts and of its view that the absence of cases of discrimination based on HIV status (actual or perceived) is an indication of significant barriers to a remedy for victims, lack of awareness of rights and fear of retaliation. The Committee notes the Government's statement that the following measures are

envisaged to make remedies more accessible: (1) carrying a desktop research on how other countries ensure effective access to legal remedies; (2) enacting regulations requiring employers to display information at the workplace informing employees of available legal remedies for discrimination and how to access them; (3) disseminating information to members of the public and specific stakeholders on rights and remedies regarding discrimination; (4) designing electronic pamphlets on referral of discrimination disputes, to be displayed on a wide range of platforms; and (5) airing radio announcements in different languages. Regarding the number of cases of discrimination, the Government indicates that, in the last three years there were six cases recorded by the Office of the Labour Commissioner and none registered by the courts. **The Committee asks the Government to provide information on: (i) the progress made towards the adoption and implementation of the measures enumerated by the Government to make remedies more accessible for victims of discrimination on the basis of any of the prohibited grounds; and (ii) cases of discrimination dealt with by labour courts, if any, and their outcome.**

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

## Nigeria

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

*Articles 1(b) and 2 of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee previously noted the Government's repeated statement that a provision covering the principle of equal remuneration for men and women for work of equal value has been incorporated in the Labour Standards Bill (section 11.2) which has been pending since 2006. The Committee notes the Government's indication, in its report, that the National Labour Advisory Council has been reconvened and that the Bill will be forwarded to the National Assembly for adoption. **The Committee urges again the Government to speed up 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 that, in the 2021 Global Gender Gap Report from the World Economic Forum, the gender wage gap for Nigeria was estimated at 37.3 per cent (it was 35 per cent in 2018), the country being ranked at the 139th place out of 156 countries assessed (11 places lost between 2020 and 2021). **Noting that the government does not provide information in this regard, and in light of the absence of legislation that fully reflects the principle of the Convention and the persistence of a significant gender wage gap, the Committee urges once again the Government to strengthen its efforts to take proactive measures to raise awareness and promote the application of the provisions of the Convention in practice, in particular among workers, employers, their respective organizations and law enforcement officials. It further asks the Government to provide information on the measures taken to: (i) address the underlying causes of the persistent gender wage gap, identified in its report under the national-level review of implementation of the Beijing Declaration and Platform for Action, 1995 (Beijing+25); (ii) promote women's access to a wider range of jobs with career prospects and higher pay; (iii) indicate the concrete measures adopted to promote women's economic empowerment and entrepreneurship, as well as the results thereof; and (iv) provide updated statistical information on the earnings of men and women, disaggregated by economic sector and professional category.**

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

*Articles 1 and 2 of the Convention. Protection of workers against discrimination. Legislation.* The Committee notes the Government's indication in its report that the National Labour Advisory Council

has been established and that the Labour Standards Bill and the Gender and Equal Opportunities Bill will be forwarded to the National Assembly. The Committee notes with **deep regret** that the Government has not taken steps for the adoption of comprehensive anti-discrimination legislation. **Recalling that the Committee has been raising this specific issue for a number of years, it urges the Government to take the necessary steps to accelerate the adoption of the Labour Standards Bill and the Gender and Equal Opportunities Bill. It trusts that progress will be made soon in adopting legislation that explicitly prohibits direct and indirect discrimination based on at least all the grounds set out in Article 1(1)(a) of the Convention concerning all stages of employment.**

*Article 1(1)(a). Discrimination based on sex. Maternity.* For a number of years, the Committee has been asking that the Government provide information on the specific measures taken to address discriminatory practices in the workplace against women based on maternity and marital status. It notes once again that the Government has not provided any information in its report on this point. **The Committee urges the Government to provide information on: (i) the measures taken or envisaged in the near future, including in collaboration with workers' and employers' organizations, to address discriminatory practices in the workplace based on maternity and marital status; and (ii) 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.**

*Articles 1 and 3(c). Discrimination based on sex with regard to employment in the police force.* For many years, the Committee has been drawing the Government's attention to the fact that sections 118 to 128 of the Police Regulations of 1968, which provide for special recruitment requirements and conditions of service applicable to women, are discriminatory on the basis of sex and thus incompatible with the Convention. The Committee notes with **satisfaction** that the 1968 Police Regulations and the 2004 Police Act, Cap P.19, were repealed by the 2020 Police Act. It notes in particular that the provisions relating to the recruitment of women police officers have been replaced by general provisions applying to both male and female candidates (Part iv of the Act) with gender-neutral terminology. **The Committee encourages the Government to take measures to ensure that women in the police force benefit from effective equality of opportunity and treatment in practice. The Government is requested to provide statistical information on the number of women who have been recruited to the police force following the entry into force of the 2020 Police Act.**

*Articles 2 and 3. Equality of opportunity for men and women.* In its previous comment, noting the absence of legislation that fully reflects the principles of the Convention, the Committee urged the Government to strengthen its efforts to take proactive measures, in collaboration with employers' and workers' organizations, to raise awareness, make assessments and promote and enforce the application of the provisions of the Convention in practice. It also asked the Government to provide information on: (1) any progress made in the review of the National Gender Policy of 2006; (2) the measures taken to improve equality of opportunity and treatment for men and women in employment and occupation, in particular in rural areas (for example, by improving the school attendance rate for women and girls and reducing their early dropout from school, enhancing women's economic empowerment and access to education and employment, etc.); and (3) statistical information on the participation of men and women in education, training, employment and occupation, disaggregated by occupational categories and positions, in both the public and private sectors, as well as in the informal economy. The Committee notes the Government's indication that, to address the issue of the school attendance rate of girls, a National Policy on Gender in Basic Education and the Adolescent Girls Initiative for Learning and Empowerment (AGILE) (2020–25) have been adopted. It notes in particular that the AGILE programme aims to enhance women's economic empowerment and facilitate access to education and employment. Moreover, the Committee observes that in 2018 the Government launched the Nigeria for Women Project with the support of the World Bank. The project focuses on creating an enabling environment for women to overcome institutional obstacles (including market failures) and barriers to enhance productive livelihoods and socio-economic advancement through the formation and strengthening of

Women Affinity Groups (WAGs) with a strong livelihood focus to enhance household income. **The Committee asks the Government to provide information on the results of its efforts to promote access to education and women's economic empowerment (for example, in terms of the school attendance rate of women and girls and the reduction of early school dropout rates, the number of women in decision-making positions) in particular in rural areas. Noting that the Government's report is silent on the other points raised in previous comments, the Committee once again urges the Government to: (i) address underlying obstacles to women's employment, in particular patriarchal attitudes and gender stereotypes and the lack of access to productive resources; and (ii) provide statistical information, disaggregated by sex, on the participation of men and women in all stages of education and in the various vocational training courses, as well as on the number of men and women who have filled vacancies following such training, including for jobs traditionally held by persons of the other sex. It asks the Government to provide information on any progress made in the adoption of a revised National Gender Policy.**

*Discrimination based on race, colour, religion, national extraction or social origin.* Ethnic and religious minorities. Noting that Nigeria is an ethnically and linguistically diverse society, the Committee has repeatedly asked the Government to provide information on the application of the Convention with respect to the different ethnic and religious groups in the country. The Government indicates that, to ensure that there is no discrimination in employment opportunities, it has set up the Federal Character Commission and the National Human Rights Commission. The Committee notes that the National Human Rights Commission is mandated to: (1) monitor and investigate all alleged cases of human rights violations and make appropriate recommendations to the federal government for criminal prosecution; and (2) assist victims of human rights violations and seek appropriate redress and remedies on their behalf. The Committee notes with **regret** the lack of information in the Government's report on the measures taken to address the discrimination faced by ethnic and religious minorities in employment and occupation. **The Committee asks the Government to take proactive measures to address discrimination against ethnic and religious minority groups, and particularly nomadic groups and Christians in the northern states. It asks the Government to provide information on any affirmative action and awareness-raising measures taken to promote equality of opportunity and treatment in employment and occupation for ethnic and religious minorities, as well as on legislative developments relevant to the rights of minorities. The Committee asks the Government to provide information on the number and nature of complaints, as well as the grounds relied upon, filed with the Human Rights Commission that relate to discrimination based on race, colour, religion and national extraction.**

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

## Papua New Guinea

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)

The Committee notes with **deep concern** that the Government's report, due since 2017, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Articles 1 and 2 of the Convention. Definition of remuneration. Equal remuneration for men and women for work of equal value. Legislation.* The Committee recalls that, for years, it has been requesting the Government to take measures to ensure that both the final draft of the Industrial Relations Bill as well as the revision of the Employment Act of 1978: (1) contain a definition of remuneration which 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; and (2) provide for equal remuneration for men and women for work of equal value (and not only for *equal*, the *same* or *similar* work), in conformity with

the Convention. The Committee notes with **deep concern** that neither the Industrial Relations Bill nor the revision of the Employment Act of 1978 have been enacted to date. **Noting that once again the latest Decent Work Country Programme 2018–22 has set as one of its top priorities the revision of the Industrial Relations Act and the Employment Act, the Committee urges the Government to avail itself of the technical assistance of the Office for this purpose in order to be in a position to report progress in the near future regarding the labour law reform, in particular with regard to the provisions which are not in conformity with the principle of the Convention.**

*Article 2. Methods of wage determination.* **In the absence of any updated information, the Committee reiterates its requests to the Government to provide: (i) information on the methods used by the Industrial Registrar to assess the gender neutrality of wage determinations made through collective agreements; (ii) copies of collective agreements including provisions on equal remuneration or on wage determinations.**

*Article 3. Objective job evaluation.* The Committee recalls that, in response to the Government's statement that women are part of the appraisal process in whatever capacities they occupy in the respective organizations that conduct appraisals of jobs, it had: (1) pointed out that whatever methods are used for the objective evaluation of jobs, particular care must be taken to ensure that they are free from gender bias; and (2) asked the Government to provide information on the appraisals of jobs conducted and the methods and criteria used both in the private and public sectors. In this regard, the Committee recalls that it is important to ensure that the selection of factors for comparison, the weighting of such factors and the actual comparison carried out, are not inherently discriminatory, as skills considered to be "female", such as manual dexterity and those required in caring professions, are often undervalued or even overlooked, in comparison with traditionally "male" skills, such as heavy lifting (see General Survey of 2012 on the fundamental Conventions, paragraph 701). **In the absence of any information in this regard, the Committee again requests the Government to provide information on: (i) job evaluation methods used to determine remuneration rates in the public sector and the measures taken to ensure that they are free from gender bias; and (ii) any measures taken to promote the use of objective job evaluation methods and criteria that are free from gender bias (such as qualifications and skills, effort, responsibilities and conditions of work) in the private sector. Please provide a copy of the salary scales and schemes of public sector employees as well as indications of the number of men and women respectively employed in each of the salary scales.**

*Enforcement.* **The Committee, once again, requests the Government to provide information on any awareness-raising or training activity undertaken by the Office of the Industrial Registrar or otherwise specifically to promote knowledge and foster understanding of the principle of equal remuneration for men and women for work of equal value. It also requests the Government to provide information on any administrative or judicial decisions relating to equal remuneration.**

*Statistics.* **Recalling that collecting and analysing data on the position and pay of men and women in all job categories, within and between sectors, is required to determine and address the nature and extent of the remuneration gap between men and women, the Committee once again requests the Government to provide statistical information on the distribution of men and women in the different sectors of economic activity, job categories and positions, and their corresponding earnings.**

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 2000)

The Committee notes with **deep concern** that the Government's report, due since 2017, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee recalls that the Government indicated previously that section 8 of the final draft of the Industrial Relations Bill would prohibit direct and indirect discrimination on the grounds of race, colour, sex, religion, pregnancy, political opinion, ethnic origin, national extraction or social origin, against an employee or applicant for employment or in any employment policy or practice. At the time, the Government also stated that it would report any development regarding the revision of sections 97–100 of the Employment Act, 1978, which only prohibit sex-based discrimination against women. The Committee notes that none of these Bills has yet been enacted, despite the fact that the latest Decent Work Country Programme (2018–22), in the same way as the previous ones, has set as a priority the enactment of the Industrial Relations Bill and the revision of the Employment Act through the adoption of a new Employment Relations Bill. In this regard, the Committee observes that, according to the United Nations Development Programme Country Programme 2018–22, the country's instability is impeding progress towards the elaboration and promulgation of revised laws. ***While acknowledging the difficult situation prevailing in the country, the Committee asks the Government to act expeditiously to review and amend these laws, in collaboration with workers' and employers' organizations, in order to bring them into line with the requirements of the Convention and to provide information on any progress made in this regard.***

*Discrimination on the ground of sex. Public service.* The Committee recalls that in its last comment it noted that the new Public Services (Management) Act adopted in 2014 maintains the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 1995 and allows employers to advertise for candidates indicating that only males or females will be appointed, promoted or transferred in "particular proportions". It also noted that section 20.64 of General Order No. 20, as well as section 137 of the Teaching Services Act 1988, which provide that a female official or female teacher is only entitled to certain allowances for her husband and children if she is the breadwinner (a female officer or female teacher is considered to be the breadwinner only if she is single or divorced, or if her spouse is medically infirm, a student or certified unemployed) had not been modified. ***In the absence of any information on this point, the Committee urges the Government to review and amend these laws to bring them into conformity with the Convention.***

*Article 2. National equality policy.* In its previous comments, the Committee, noting that the issue of gender equality in employment and occupation seems to be addressed in some sections of the National Public Service Policy on Gender Equity and Social Inclusion of 2013 and the National Policy for Women and Gender Equality 2011–15, emphasized that it is essential for attention be given to *all* the grounds of discrimination set out in the Convention in formulating and implementing a national equality policy (2012 General Survey on the fundamental Conventions, paragraphs 848–849). ***In the absence of information in this regard, the Committee once again urges the Government to provide full particulars on the specific measures taken or envisaged, in collaboration with workers' and employers' organizations, to develop and implement a national policy aimed at ensuring and promoting equality of opportunity and treatment in employment and occupation on all the grounds enumerated in the Convention (race, colour, sex, religion, political opinion, national extraction and social origin).***

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

## Peru

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)

The Committee notes the observations of the National Confederation of Private Business' Institutions (CONFIEP) communicated with the Government's report, as well as the observations of the Autonomous Workers' Confederation of Peru (CATP), the Confederation of Workers of Peru (CTP), the General Confederation of Workers of Peru (CGTP) and the Single Confederation of Workers of Peru (CUT-Peru),

received on 1 September 2021. **The Committee requests the Government to provide its comments in this respect.**

*Articles 1 and 2 of the Convention. Gender pay gap.* With reference to the statistics requested in previous comments, the Committee notes the Government's indication in its report that the gender wage gap was 25.8 per cent in 2019 and 19.3 per cent in 2020 (the figures for 2020 have to be seen in the context of the COVID-19 pandemic). The Government also refers to a study on women in the Peruvian civil service, issued in 2021, according to which the wage gap in the public sector has been narrowed (by 12 per cent in 2019), although there remain differences, particularly due to the limited and lower access of women civil servants to the best paid jobs in the State sector. In this respect, the Committee notes that the CGTP, CUT-Peru, CTP and CATP emphasize in their observations that the causes of the pay gap include the fact that women work fewer hours than men in order to be able to care for their families, and that the majority of women workers are self-employed or unpaid family workers, or are in feminized and lower valued jobs. The confederations add that the wage gap in the public sector is still 53 per cent in some occupational groups, that the greater presence of women in occupations such as primary education and nursing barely changed between 2008 and 2016, and that the most alarming wage gaps are a result of the coexistence of three labour regimes in the public sector (the administrative services contract (CAS); the public service, and the employment scheme with the public administration).

The Committee also notes that, in reply to its request on the measures adopted to address the underlying causes of the pay gap, the Government refers to: (1) the application of the Sectoral Plan for Equality and Non-discrimination in Employment and Occupation 2018–21 through the joint action of several bodies with a view to the implementation of measures on equality and non-discrimination (preparation of technical and normative documents, compliance inspections and communication campaigns); (2) the adoption in 2021 of the National Decent Work Policy, priority objective five of which includes a platform for the identification of the pay gap between men and women and the examination of complaints concerning discrimination and the failure to comply with equal remuneration regulations; and (3) the approval in 2019 of the National Gender Equality Policy, which includes an assessment of the gender pay gap, priority objective five of which is "to reduce institutional barriers to equality in public and private life". The Committee also notes that the National Gender Equality Policy adopted in 2019 includes in item 4.3: "Strengthening the formal labour integration of women", technical, productive and higher training for women in traditionally male-dominated and/or better paid careers (service 4.3.3) and higher technical training in non-traditional areas (construction) to increase the participation of women (service 4.3.4). The Committee further notes with regard to the preparation of assessment studies that: (1) the Sectoral Plan for Equality and Non-discrimination in Employment and Occupation 2018–21 includes in its indicators the preparation of six assessment studies to gather information on the situation of women and specially protected groups in the labour market; and (2) according to the Government's report under the national-level review of the implementation of the Beijing Declaration and Platform for Action, 1995 (Beijing +25 national report), there were 80 public bodies in 2018 that had provided information for the assessment studies of the pay gap in the public sector envisaged by Presidential Decree No. 068-2017-PCM. The Government refers to the adoption of various measures to promote better understanding of the principle of equality, including training of those responsible for human resources in enterprises on job evaluation and on the laws and regulations on equal remuneration. It also refers to technical assistance on the framework and application of Act No. 30709 prohibiting discrimination in remuneration between men and women, as well as the assistance provided in collaboration with the ILO Regional Office to build capacity for analysis of the pay gap.

With regard to the information requested on the evaluation of plans and programmes relating to the application of the principle of the Convention, the Committee notes the Government's indication that, through the programmes "Productive Youth" (*Jóvenes Productivos*) and "Onwards Peru" (*Impulsa Perú*), vocational skills programmes were provided in 2020 for 492 women and 544 men aged between

15 and 29 years and 552 women and 555 men were placed in the labour market. The Government adds that at the end of 2021 a study will be commenced on the impact of the National Employability Programme on the reduction of the pay gap between men and women. The Committee notes the observations of the CGTP, CUT-Peru, CTP and CATP indicating that workers' organizations have not been called upon to participate in any evaluations of plans and programmes relating to the principle of the Convention, and in particular that: (1) the National Decent Work Policy does not have a follow-up mechanism based on tripartite dialogue and institutionalized tripartite action; and (2) the Sectoral Plan for Equality and Non-discrimination in Employment and Occupation 2018–21 envisaged the establishment of a quadripartite body for its implementation and follow-up, but there has been no news on that subject. The Committee refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in relation to the evaluation of labour policies and to regimes in the public sector. **Noting all this information, the Committee requests the Government to take steps to reduce the gender pay gap in the public sector. It also requests the Government to provide information on the impact of the programmes and policies referred to in terms of the effective reduction of the pay gap between men and women and addressing its underlying causes, such as occupational segregation and the unequal sharing of family responsibilities, and on the challenges identified in their implementation.**

*Articles 1 and 3. Work of equal value and objective job evaluation.* In reply to its previous comments, the Committee notes with **interest** the information provided by the Government on the adoption of: (1) the "Guide containing reference guidelines that can be used by the employer to evaluate jobs and determine the index of categories and duties" (Ministerial Decision No. 243-2018-TR), which includes the minimum components for a wage policy and a model index of categories and duties as a basis for assessing whether the same remuneration is paid for jobs of equal value; and (2) the "Methodological guide for objective job evaluation, without gender discrimination, and the formulation of indices of categories and duties" (Ministerial Decision No. 145-2019-TR), which covers the process of job evaluation taking into account such factors as skills and qualifications, responsibilities, effort and working conditions. The Government acknowledges, in relation to the Act on productivity and labour competitiveness and in reply to the Committee's request in its previous comments, that the principle set out in the Convention, which provides the basis for Act No. 30709, is equal remuneration for work of equal value. The Committee also notes that the CGTP, CUT-Peru, CTP and CATP reiterate that Act No. 30709 refers to equal remuneration "for equal work" and that none of the references to the "evaluation" of jobs in its Regulations give full expression to the principle of the Convention. The confederations add that the guides cited are intended as references and are not compulsory, and that the Regulations issued under Act No. 30709 only apply to the private sector. While taking due note of the measures adopted to provide guidance for job evaluation processes, the Committee recalls the importance of ensuring that men and women have a clear legal basis for asserting the right to equal remuneration for work of equal value in relation to their employers and the competent authorities. **Under these conditions, the Committee requests the Government to take the necessary measures to include in the legislation the principle of equal remuneration for men and women "for work of equal value", as set out in the Convention. The Committee requests the Government to provide information on any measures adopted or envisaged 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: 1970)

The Committee notes the observations of the National Confederation of Private Business Institutions (CONFIEP) communicated with the Government's report, as well as the observations of the Autonomous Workers' Confederation of Peru (CATP), the Confederation of Workers of Peru (CTP), the General Confederation of Workers of Peru (CGTP) and the Single Confederation of Workers of Peru (CUT-Peru),

received on 1 September 2021. **The Committee requests the Government to provide its comments in this regard.**

*Article 1 of the Convention. Discrimination on the basis of sex, colour and race.* With reference to its request to evaluate the consequences of the differences of legislative treatment and of indirect discrimination in the special labour regimes (in agriculture, domestic work and microenterprises), the Committee notes with **satisfaction** that the agricultural sector is now governed by Act No. 31110 on the agrarian labour regime and incentives for the agrarian sector and irrigation, agricultural exports and agro-industry (published on 31 December 2020) and its Regulations, and that section 6 of the Act prohibits discrimination and acts of violence or harassment and establishes protection measures for pregnant and nursing workers. With regard to domestic work, the Government also refers to the adoption of Act No. 31047 on women and men domestic workers (published on 17 September 2020) and its Regulations, which also prohibit any act of discrimination and establish measures to protect maternity and prevent and punish sexual harassment. The Committee notes that the CGTP, CUT-Peru, CTP and CATP indicate in their observations that: (1) the adoption of new laws on the agricultural sector and domestic work is encouraging, as they remove certain differences of legislative treatment and introduce mechanisms to combat discrimination; (2) the new regime for the agricultural sector has equalized most terms and conditions of employment, but certain differences in treatment persist which are not related to the specific characteristics of agricultural work, such as coverage by life insurance; (3) there are no tripartite evaluation mechanisms to assess whether differences of treatment are appropriate or involve structural discrimination, and the measures adopted are still inadequate to ensure the enforcement of existing standards; and (4) information is lacking on the situation of women in agriculture and stock-raising and in domestic work. The Committee also observes that the Government has not provided information on the regime governing micro- and small enterprises, and that the workers' organizations indicate that, according to the Sectoral Strategy for Labour Formalization 2018–21 and the National Decent Employment Policy, this regime has only limited coverage and has not had a significant effect on reducing levels of informality. **In this context, the Committee requests the Government to provide information on the measures adopted or to be adopted with a view to identifying and addressing any element of the special regime for micro- and small enterprises that may lead to indirect discrimination against women and indigenous peoples in access to employment and conditions of employment, which would be contrary to the principle of equality and non-discrimination in employment and occupation. The Committee also requests the Government to provide information on the application of Acts Nos 31110 and 31047 respecting the agricultural sector and irrigation, agricultural exports and agro-industry, and domestic work, respectively, including information on: (i) measures taken to provide training to labour inspectors and awareness-raising among domestic workers and workers and employers in the agricultural sector; and (ii) any cases dealt with by the labour inspection, courts or any other competent body, the sanctions imposed and the remedies granted.**

*Article 2. Equality of opportunity and treatment for men and women.* In reply to its previous request on the measures adopted under the Sectoral Plan for Equality and Non-discrimination in Employment and Occupation 2018–21, the Committee notes the Government's indication that the 2020 evaluation is currently being carried out and that joint and coordinated action has been undertaken by the Ministry of Labour and Employment Promotion (MTPE), the National Labour Inspection Superintendent Authority (SUNAFIL) and labour inclusion programmes in the field of equality and non-discrimination with a view to: (1) the preparation of technical documents, including two projects to promote formal and productive self-employment for women, six technical and normative documents and the report on labour statistics based on data from the National Household Survey of Living Conditions and Poverty (ENAHPO) 2018, including the employed economically active population by gender updated to 2018; (2) the training of 4,358 women in vocational skills for dependent employment, as well as diverse measures regarding the certification of labour skills, employment placement,

temporary employment and productive and formal self-employment targeting women and other specially protected groups, without indicating the specific number of women beneficiaries; and (3) the strengthening of capacity-building in relation to equality and non-discrimination through ten awareness-raising campaigns, as well as capacity-building for 305 persons in the civil service. The Government also refers in its report to the formulation of the National Decent Employment Policy, approved in 2021, which includes items 5.1 “implementing effective measures to combat sexual harassment at work and gender discrimination among the working population”, 5.2 “implementing incentives and normative measures with cultural relevance for the recruitment of groups suffering discrimination or vulnerable groups” and 5.4 “strengthening the skills of vulnerable groups or those in a vulnerable situation to improve their employability”. The Committee also notes the reference by the Government in the national report for the Beijing+25 Declaration and Platform for Action, 1995, to: (1) the National Gender Equality Policy, adopted in 2019, which includes in item 4.3 “strengthening the formal labour market inclusion of women”, measures for the certification of labour skills, skills training to improve employability and labour market integration, training and technical assistance in enterprise management and productivity, and financing for women heads of undertakings and enterprises; and (2) the Intergovernmental Committee for Gender Equality and Vulnerable Populations was created in 2019 to articulate and implement policies, strategies and action for the reduction of the gender gap.

The Committee notes the indications by the CGTP, CUT-Peru, CTP and CATP that: (1) the trade union confederations have not been called upon to participate in the evaluation of the Sectoral Plan; and (2), according to the 2019 data of the National Statistics and Information Technology Institute (INEI), differences in the activity rate between women and men have remained practically unchanged since 2009, the unemployment rate of women has been higher than that of men in all years and, even though the income gap has been reduced, its underlying causes have not been the target of specific public policy measures. The Committee recalls that it is essential to follow up the implementation of plans and policies in terms of their results and effectiveness, and that employers’ and workers’ organizations can play an important role in their formulation, promotion and evaluation.

***The Committee requests the Government to provide detailed information on: (i) the progress made in the process of evaluating the Sectoral Plan for Equality and Non-discrimination in Employment and Occupation, in collaboration with workers’ and employers’ organizations, and particularly their impact on the prevention of gender-based discrimination in employment and occupation and the challenges that have been identified in their implementation; and (ii) the specific measures adopted within the framework of the National Decent Employment Policy and that National Gender Equality Policy, including the number of beneficiaries of these measures disaggregated by sex.***

With reference to the transition to a single employment regime in the civil service, the Committee notes the Government’s reference to the approval of Directive No. 001-2021-SERVIR-GDSRH “Orientations for the transition of a public body to the Civil Service employment regime”, and its indication that as of June 2021, a total of 506 public bodies had commenced the process of transition to the new civil service employment regime. In this regard, the Committee notes the indication by the CGTP, CUT-Peru, CTP and CATP that incorporation into the civil service employment regime lacks political support (as the process was completed between 2014 and 2020 by only seven out of a total of 3000 bodies), and that Act No. 31131 adopting provisions for the eradication of discrimination in the employment regimes of the public sector (published on 9 March 2021) is the subject of an appeal to the Constitutional Court. The confederations also reiterate that the three employment regimes can give rise to indirect cases of discrimination when women are in feminized sectors of the public sector in which the public careers regime is predominant, under which wages are low and employment conditions are precarious. ***The Committee trusts that the Government will take measures to guarantee progress in the transition towards a single employment regime in the civil service and requests the Government to provide full information in this regard.***

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

## Poland

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

The Committee notes the observations of the Independent and Self-Governing Trade Union “Solidarnosc” received on 30 August 2021, and the Government’s response.

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation.* In its previous comment, the Committee noted that section 11<sup>3</sup> of the Labour Code and section 3(1) of the Equal Treatment Act, 2010, do not prohibit discrimination on all the grounds enumerated in *Article 1(1)(a)* and requested the Government to provide information on any progress made in this regard, for instance in the context of the envisaged elaboration of a new draft Labour Code. The Committee notes the indication by the Government that the draft of the new Labour Code developed by the Labour Law Codification Commission in 2018 did not receive the recognition of the social partners and that as a result its enactment did not appear to be feasible. The Committee also notes the Government’s explanation that section 11<sup>3</sup> of the Labour Code prohibits any discrimination for any reason and that, similarly, section 18<sup>3a</sup>(1) of the Labour Code: (1) provides for the obligation to treat employees equally in terms of establishing and terminating an employment relationship, conditions of employment, promotion and access to training to improve professional qualifications; and also (2) uses the same open list of grounds for discrimination, explicitly mentioning sex, age, disability, race, religion, nationality, political opinion, union membership, ethnic origin, sexual orientation, employment for a definite or indefinite period of time, and full-time or part-time employment. The Committee therefore notes that the Labour Code does not explicitly refer to colour, national extraction (which differs from ethnic origin and nationality) or social origin, but contains an open list of prohibited discrimination grounds. With respect to the Equal Treatment Act, the Committee notes that the definition of direct (section 3(1)) and indirect discrimination (section 3(2)) and the prohibition of unequal treatment in employment and occupation (section 3(1) and (2)) cover explicitly only the following grounds: sex, race, ethnic origin, nationality, religion, denomination, beliefs, disability, age and sexual orientation. It therefore notes that the Equal Treatment Act omits the grounds of colour, political opinion, national extraction and social origin that are enumerated in *Article 1(1)(a)* of the Convention. It also notes the indication by the Government that, during the reporting period, the courts did not issue any rulings relating to discrimination on the basis of skin colour or social origin. **The Committee therefore asks the Government to: (i) ensure that the Equal Treatment Act explicitly prohibits discrimination in employment and occupation based on at least all the grounds set out in Article 1(1)(a) of the Convention, by adding political opinion, colour, national extraction and social origin to the list of explicitly prohibited grounds; (ii) consider aligning the Equal Treatment Act with the provisions of the Labour Code in this regard, while also ensuring that the additional grounds already enumerated in the Labour Code and the Equal Treatment Act are maintained; (iii) consider the possibility, when revising the Labour Code in future, to explicitly cover the grounds of colour, national extraction and social origin, in order to avoid any legal uncertainty; and (iv) ensure that the prohibition of discrimination on the basis of colour, national extraction and social origin is implemented in practice, including with respect to Roma people (see paragraph below).**

*Discrimination based on sex. Sexual harassment.* The Committee previously requested detailed information on the measures adopted to prevent and address all forms of sexual harassment, and the implementation in practice of the relevant provisions of the Labour Code. It notes that the Government refers to section 18<sup>3a</sup>(6) and (7) of the Labour Code defining sexual harassment and protecting employees against retaliation. The Committee also notes the information provided by the Government on the number of complaints of sexual harassment filed with the National Labour Inspectorate, according to which: in both 2018 and 2019, 24 complaints were filed; in 2020, 15 were filed; and between January and June 2021, eight complaints were filed. In this regard, the Committee recalls that the

absence of, 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 (General Survey on the fundamental Conventions, 2012, paragraph 790). **The Committee therefore asks the Government to: (i) provide information on any activities planned or effectively conducted to raise awareness on and prevent sexual harassment among employers and workers and their respective organizations, such as training activities or media campaigns; and (ii) continue providing information on the number of cases of sexual harassment handled by the National Labour Inspectorate and the courts and their outcome, including the compensation granted and penalties imposed.**

*Discrimination based on sexual orientation.* The Committee notes the “Memorandum on the stigmatisation of LGBTI people in Poland” (CommDH (2020)27) issued by the Commissioner for Human Rights of the Council of Europe on 3 December 2020. **Recalling that the Labour Code prohibits discrimination based on sexual orientation, the Committee asks the Government to provide information on: (i) the measures taken to combat discrimination against lesbian, gay, bisexual, trans and intersex (LGBTI) persons at all stages of employment, and to address prejudice and promote tolerance; and (ii) any cases of discrimination based on sexual orientation handled by the National Labour Inspectorate and the courts, indicating the compensation granted and the penalties imposed.**

*Articles 2 and 3. Equality of opportunity and treatment of men and women.* The Committee previously requested the Government to provide information on the measures taken to address both horizontal and vertical segregation between men and women in the labour market, and gender stereotypes. The Committee takes note of the adoption of the National Action Programme for Equal Treatment for 2021–30 (NAPET 2021–30). It observes that one of the priorities enumerated in the NAPET 2021–30 is to support equal opportunities for women and men in the labour market. In particular, the NAPET 2021–30 stresses the importance of reducing occupational segregation and identifies the promotion of the participation of women in decision-making processes in enterprises, institutions, universities and non-governmental organizations as one of its objectives. The Committee also takes note of the statistical information provided by the Government on occupational groups, showing that in 2018 men remained over-represented in certain categories such as chief executives, senior officials and legislators, and science and engineering professionals. **The Committee therefore asks the Government to provide detailed information, including statistical data, on the implementation and impact of the NAPET 2021–30, and of any other relevant measure adopted, on the horizontal and vertical segregation of men and women in the labour market, and more generally, on its impact on the promotion of equality of opportunity and treatment of men and women in employment and occupation.**

*Equality of opportunity and treatment irrespective of race, colour and national extraction. Roma people.* The Committee previously asked the Government to ensure equality of opportunity and treatment of the Roma people in employment and occupation in practice, and in this context requested information on: (1) any measures adopted in the context of the Programme for the Integration of the Roma Community for 2014–2020 (PIRC 2014–20); and (2) statistical data on the participation of the Roma people and persons belonging to other minorities in education and the labour market, disaggregated by sex. The Committee takes note of the Government’s indication that an independent evaluation was conducted on the effectiveness of the activities of the PIRC 2014–20. It welcomes the Government’s indication that it adopted the new Programme of social civic integration of Roma in Poland for 2021–2030 (PSCIRP 2021–30) and that, despite the prospect of a post-pandemic crisis, the PSCIRP’s budget has been maintained. Education remains a priority of the PSCIRP, with a focus on secondary education and particular emphasis on vocational education. In this regard, the Government further reports on a

number of activities undertaken to reduce the over-representation of Roma students in special schools from the level of about 17 per cent (2010 data) to about 10 per cent. Reducing this over-representation to a level comparable to that of the general population (approximately 3.5 per cent) remains one of the important objectives of the current strategy. With regard to access to employment, the Government reports that in the period 2017–20, under the above-mentioned programme, more than 1,000 persons from the Roma community were employed, with 80 per cent of them under a permanent contract. Access to the labour market is also being addressed in the context of European Union structural funds with larger budgets than the ones allocated to the PIRC. The Committee also notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) expresses concern at: (1) the persistence of structural discrimination against Roma; (2) the low attendance rates of Roma children in primary school, their high rates of high school dropout, their persistent over-representation in special schools and their under-representation in secondary and post-secondary education; (3) the extreme poverty and substandard living conditions faced by Roma in segregated neighbourhoods with no proper infrastructure and basic services, as well as threats of eviction; and (4) the high rates of unemployment among Roma and the large wage gap between Roma and the rest of society (CERD/C/POL/CO/22-24, 24 September 2019, paragraph 21). **Noting this information, the Committee asks the Government to continue taking steps to implement the Programme of social civic integration of Roma in Poland 2021–2030 (PSCIRP) and adopt measures to effectively address discrimination against Roma people, including stereotypes and prejudice against them. It also asks the Government to provide detailed information on the implementation of the Programme in practice and its impact on the participation of the Roma people in education, vocational training and the labour market, and particularly on the reduction of the over-representation of Roma students in special schools.**

The Committee notes that under the priority “work and social security” of the NAPET 2021–30, one of the objectives is to support groups exposed to discrimination in the labour market due to age, disability, race, nationality, ethnic origin, religion, belief, sexual orientation and family status (II.3). In this regard, the Committee welcomes the detailed statistics provided by the Government on the number of complaints reported to the National Labour Inspectorate of instances of discrimination based on race, ethnic origin and nationality. According to the data: (1) 15 cases were reported between 2018 and 2020 and 1 between 1 January 2021 and 30 June 2021 of non-compliance with the prohibition of discrimination by employment agencies and other related entities; (2) 31 cases were reported between 2018 and 2020, and 8 between 1 January 2021 and 30 June 2021 of discrimination in the creation or termination of employment; (3) 34 cases were reported between 2018 and 2020, and 5 between 1 January 2021 and 30 June 2021 of discrimination in the determination of pay or other terms or conditions of employment; and (4) 5 cases were reported between 2018 and 2021 of discrimination in promotion or other work-related benefits. **Recalling 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, the Committee asks the Government to provide information on any policies envisaged or adopted to address specifically such discrimination, and the results achieved.**

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

## Portugal

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

The Committee notes the observations of the Confederation of Portuguese Industry (CIP) and the General Confederation of Portuguese Workers – National Trade Unions (CGTP-IN) communicated with the Government’s report.

*Articles 1 to 4 of the Convention. Assessing and addressing the gender pay gap.* The Committee previously noted the persistence of occupational gender segregation and stereotypes that are underlying causes of the gender pay gap and requested the Government to adopt specific measures in order to reduce such gap. Referring to its previous comments regarding indirect discrimination against women with respect to pay bonuses or performance assessment, as a result of their family responsibilities, the Committee notes with **satisfaction** the adoption of Law No. 90/2019 of 4 September 2019, which introduces a new article 35-A in the Labour Code, prohibiting any form of discrimination based on the exercise by workers of their maternity and paternity rights, in particular regarding the attribution of attendance and productivity bonuses or career progression. It notes the Government's indication, in its report, that concrete measures have been implemented, in the framework of National Strategy for Equality and Non-Discrimination for 2018–30 (ENIND) and its Action Plan for Equality between Women and Men 2018–2021 (PAIMH), in order to combat the gender pay gap and address vertical and horizontal occupational gender segregation and stereotypes, in particular through the project «Equality Platform and Standard», launched in 2020 and promoted by the Commission for Equality in Labour and Employment (CITE). The Committee notes the Government's indication that this project aims at designing a platform to monitor the implementation of public policies and compliance with legal instruments, as well as at elaborating the Portuguese Reference Document for an Equal Pay Standard Management System, which will help organizations wishing to implement a process leading to equal pay between women and men. It notes that, in 2019, the Government has become a member of the Equal Pay International Coalition (EPIC), an initiative launched by the ILO and UN Women. The Committee however notes that the CGTP-IN reiterates its concerns regarding the persistence of substantial gender wage differences, in particular in higher positions, despite the existing legal framework. The CGTP-IN adds that, in the public sector, women face difficulties in accessing managerial positions (representing less than 42 per cent of senior managers while they represent 61 per cent of workers in the public sector), which is reflected by lower wages. While women have higher levels of education than men, this positive evolution is not reflected in the level of their wages, as a result of persistent discrimination based on gender stereotypes. The Committee notes that, in reply to CGTP-IN's observations, the Government refers to the measures introduced by Law No. 60/2018 of 21 August 2018 for the promotion of equal pay for men and women for equal work or work of equal value, as well as the continued decrease of the gender pay gap. In that regard, it notes, from the 2019 CITE report, that, in 2018, the gender pay gap slightly decreased being estimated at 14.4 per cent for the average monthly basic remuneration and 17.8 per cent for the average monthly overall remuneration (compared to 14.8 per cent and 18.2 per cent, respectively, in 2017) but remains wider in higher positions, being estimated at 26.2 per cent for the average monthly basic remuneration and at 27.4 per cent for the average monthly overall remuneration. The Committee observes that, despite a slight diminution, the gender pay gap remains high. It notes that, in its observations, the CIP highlights that wage differences need to be analysed carefully, by taking into consideration several criteria such as the tasks effectively performed, the qualifications and level of education required, gender and age, in order to determine whether such differences can be considered or not as discrimination. The CIP adds that, in its views, the gender pay gap is a cultural and sociological issue, the existing occupational gender segregation being largely rooted in stereotypes regarding the professions and sectors that are considered more appropriate for men or for women, which has an impact on the academic choices of young people and is later reflected in the labour market. In that regard, the Committee notes that, in its 2021 country report on gender equality, the European Commission highlights that the implementation of the national legislation is still weak as the gender pay gap persists, mainly as a result of the traditional stigma attached to the social roles of men and women in public and private life and the unbalanced share of the family and care responsibilities. Such inequality in the reconciliation of professional and family life leads to shorter working time; undervalued work; shorter careers; increased difficulties in promotion and less training for women. All these factors involve or lead to lower pay and to fewer professional

opportunities (country report, page 29). In that regard, the Committee refers to its 2021 comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Workers with Family Responsibilities Convention, 1981 (No. 156). ***Welcoming the steps already taken by the Government, the Committee asks the Government to pursue its efforts in order to address the gender pay gap and its underlying causes, such as persistent vertical and horizontal occupational gender segregation and stereotypes regarding women's professional aspirations, preferences and capabilities, and their role in the family. It asks the Government to provide information on the measures implemented to that end, including in cooperation with the social partners or with EPIC. The Committee asks the Government to provide statistical information on the earnings of men and women, disaggregated by economic sector and occupation, both in the public and private sectors.***

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

*Articles 1 and 2 of the Convention. Discrimination based on religion. Access to education, training and employment.* The Committee notes, from the European Commission's website, that a draft bill to amend the Romanian Education Law was filed on 2 December 2017 and received a positive advisory opinion from the Economic and Social Council on 9 January 2018. The bill proposes the following additions to section 7 of the Education Law: "for the purpose of facilitating the identification of persons in educational units, institutions and all spaces used for education and professional training, it is prohibited to cover one's face with any material which make it difficult to recognize the face, except for medical reasons. Infringement of these provisions constitutes a reason to deny access to the perimeter of the educational units, institutions and spaces for education and professional training." The sanction, introduced as an amendment to section 360(1) of the Education Law would be a fine ranging from 5,000 to 50,000 Romanian Leu (RON) (approximately €1,100 to €11,000). The Committee notes that, if adopted, this new provision will be discriminatory towards those Muslim women and girls who wear a full face veil in terms of their access to educational or training institutions and might therefore limit their opportunities to find and exercise employment in the future – for reasons associated with their religious convictions, contrary to the Convention. ***Noting that this provision of the draft bill may have a discriminatory effect towards Muslim women who wear a full-face veil in terms of their possibilities of finding and exercising employment, the Committee requests the Government to provide information on: how it is ensured that this provision of the draft bill will not have the effect of reducing the opportunities of girls and women to access education and finding employment in the future; (ii) the progress of the draft bill in the legislative process; and (iii) to supply information on the number of girls and women who might be affected by the implementation of this new provision.***

*Articles 1(2) and 4. Discrimination based on political opinion. Inherent requirements of the job. Activities prejudicial to the security of the State.* For a number of years, the Committee has been drawing the Government's attention to the fact that the restriction set by section 54(j) of Act No. 188/1999, which provides that "to hold public office a person shall meet the following conditions: ... (j) shall not have been carrying out an activity in the political police as defined by the law", could amount to discrimination on the basis of political opinion because it applies broadly to the entire public service rather than to specific jobs, functions or tasks. In its previous report, the Government had explained that, in order to clarify the legal norm and remove any possible inconsistency with the Convention, it had proposed an amendment to the current text of section 54(j) of Act No. 188/1999 as follows: "... was not a worker of the Securitate or a collaborator thereof, as provided by specific legislation". According to the Government, "specific legislation" refers to section 2 of Ordinance No. 24/2008 which defines an "employee of Securitate" and a "collaborator of Securitate". While understanding the Government's concerns regarding the requirement for all government unit members to be loyal to the State, the Committee had drawn attention to the fact that, for such measures not to be deemed discriminatory under *Article 4* of the Convention relating to activities prejudicial to the security of

the State, they must affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken. These measures become discriminatory when taken simply by reason of membership to a particular group or community. They must refer to activities that are objectively prejudicial to the security of the State and the individual concerned must have the right to appeal to a competent body in accordance with national practice (see 2012 General Survey on the fundamental Conventions, paragraphs 832–835). The Committee therefore requested the Government to specify and define the functions in respect of which section 54(j) of Act No. 188/1999 would apply and to provide information on its application in practice. The Committee notes that the Government's report does not contain any information in this regard. It notes, however, that the European Court of Human Rights (ECHR) (*Naidin v. Romania*, No. 38162/07) held that the barring of a former collaborator of the political police from public service employment was justified by the loyalty expected from all civil servants towards the democratic regime. In this regard, the Committee recalls that, under *Article 1(2)*, political opinion may be taken into account as an inherent requirement of a particular position *involving special responsibilities* in relation to developing government policy, which is not the case of section 54(j) given that it applies to any state civil service position, whatever the level of responsibility. Further, the Committee recalls that the principle of proportionality must apply and that the exception under *Article 4* should be interpreted strictly. **The Committee urges the Government to take the necessary steps to amend section 54(j) of Act No. 188/1999 or to adopt other measures clearly stipulating and defining the functions to which this section applies. It also asks the Government to provide information on the application of section 54(j) of Act No. 188/1999 in practice, including information on the number of persons dismissed or whose application has been rejected pursuant to this section, the reasons for these decisions and the functions concerned, as well as information on the appeal procedure available to the affected persons and any appeals lodged and their results.**

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

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

## Saint Lucia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1983)

The Committee notes with **deep concern** that the Government's report, due since 2014, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

The Committee notes that, in its 2019 report on the national-level review of the implementation of the Beijing Declaration and Platform for Action, 1995 (Beijing +25 national report), the Government indicated that: (1) according to a national report of living conditions published in 2016, the labour force rates for women continued to be lower than for men (68.1 per cent compared to 81.8 per cent) with lower earnings for women in almost every case; and (2) although the rate of participation of women in the economy was increasing, it was still lower than that of men, with an increasing tendency towards job segregation reinforced by gender stereotypes. Despite a stronger educational performance of females – which could be expected to result in higher incomes than for males – a 2015 report from UN Women stated that women in Saint Lucia continued to be paid, on average, 10 per cent less than their male peers. According to the “Gender at Work in the Caribbean – Country report: Saint Lucia” published by the ILO Decent Work Team and Office for the Caribbean in 2018, this suggests systematic barriers to higher earnings, including discrimination.

*Article 1(a) of the Convention. Definition of remuneration.* The Committee recalls that the Equality of Opportunity and Treatment in Employment and Occupation Act, 2000, contains no definition of the term “remuneration”. The Committee notes the adoption of the Labour Code (Amendment) Act No. 6 of 2011, which amends section 95 of the Labour Code of 2006 to include the definition of “total remuneration” as “all basic wages which the employee is paid or is entitled to be paid by his or her employer in respect of labour performed or services rendered by him or her for his or her employer

during that period of employment". The Committee notes that section 2 of the Labour Code continues to exclude overtime payments, commissions, service charges, lodging, holiday pay and other allowances from the definition of wages. The Committee recalls that the Convention sets out a very broad definition of "remuneration" in *Article 1(a)* which includes not only "the ordinary, basic or minimum wage or salary" but also "any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment" (see 2012 General Survey on the fundamental Conventions, paragraph 686). **The Committee asks the Government to take the necessary measures to further amend section 95 of the Labour Code in order to ensure that at least for the purposes of the application of the principle of the Convention the concept of remuneration covers not only the basic wages, but also any additional benefit or allowance arising out of the worker's employment.**

*Different wages and benefits for women and men.* The Committee also notes with **regret** that the Labour Code (Amendment) Act No. 6 of 2011 did not repeal the existing laws and regulations establishing differential wage rates for men and women, nor did it revoke the Contract of Service Act which provides for different ages for men and women with respect to entitlement to severance pay. **The Committee urges the Government to take measures without delay to ensure that all laws and regulations are repealed which contain differential wages for men and women, as well as the Contract of Service Act, which provides for different ages for men and women with respect to entitlement to severance pay. The Committee requests the Government to provide information on any development in this regard.**

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

## Saint Vincent and the Grenadines

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

*Article 1(b) and 2 of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* For a number of years, the Committee has been indicating to the Government that section 3(1) of the Equal Pay Act of 1994, which provides for "equal pay for equal work", is not in conformity with the principle of equal remuneration for men and women for work of equal *value*. The Committee notes the Government's statement, in its report, that "the matter to amend section 3(1) of the Equal Pay Act is still awaiting Cabinet's action". In this regard, it notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its 2015 concluding observations, also noted with concern that the Equal Pay Act was not in conformity with the principle of equal remuneration for men and women for work of equal *value* (CEDAW/C/VCT/CO/4-8, 28 July 2015, paragraphs 32 and 33). **The Committee urges the Government to take steps to amend section 3(1) of the Equal Pay Act without further delay in order to ensure that the legislation provides for equal remuneration for men and women for work of equal value, as specified in the Convention; and to provide information on any progress achieved in this regard.**

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

The Committee notes that, in its report, the Government repeats what it had stated in its previous report, the only exception being an updated table on selected positions held in the public service. This information has been taken into account in the Committee's comments on the application of the Equal Remuneration Convention, 1951 (No. 100). **The Committee is therefore bound to repeat its previous comment.**

*Article 1 of the Convention. Protection of workers against discrimination. Legislation.* The Committee recalls that article 13 of the Constitution Order of 1979 contains a general prohibition

against discrimination on the grounds of sex, race, place of origin, political opinions, colour or creed. For a number of years, the Committee has been drawing the Government's attention to the fact that Article 13 of the Constitution: (1) does not refer to the grounds of national extraction and social origin listed in *Article 1(1)(a)* of the Convention; and (2) excludes non-citizens from its scope of application, while the Convention covers both nationals and non-nationals. The Committee has further highlighted the lack of any specific legislation prohibiting discrimination in employment and occupation and has recalled that constitutional provisions, while important, have generally not proven to be sufficient to address specific cases of discrimination in employment and occupation, and that a more detailed legislative framework is required (see General Survey on the fundamental Conventions, 2012, paragraph 851). Referring to its previous comments, in which it noted the Government's intention to adopt a law similar to the Caribbean Community (CARICOM) Model Law on Equal Opportunity and Treatment in Employment and Occupation, the Committee notes with **regret** the Government's statement in its report that no further action has been taken in this regard. With regard to section 27 of the Education Act (Cap 202) of 2006 which prohibits discrimination in admission to an educational institution or schools on a certain number of grounds, the Committee notes the Government's indication that social status is similar to social origin, but that there has been no judicial decision with respect to the meaning of social status.

The Government adds that draft amendments to the Protection of Employment Act of 2003 have been made to prohibit termination of employment on the grounds of race, colour, gender, marital status, social status, sexual orientation, pregnancy, religion, political opinion or affiliation, nationality, or social or indigenous origin of the employee. Noting that such amendments are awaiting the approval of the competent authority, the Committee wishes to recall that the principle of equality of opportunity and treatment should apply to all aspects of employment and occupation. Under *Article 1(3)* of the Convention "employment" and "occupation" include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment (General Survey, 2012, paragraph 749). The Committee notes that, in their concluding observations, several United Nations treaty bodies have recently expressed concerns about: (1) the fact that article 13 of the Constitution is not applicable to non-citizens; and (2) the lack of provisions specifically prohibiting discrimination in employment and occupation (CCPR/C/VCT/CO/2/Add.1, 9 May 2019, paragraph 8; and CMW/C/VCT/CO/1, 17 May 2018, paragraph 26).

***In light of the persistent lack of progress in the drafting of legislation that fully reflects the provisions of the Convention, the Committee urges the Government to take the necessary steps without delay to ensure the adoption of an effective legislative framework that explicitly prohibits direct and indirect discrimination based on at least all the grounds enumerated in Article 1(1)(a) of the Convention (race, colour, sex, religion, political opinion, national extraction and social origin) concerning all stages of the employment process and covering all workers, both nationals and non-nationals. It asks the Government to provide information on any progress made in this respect. The Committee recalls that the Government can avail itself of the technical assistance of the Office in this regard.***

*Articles 2 and 3(a). National equality policy.* Referring to its previous comments concerning the lack of a national policy promoting equality of opportunity and treatment in employment and occupation, the Committee notes the Government's repeated statement that the competent authority has not developed a national equality policy yet. The Government however states that appropriate steps are being taken to formulate such a policy in the near future. In that regard, the Committee draws the Government's attention to the fact that the primary obligation of ratifying States is to declare and pursue a national policy designed to promote equality of opportunity and treatment in employment and occupation, with a view to eliminating any discrimination in respect thereof (General Survey, 2012, paragraph 841). ***In light of the absence of legislation that fully reflects the principles of the Convention, the Committee urges the Government to take the necessary measures to develop and implement a***

***national policy promoting equality of opportunity and treatment in employment and occupation, in order to effectively contribute to the elimination of direct and indirect discrimination and the promotion of equality of opportunity and treatment for all categories of workers. It asks the Government to provide information on any progress made in this regard.***

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

## Sao Tome and Principe

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)

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. Equal remuneration for men and women for work of equal value. Legislative developments.* For many years, the Committee has been drawing the Government's attention to the fact that article 43(a) of the Constitution does not fully reflect the principle of the Convention as it only guarantees "equal wages for equal work". Referring to its previous comments where it noted that a draft General Labour Act had been prepared and submitted to the Office for comments, the Committee notes with **interest** the adoption of the Labour Code through Act No. 6/2019 of 16 November 2018, and notes that the provisions on equality and non-discrimination apply to public sector employees (section 3). It notes, in particular, that section 22(1) of the Labour Code provides for equal working conditions for men and women, in particular with regard to pay, and that section 234(5) provides that "all workers of the same company under identical contractual conditions are entitled to receive equal pay for work of equal value, any wage discrimination being prohibited". The Committee wishes to point out that while the new provisions guarantee "equal pay for work of equal value", the formulation used under section 234(5) of the Labour Code which requires "identical contractual conditions" is narrower than the principle of the Convention. It recalls that while factors such as complexity, responsibility, difficulty and working conditions are clearly relevant in determining the value of jobs, when examining two jobs, the value does not have to be the same with respect to each of the factors considered. Determining whether two different jobs are of equal value consists of determining the overall value of the jobs when all the factors are taken into account. The principle of the Convention requires equal remuneration for "equal", "the same" or "similar work", but also addresses situations where men and women perform different work that is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraphs 676–679). Furthermore, the Committee recalls that the application of the principle of equal remuneration for men and women for work of equal value should not be limited to comparisons between men and women in the same company, as it allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers (see General Survey of 2012, paragraphs 697 and 698). ***Regretting that the adoption of the Labour Code has not been taken as an opportunity to give full legislative expression to the principle of the Convention, the Committee asks the Government to consider amending section 234(5) of the Labour Code to ensure that when determining whether two jobs are of equal value: (i) the overall value of the job is considered without limiting the comparison to «identical contractual conditions», and the definition allows for the jobs of an entirely different nature to be compared free from gender bias; and (ii) the scope of comparison goes beyond the same company. The Committee also asks the Government to provide information on the practical application of article 43(a) of the Constitution and sections 22(1) and 234(5) of the Labour Code, including any cases or complaints concerning inequality of remuneration dealt with by the labour inspectorate, the courts or any other competent authorities, specifying the penalties imposed and the compensation awarded. It asks the Government to provide information on any awareness-raising activities undertaken on the new legislative provisions and the principle of the Convention, including in collaboration with employers' and workers' organizations.***

*Articles 2 and 3. Assessing and addressing the gender wage gap.* The Committee has repeatedly emphasized the importance of gathering and analysing statistics on salary levels, disaggregated by sex, in order to be in a position to assess the application of the Convention by adequately evaluating the nature, extent and causes of the gender wage gap. The Committee once again notes with **regret** the absence of information provided by the Government in this regard. It notes that, according to the last available statistical information, women are more often affected by poverty than men (71.3 per cent and 63.4 per cent,

respectively, in 2010). Furthermore, in 2012, the women's labour force participation rate was nearly twice as low as men's (41.3 per cent and 75.4 per cent, respectively), with women being mostly concentrated in low-qualifications jobs such as unskilled labour force (71 per cent), domestic workers (94 per cent) and services or trade (58.9 per cent of women). It further notes that women are mostly working in the informal economy, which affects 75.7 per cent of the economically active population, characterized by low wages and the lack of social protection. The Committee notes that the Decent Work Country Programme (DWCP) for 2018–21, adopted in July 2018, sets as a specific objective the promotion of productive employment for all, in particular for young people and women, including by raising awareness and encouraging transition from informal to formal economy, enhancing women's entrepreneurship and access to vocational training, as well as strengthening the National Statistics Institute (INE). Noting that a National Statistical Development Strategy (ENDE) for 2018–21, adopted in February 2018, is currently implemented, the Committee recalls that appropriate data and statistics are crucial in determining the nature, extent and causes of discrimination and unequal remuneration, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and make any necessary adjustments (see General Survey of 2012, paragraph 891). **Consequently, the Committee asks the Government to provide information on any measures undertaken to assess and address the gender wage gap, both in the formal and informal economy, in the framework of the DWCP or otherwise. The Committee trusts that the Government will be soon in a position to provide relevant information that would permit an assessment of the remuneration levels of men and women and wage differentials. It again asks the Government to provide updated information on the distribution of women and men in the various economic sectors and occupations, and their corresponding earnings, both in the public and private sectors.**

*Article 4. Cooperation with workers' and employers' organizations.* In response to the Committee's long-standing indication that workers' and employers' organizations play an important role with respect to giving effect to the provisions of the Convention, the Government reiterates, in its report, that social partners play an important role in the effective implementation of international standards and national legislation. The Government adds that a revision of Act No.1/99 on the National Council for Social Dialogue (CNCS) is planned. The Committee notes that the DWCP for 2018–21 sets as a specific objective the strengthening of the CNCS and other institutions of social dialogue, as well as capacity-building of the tripartite constituents to promote, inter alia, gender equality and non-discrimination. **The Committee asks the Government to provide information on any progress made in the revision of Act No. 1/99 on the CNCS, as well as on any capacity-building activities of employers' and workers' organizations undertaken, in the framework of the DWCP or otherwise, to promote gender equality and non-discrimination. In light of the absence of legislation giving full expression to the principle of the Convention, the Committee again asks the Government to seek the cooperation of employers' and workers' organizations with regard to the amendment of the legislative framework, as indicated above, as well as with regard to practical measures to ensure equal remuneration for men and women for work of equal value. It asks the Government to provide information on any progress made in this regard.**

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

**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: 1982)

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. Legislative developments.* The Committee has been requesting the Government to ensure that the draft General Labour Act, which was under preparation, would include a prohibition of direct and indirect discrimination at all stages of the employment process and on all the grounds listed in *Article 1(1)(a)* of the Convention. The Committee notes with **satisfaction** the adoption of the Labour Code, through Act No. 6/2019 of 16 November 2018, and more particularly sections 15–17, which define and prohibit both direct and indirect discrimination in access to employment, vocational training and promotion and working conditions, based on the grounds of ancestry and social origin, race, colour, age, sex, sexual orientation, marital status, family status, genetic heritage, reduced working capacity, disability

or chronic illness, nationality, ethnic origin, religion, political or ideological beliefs and trade union membership. It further notes that section 18 of the Labour Code defines and prohibits both quid pro quo and hostile work environment sexual harassment, which is expressly defined as a form of discrimination. It notes that, in accordance with section 20, any employee or jobseeker adversely affected by discriminatory practices would be entitled to receive compensation. The Committee notes that, pursuant to section 3(1)(a) and (2) of Act No. 6/2019, the provisions on equality and non-discrimination and sexual harassment at the workplace apply to public employees. In that respect, it further notes the adoption of Act No. 2/2018 of 22 November 2017, amending Act No. 5/1997 on the Civil Service Statute, and more particularly new section 52(B)(1)(e), which provides that civil servants are prohibited from exerting pressure, threatening or harassing other officials or agents or subordinates that may affect the dignity of the person, or include malicious actions. **The Committee asks the Government to provide information on the application in practice of sections 15–18 and 20 of the Labour Code, as well as section 52(B)(1)(e) of the Civil Service Statute. The Committee also asks the Government to provide information on any concrete measures taken to raise public awareness and understanding of the relevant new legislative provisions, the procedures and remedies available, in particular for employers, workers and the general public. It asks the Government to provide detailed information on the number and nature of cases of direct and indirect discrimination in employment and occupation dealt with by labour inspectors, the courts or any other competent authorities, as well as the sanctions imposed and compensation awarded.**

*Articles 2 and 3. Equality of opportunity and treatment of men and women. Policies and institutions.* The Committee previously noted the adoption of the National Strategy for Gender Equality and Equity (ENIEG) for 2007–12, dealing with issues relating to women's equality in the world of work, as well as the establishment of the National Institute for the Promotion of Gender Equality and Equity (INPG) under the Ministry of Labour to implement the ENIEG. Referring to its previous request concerning statistical information on the participation of men and women in vocational training and the labour market, the Committee notes the Government's general indication, in its report, that such information is not available so far, but that women's access to decision-making positions and vocational training has improved. The Committee however notes that, according to the latest available statistical information from the National Statistics Institute (2012): the women's unemployment rate was more than twice as high as that of men (19.7 per cent compared to 9.3 per cent for men), while women's labour force participation rate was nearly twice as low as men's (41.3 per cent and 75.4 per cent, respectively), with women being mostly concentrated in low-skilled jobs, such as the unskilled labour force (71 per cent of women), domestic workers (94 per cent) and services or trade (58.9 per cent). It notes that, according to the NSI, women mostly work in the informal economy, which accounts for 75.7 per cent of the economically active population. Furthermore, only 31.1 per cent of women have attained at least a secondary level of education (compared with 45.2 per cent of men). The Committee notes that the Decent Work Country Programme, 2018–21, adopted in July 2018, sets as a specific objective the promotion of productive employment for all, in particular for young persons and women, including by raising awareness and encouraging the transition from the informal to the formal economy, enhancing women's entrepreneurship and access to vocational training, as well as strengthening the INE. The DWCP further explicitly aims at building this capacity of the tripartite constituents to promote, inter alia, gender equality and non-discrimination. The DWCP refers to the adoption of: (i) a Second National Strategy for Gender Equality and Equity (ENIEG II) for 2013–17 which highlights that one of the main challenges is that men and women benefit from equal opportunities to effectively achieve financial autonomy; and (ii) the National Employment Policy (PNE) in 2015, which highlights the importance of decent work and sets as specific objectives to strengthen technical education and vocational training and promote women's entrepreneurship, and its accompanying Action Plan on Employment and Vocational Training (PANEF), adopted in 2017, both developed in collaboration with the ILO. It also notes with **interest** the ratification of the Maternity Protection Convention, 2000 (No. 183), on 12 June 2017. **The Committee asks the Government to provide information on any specific measures taken, particularly in the framework of the ENIEG II, the PNE, the PANEF and the DWCP 2018–21, to effectively enhance women's economic empowerment and access to the formal economy and vocational training, including in sectors where they are under-represented, and to improve equality of opportunity and treatment for men and women in employment and occupation, in both the public and private sectors, including in collaboration with employers' and workers' organizations. Noting that a National Statistical Development Strategy for 2018–21 is currently being implemented, the Committee hopes that the Government will soon be in a position to collect and provide updated statistical information on the participation of men and women in vocational**

***training and the labour market, indicating the proportion of men and women in the various economic activities, disaggregated by occupational categories and positions, in both the public and private sectors, as well as in the informal economy.***

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

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

## Saudi Arabia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1978)

*Article 1(1) of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee noted in its previous comments the extension in 2019 of the list of prohibited grounds of discrimination in section 3 of the Labour Law (i.e. “sex, disability and age”) to include “any other form of discrimination” in recruitment, including job advertisements and in the course of employment. It asked the Government to: (1) consider the possibility of including in section 3 of the Labour Law an explicit reference to all the grounds other than sex set out in the Convention (race, colour, religion, national extraction, political opinion and social origin) to avoid any divergent legal interpretations; and (2) clarify whether the non-discrimination provision of section 3 applies to non-citizens. Regarding the incorporation in section 3 of the Labour Law of an explicit reference to the additional grounds of discrimination set out in the Convention, the Government refers in its report to the “Unified Work Environment Regulations in the private sector” prohibiting discrimination during the performance of work, recruitment or in job advertisements, as well as in access to vocational training, on grounds such as sex, disability, age or any other form of discrimination (Regulation No. 4904 of 1442 Hegire (2020)). ***The Committee asks the Government to take the necessary steps to amend section 3 of the Labour Law with a view to incorporating a comprehensive definition of discrimination which includes direct and indirect discrimination and explicitly includes the seven grounds listed in the Convention. It also asks the Government to indicate whether there have been cases in which the courts have interpreted the expression “any other form of discrimination” as including discrimination based on the other grounds listed in the Convention. Recalling once again that the Convention applies to all workers (nationals and non-nationals), and observing that the Government has not clarified whether the prohibition of discrimination in section 3 of the Labour Law applies only to “citizens”, the Committee is bound to request the Government to ensure that the non-discrimination provision in section 3 also applies to non-citizens so that it covers migrant workers.***

*Discrimination against migrant workers.* The Committee previously urged the Government to continue: (1) taking steps to ensure that all migrant workers, including women migrant workers, enjoy effective protection against discrimination on the grounds set out in the Convention, including effective access to dispute settlement mechanisms and the right to change employer in the event of abuse; (2) taking active measures to increase the effective enforcement of existing legislation and carrying out awareness-raising activities concerning the respective rights and duties of migrant workers and employers; and (3) providing information, disaggregated by sex, race and colour, on the number of complaints lodged by migrant workers, and the number of complaints or cases that have been brought before the courts, and the remedies granted to victims. The Committee observes that, within the framework of the National Transformative Programme and the Labour Reform Initiative (2020), Decision of the Minister of Human Resources and Social Development No. 51848 of 1442 Hegire (2020) was adopted to allow for the possibility of a migrant worker putting an end to his/her employment contract and therefore changing the sponsor/employer providing that a notice period of 90 days is given. According to the Government, within this framework, migrant workers are not now required to obtain an exit visa to leave the country. The Committee notes that the Residence Regulations, issued by Act

No. 17/2/25/1337 of 4 June 1959, regulating the entry and exit visa of migrant workers to and from Saudi Arabia, are still in force and have not been amended. Migrant workers are therefore still obliged to obtain permission from the employer or sponsor to leave the country. It notes however the information provided by the Government under the Forced Labour Convention, 1930 (No. 29), according to which it has adopted procedures to regulate and facilitate the granting of visas to workers to enable them to leave the country without the agreement of the employer.

With regard to raising awareness of the respective rights and duties of migrant workers and employers, the Government refers to the Labour Education online portal established to provide information on labour legislation and working conditions, as well as advice services in four languages, including English and Arabic. Awareness campaigns were also conducted through social media in collaboration with the embassies of the countries of origin of migrant workers, business centres, recruitment agencies, etc. According to the Government, during the first half of 2021, amicable settlement departments dealt with 65,789 cases, most of them related to working conditions and trafficking of migrant workers. The Committee takes note of this information. ***The Committee asks the Government to: (i) take steps to ensure that Decision of the Minister of Human Resources and Social Development No. 51848 of 1442 Hegire (2020) is applied in practice and monitored, and to provide information on the nature and number of cases in which a request for a transfer to another employer has been refused and the basis for such refusal; (ii) communicate a copy of the text regulating the procedures that have been adopted to facilitate migrant workers to leave the country when they have not obtained the agreement of the employer/sponsor, including information on the criteria on the basis of which the employer may still object to a worker's departure from the country; and (iii) provide statistical information disaggregated by sex and the other prohibited grounds of discrimination on the nature and number of complaints lodged by migrant workers, and on the number of complaints or cases that have been brought to the courts, their outcome and the remedies granted. It also asks the Government to provide information on the complaints lodged (formally or informally) regarding discrimination in wages and conditions of work between migrants and nationals, and also within the migrant community between migrants of different national origin, for the same type of jobs; as well as statistical information disaggregated by sex and the other prohibited grounds of discrimination on the number and nature of the complaints lodged by migrant workers, and on the number of complaints or cases that have been brought to the courts, their outcome and the remedies granted.***

*Article 2. National equality policy.* With regard to the adoption of a national equality policy, the Committee notes the Government's indication that the draft national equality policy is being prepared, in consultation with the ILO and partnership with the government authorities concerned and employers' and workers' representatives and that a draft has been submitted for adoption to the competent authority. ***The Committee hopes that the national equality policy will be adopted in the near future and asks the Government to provide information on any progress in this regard.***

*Promoting women's employment.* In its previous comments, the Committee asked the Government to: (1) continue taking concrete steps to develop training and job opportunities in a wider range of occupations, including non-stereotypical jobs and decision-making positions, and to assist women to reconcile work and family responsibilities, for example through the development of childcare facilities; and (2) specify whether all sectors targeted by the Saudization policy are open to women. The Committee notes the Government's indication that the National Platform for Women Leaders was launched as a tool for the authorities to communicate with women leaders with a view to nominating them to leadership positions in official bodies and delegations, as well as to decision-making positions. The Government indicates that to date 1,700 women are working in the private and public sectors and 20 per cent of the seats in the Consultative Council are occupied by women. It also indicates that efforts have been made to assist women to reconcile work and family responsibilities, including by developing the "Qurrah" programme, an e-service provided by the Human Resources Development Fund (Hadaf) that organizes childcare services with a view to supporting an increase in the number of Saudi women

working in the private sector. The programme contributes to supporting women's empowerment by paying part of the cost of the monthly fees for registration in a child hospitality centre licensed by the "Qurrah" programme, up to a maximum of SR800 (US\$213) a month per child and for a maximum of two children between the ages of 1 month and 6 years. As of 2020, some 4,185 beneficiaries have been provided with this service and a total of 4,928 children have benefited from the services of child hospitality centres. There are currently 374 accredited child hospitality centres under the programme throughout the country. The Committee notes the Government's indication that, within the framework of the Saudization policy, a number of sectoral activities have been opened to women, such as pharmaceutical and dental occupations, real estate and commercial sectors, which has contributed to the entry of 417,165 Saudi men and women into the labour market, of whom 54 per cent are women. **The Committee asks the Government to continue providing information on the measures taken to enhance the participation of women in the labour market, including through measures to address stereotypes regarding women's professional aspirations, preferences and capabilities, and their role in the family. The Committee encourages the Government to continue taking steps to address the legal and practical barriers to women's access to the broadest possible range of sectors and industries, at all levels of responsibility, and to promote a more equitable sharing of family responsibilities between men and women, and to report on the results achieved in this regard.**

*Article 5. Special protection measures. Restrictions on women's employment.* In its previous comments, the Committee asked the Government to provide information on the steps taken to enforce the application of the 2012 Ministerial Decree prescribing that women no longer need the authorization of a guardian to work and on any cases brought to the labour inspectorate or a court concerning failure to comply with the Decree, and their outcome. The Committee notes the Government's indication that the 2012 Decree has been implemented by the enactment of Decision No. 14 of 1442 Hegire (2020) and Royal Decree No. 5 of 1442 Hegire. The Committee notes with **interest** that, as a result, section 150 of the Labour Law (prohibiting night work by women) has been abrogated and section 186 amended, so that work in mines or quarries is not prohibited for women any more, only for workers under 18 years of age. The Committee notes however that section 142 of the Labour Law provides that the Minister shall specify industries and occupations in which the employment of women is prohibited. **In light of the above, the Committee asks the Government to take the opportunity of the ongoing labour review process to ensure that any restrictions on women's employment are limited to maternity in the strict sense, and to provide information on any steps taken in this regard.**

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

## Senegal

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

*Articles 1(b) and 2 of the Convention. Equal remuneration for men and women for work of equal value. Legislation and collective agreements.* For around 15 years, the Committee has been emphasizing that section L.105 of the Labour Code, which provides that "where conditions of work, vocational qualifications and output are equal, wages shall be equal for all workers, irrespective ... of gender", does not give full effect to the principle of equal remuneration for men and women for work of equal *value* established by the Convention as it does not reflect the concept of "work of equal *value*". The Committee notes the Government's statement that section L.105 of the Labour Code "targets precisely work of equal *value*" and that "this same requirement is contained in the collective agreements". It also indicates that aspects linked to the concept of "work of equal *value*" are always settled through social dialogue and collective bargaining between employers and workers with the support of the Government and that, after its adoption by the parties, each collective agreement is the focus of an outreach, training and information campaign among the actors concerned, in order to make it more accessible. In this regard, the Committee notes that the Government refers to provisions prohibiting gender-based wage

discrimination in the new national inter-occupational agreement adopted on 30 December 2019. The Committee emphasizes, however, that these provisions are not sufficient to give effect to the principle of the Convention as they do not take into account the concept of “work of equal *value*”. The Committee recalls that *Article 2(2)* of the Convention gives free choice as to how to give effect to the principle of equal remuneration for work of equal *value* and that wage fixing processes and collective bargaining mechanisms can go a long way to eliminating gender pay gaps and wage discrimination, and to promoting equal pay, where such processes and mechanisms are consistent with the principle of the Convention itself. However, where the issue of equal pay is regulated by legislative provisions, these must not be more restrictive than the principle of the Convention, as they constitute an obstacle to the elimination of discrimination against women in respect of remuneration. Furthermore, noting the Government’s indication that the term “work of equal *value*” could be interpreted in different ways, the Committee recalls that the concept of “work of equal *value*”, while not defined as such in the Convention, implies that men and women who hold jobs which are different in content, involve different responsibilities and require different skills or qualifications, or different degrees of effort, and which are performed under different conditions but which, as a whole, are of equal *value*, must be paid equally. While criteria such as working conditions, vocational qualifications and output are among the relevant factors in determining the *value* of jobs, when two jobs (a female-dominated job and a male-dominated job) are compared, the *value* does not necessarily have to be the same for each factor – rather the determining *value* is the overall *value* of the job, that is to say when all factors are considered as a whole (added together). This principle is essential for eliminating discrimination and promoting equality, as women and men most often hold different jobs, under different working conditions and often in different establishments or for different employers. In this regard, in its 2012 General Survey on the fundamental Conventions, the Committee provided as examples comparisons between the occupations of 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). ***Noting that the steering committee for the Labour Code reform was set up in 2021, the Committee urges the Government to take the necessary measures without delay to give full effect in the Labour Code to the principle of equal remuneration between men and women for work of equal value by amending section L.105, which contains provisions that are more restrictive than the principle enshrined in the Convention and section L.86(7), which provides that the principle of “equal work, equal wage” must be included in collective agreements. It requests the Government to specify how it shares with the social partners the contours of the principle of equal remuneration for men and women for work of equal value and how the social partners take into account this principle in collective bargaining on wages.***

*Article 3. Objective job evaluation.* The Committee recalls that the concept of equal value necessarily implies the adoption of a method that allows for the relative value of different jobs to be measured and compared objectively, whether at the enterprise or sector level, national level, in the framework of collective bargaining or through wage-setting mechanisms. The Government indicates that everything relating to vocational qualifications, classification and relative value of occupations at all levels, basic pay of each occupational category, conditions for career development and all other aspects associated with the equal value of work are determined in the freely chosen collective agreements of enterprises, sectors or branches between employers and workers. ***The Committee requests the Government to take the necessary measures to promote the use, by the social partners, of objective job evaluation methodology based on non-discriminatory criteria such as qualifications, effort, responsibility and working conditions to determine the relative value of jobs when setting wages and/or classifications. It requests the Government to carry out, in cooperation with the social partners, awareness-raising activities on the concept of “work of equal value” and the importance of using objective job evaluation systems, free from gender bias (namely under-evaluation of skills considered as “natural” for women, such as dexterity and those required in caring professions, and the***

**over-evaluation of skills traditionally considered as “masculine”, such as physical force). It once again requests the Government to provide information on any measures taken in this regard.**

*Statistics.* Since 2007, the Committee has been requesting the Government to provide full statistical information on the remuneration received by men and women in the various sectors and branches of activity. The Committee notes the statistical data provided by the Government on employment and wages. It notes, however, that these statistics are not disaggregated by sex and therefore do not allow for an evaluation of the extent of any wage gaps between men and women. The Committee recalls that appropriate data and statistics are crucial in determining the nature, extent and causes of discrimination and unequal remuneration, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and make any necessary adjustments. It recalls further that comparable statistics are necessary to enable an accurate assessment of changes over time (see 2012 General Survey, paragraph 891). **The Committee therefore urges the Government to take the necessary steps to collect and analyse data on the remuneration of men and women in the public and private sectors, disaggregated by sex, sector of the economy, and, if possible, occupational group, and to include this information in its next report. It also asks the Government to provide any information or survey available on the gender pay gap in the country.**

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

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)**

*Article 1 of the Convention. Protection of workers against discrimination and promotion of equality of treatment. Legislation and collective agreements.* For several years, the Committee has been emphasizing that the Constitution (article 25) and the Labour Code (sections L.1 and L.29) do not cover all the prohibited grounds of discrimination set out in the Convention, as they omit national extraction and colour, and they do not refer explicitly to social origin, but only to origin or origins. The Committee notes that the Government reaffirms its willingness to provide a better framework for combating discrimination at work and that it once again refers to the labour legislation revision process still under way, in which issues related to protection against discrimination have been taken into account. It welcomes the creation of the steering committee for the reform of the Labour Code by order of 15 June 2021 of the Ministry of Labour, Social Dialogue and Relations with Institutions. The Committee also notes with **interest** that the new national inter-occupational collective agreement, signed on 30 December 2019, provides that “no one may be barred from the recruitment procedure or access to internships or on-the-job training, or be subjected to a discriminatory measure based race, colour, age, sex, trade union activity, belonging to a religion, fraternity or sect, political opinion, national extraction, ethnicity, social origin, disability, pregnancy, family situation, health status or HIV status, and which has the effect of destroying or impairing equality of opportunity or treatment in employment or occupation”. It adds that “no employee may be penalized, dismissed or subjected to a discriminatory measure for witnessing or reporting the conduct defined in the above paragraphs” and that “the employer must ensure respect of equality of treatment among employees relating to working conditions, as well as remuneration, training and professional promotion”. **Noting the willingness expressed by the Government with regard to combating discrimination and promoting equality of treatment in employment and occupation, the Committee urges it to ensure that the reform of the Labour Code extends protection to workers against discrimination based on all the grounds listed under Article 1(1)(a), including national extraction, colour and social origin, as well as any additional grounds that the Government deems it appropriate to include, such as those listed in the 2019 national inter-occupational collective agreement. It also requests the Government to take measures to raise awareness among workers and employers and their respective organizations of the provisions of the new collective agreement prohibiting discrimination and promoting equality of treatment.**

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

## Singapore

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

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

*Articles 1 and 2 of the Convention. Assessing and addressing the gender pay gap.* The Committee recalls the lack of legislation requiring equal remuneration for men and women for work of equal value. The Committee previously noted the Guidelines issued by the Tripartite Alliance for Fair Employment Practices (TAFEP) on 3 May 2007, which include a section on remuneration stating that “[e]mployers should pay employees wages commensurate with the value of the job [...] regardless of age, gender, race, religion and family status, employees should be paid and rewarded based on their performance, contribution and experience”. It notes, from the TAFEP's website, that as of September 2019, 7,144 organizations have signed the Employers' Pledge for Fair Employment Practices, which is a public commitment from employers to create fair and inclusive workplaces according to the TAFEP's Guidelines. The Committee notes the Government's statement, in its report that, in July 2017, Tripartite Standards (TSes) were introduced to enhance fair and progressive employment practices on flexible work agreements, recruitment practices and unpaid leave for unexpected care needs. Noting that the TAFEP continued training workshops to assist employers implementing fair and progressive employment practices, the Committee notes the Government's indication that the Human Capital Partnership (HCP) Programme was launched in 2017 by tripartite partners to “grow an inclusive community of progressive employers”, and will be managed by the TAFEP. The Committee however observes that the Government does not provide information on any measures taken by the TAFEP to promote specifically the principle of equal remuneration for men and women for work of equal value. While noting the Government's statement that the gender pay gap was estimated at 11.8 per cent in 2017 with broad-based improvement across most occupational groups, the Committee notes, from the statistical information provided by the Government, that in 2017 the median gross monthly salary of women employed in the same occupational category as men was systematically lower than that of men, except for clerical support workers where it was slightly higher. It notes in particular that the gender wage gap was estimated at 12.2 per cent for managers and administrators; 18.7 for working proprietors; 14.4 for professionals and still remains wider for craftsmen and related trades workers (22.3 per cent) and plant and machine operators and assemblers (19.1 per cent). The Committee notes the Government's indication that the wage gap can be attributed to the fact that women are more likely to exit the workforce or have intermittent patterns of work, for reasons such as childcare and the care of the elderly. The Government adds that its approach to address the gender pay gap is to empower women with choices to stay in the workforce, instead of having to exit it to fulfil caregiving responsibilities. In this regard, the Committee welcomes the adoption and implementation of measures to assist women to enter, re-enter or remain in the workforce, including through flexible working arrangements and the introduction of measures to encourage shared parental responsibilities (such as a two weeks paid paternity leave and the possibility for fathers to share up to four weeks of their wife's maternity leave). The Committee however notes that, in its 2017 concluding observations, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) remained concerned about: (i) the persistent gender wage gap in all occupational categories, except clerical support; (ii) the continued vertical and horizontal occupational segregation in both the public and private sectors; (iii) the persistence of discriminatory stereotypes about the role of women as primary caregivers, including as caregivers of older persons; (iv) the fact that women still remain underrepresented in traditionally male-dominated fields of study, such as engineering, electronics and information technology, at the tertiary level; as well as (v) the underrepresentation of women on corporate boards, notwithstanding their high educational and professional achievements and qualifications. The Committee further notes that the CEDAW recommended that “the Government reduces the gender wage gap by regularly reviewing wages in sectors in which women are concentrated and by establishing effective monitoring and regulatory mechanisms for employment and recruitment to ensure that the principle of equal pay for work of equal value is adhered to in all sectors” (CEDAW/C/SGP/CO/5, 21 November 2017, paragraphs 18, 26, 28 and 29). The Committee notes that the CEDAW, as well as the UN Independent Expert on the enjoyment of all human rights by older persons, also expressed specific concern that older women frequently lack sufficient savings to sustain a living as a result of the gender pay gap, a lack of employment opportunities and their caregiving responsibilities, and are therefore forced to continue to work beyond their

retirement age in low-paid and low-skilled occupations (CEDAW/C/SGP/CO/5, 21 November 2017, paragraph 38 and A/HRC/36/48/Add.1, 31 May 2017, paragraphs 27 and 93). ***In light of the absence of a legislative framework providing for equal remuneration for men and women for work of equal value and the persistence of significant gender wage gaps, in particular in sectors where women are traditionally concentrated, the Committee asks the Government to take proactive measures, including legislative measures in the framework of the Tripartite Alliance for Fair Employment Practices, to establish the principle of the Convention and raise awareness among workers, employers and their respective organizations, as well as among law enforcement officials of the right to equal remuneration for men and women for work of equal value. It also asks the Government to continue to take measures to address the underlying causes of the gender wage gap, such as vertical and occupational gender segregation and stereotypes relating to the aspirations, preferences and abilities of women, including by encouraging girls and women to choose non-traditional fields of study and professions and promoting their access to jobs with career prospects and higher pay. The Committee asks the Government to continue to provide statistical information on the level of earnings of men and women, disaggregated by economic activity and occupational group, both in the public and private sectors.***

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

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

## Slovenia

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

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

*Articles 1 and 2 of the Convention. Protection of workers against discrimination. Legislation.* The Committee notes with **interest** the adoption of the Protection against Discrimination Act which came into force on 24 May 2016 and which replaced the Implementation of the Principle of Equal Treatment Act of 2004. It notes that the Act strengthens protection against direct and indirect discrimination and harassment and sexual harassment, irrespective of sex, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, sexual identity or sexual expression, social status, property status, education, or any other personal circumstance in various fields of social life including employment and occupation. The Committee notes that the Act does not explicitly refer to political opinion in the list of grounds covered. The Government reports that the Act's non-exclusive list of grounds which includes "any other personal circumstance", and the protection against employment discrimination provision on the ground of "belief" in the Employment Relationship Act of 2013, along with article 14 of the Constitution, which guarantees everyone equal human rights and fundamental freedoms irrespective of political or other conviction, among other grounds, provides protection against "inadmissible" unfavourable treatment on the basis of political conviction. The Committee further notes that the new Act established the new Advocate of the Principle of Equality as an independent body with enforcement powers. In the field of employment, the Committee notes that this Act overlaps and reinforces the existing non-discrimination provisions in the Employment Relationship Act of 2013, as amended. ***The Committee asks the Government to provide information on the measures adopted to promote and apply the Discrimination Act of 2016 as well as the non-discrimination provisions in the Employment Relationship Act of 2013, as amended, with respect to employment and occupation in the public and private sectors, including any steps taken to raise awareness among employers and workers. The Government is also asked to provide detailed information on the implementation of the protection against discrimination on the ground of political opinion. The Government is asked to provide information on the functioning of the office of the Advocate of the Principle of Equality and on any steps taken by the Advocate's Office to enforce the Discrimination Act in employment and occupation, including the number of cases dealt with and the ground of discrimination concerned, disaggregated by sex.***

*Article 1(1)(a). Discrimination on the ground of national extraction.* The Committee recalls its previous concerns regarding non-Slovenes from the former Socialist Federal Republic of Yugoslavia, namely "erased

people” and the difficulties they face in terms of access to social and economic rights, including access to education and employment, because of the loss of their citizenship and by extension their right to remain in the country. The Committee recalls that, on 26 February 1992, 1 per cent of the population of Slovenia (25,671 people) was removed overnight from its registry of permanent residents, following the declaration of independence of Slovenia. “Erased people” are mostly of non-Slovene or mixed ethnicity, and they include a significant number of members of Roma communities. The Committee notes that the Act Regulating the Legal Status of Citizens of the Former Yugoslavia Living in the Republic of Slovenia, 1999, as amended in 2010, expired on 24 July 2017. It notes from the report of the Government that, between 1999 and 31 December 2013, 12,373 permanent residence permits were issued under this Act; and from 1 January 2011 to 31 August 2017, 316 additional residence permits were issued. It further notes that, following the judgment of the European Court of Human Rights in *Kuric et al v. Slovenia*, the Committee of Ministers decided in May 2016 that the Act Regulating Compensation for Damage to Persons Erased from the Permanent Population Register, 2013, satisfied the judgment of the European Court of Human Rights and, thus, concluded the case. The Committee notes that this Act has begun to be implemented. However, it notes that the United Nations Special Rapporteur on minority issues, in its report following its visit to Slovenia (5–13 April 2018) highlighted that the situation of “erased people” (who for the most part are members of various ethnic, religious or linguistic communities of the former Socialist Federal Republic of Yugoslavia) – is still unsettled, as compensation is still being fought over – despite the judgements made by the European Court of Human Rights and a decision by the Constitutional Court in April 2018 ruling against the limitations for those who filed claims for damages in judicial processes on the amount of compensation awarded. The Committee notes also that the UN High Commissioner for Human Rights and the Commissioner for Human Rights of the Council of Europe, among others, have expressed their concern at this matter (A/HRC/40/64/Add.1, 8 January 2019, paragraphs 52–55). ***In light of the Constitutional Court ruling, the Committee urges the Government to take steps to provide a fair compensation scheme to “erased people” still awaiting to be compensated, to take into account losses such as property or employment and to continue to provide information on the steps taken and the results achieved.***

*Article 2. Equality of opportunity and treatment. Roma.* The Committee recalls that for a number of years it has highlighted that one of the main reasons for the high unemployment rate among Roma people is their education level. Hence, its previous request to the Government to pursue its efforts to promote equal access for Roma to education and training, and to provide information on: (i) the measures implemented to promote access to employment and to particular occupations of Roma men and women, including a description of the community work programmes, and their concrete results; (ii) the reasons for focusing primarily on community work in the context of employment programmes; and (iii) the measures taken to prevent and address discrimination, stereotypes and prejudice against the Roma community. The Committee recalls that, under *Article 1(3)* of the Convention, “employment and occupation” explicitly includes “access to vocational training”. Moreover, in paragraph 750 of its General Survey of 2012 on the fundamental Conventions, the Committee highlights that access to education and to a wide range of vocational training courses is of paramount importance for achieving equality in the labour market [as] it is a key factor in determining the actual possibilities of gaining access to a wide range of paid occupations and employment, especially those with opportunities for advancement and promotion. The Committee adds that not only do apprenticeships and technical education need to be addressed, but also general education, “on the job training” and the actual process of training.

The Committee notes the very detailed information provided by the Government on the labour market situation of the Roma people and the range of measures adopted to improve their situation in education and employment. The Government states that it places great importance on measures (systemic, specific, and project-based) for the effective integration of Roma children in education. The Committee notes that from 2015 to 2017 there has been a slight decrease in unemployment and a slight increase in the employment of Roma men and women, with men having higher employment rates than women. It notes that Roma people continue to be a target group of the Active Employment Policy and that over 2,400 Roma participate, annually, in programmes including formal and informal education, training, career counselling, job-seeking assistance and public works projects. The Committee further notes the adoption of the National Programme of Measures for the Roma for the 2017–21 period, which includes raising educational levels, reducing unemployment, elimination of prejudice, stereotypes and discrimination, preserving Roma culture, language and identity, among its objectives. The Committee notes that the Commissioner for Human Rights of the Council of Europe, in its 2017 report, recognized that Slovenia has a solid legislative and policy

framework for promoting Roma rights and welcomed the recent adoption of a revised National Programme of Measures for Roma 2017–21, which includes a plan for strengthening the pre-school education of Roma children; the tutoring system for Roma pupils; Slovenian language learning; the inclusion of Roma in the apprenticeship system; and the training of education professionals who work with Roma children. The Commissioner however observed that, if official segregation (schooling in separate classes) is no longer present, *de facto* the situation is still not satisfactory, for example: (i) Roma children continue to be underrepresented in pre-schools and overrepresented in special needs schools, with about 12.2 per cent of Roma children being directed to such schools in the school year 2017–18 in comparison with 6.18 per cent of other children; (ii) in kindergartens they can be placed together with other children in mixed kindergarten classes or in “special classes” (which is possible only in the regions with large Roma populations); (iii) there is still a high level of absenteeism from school and drop-out rates in some regions; and (iv) a very low number of Roma children who reach secondary and tertiary education in the country (over 60 per cent of Roma have not completed elementary school). The Commissioner noted that teachers, Roma children and parents generally acknowledge that many of the difficulties Roma children encounter in primary schools are due to language barriers as many Roma children have no or limited command of the language spoken by the majority population. He also identified the following additional reasons for this as: insufficient value placed on education by families; poor housing conditions that do not allow families to make school a priority; early marriages and pregnancies; and criminality among teenage boys. The Committee notes further that, in its 2019 Country Report on Non-Discrimination in Slovenia, the Network of legal experts in gender equality and non-discrimination of the European Commission, observed that “In Slovenia, there are specific trends and patterns (whether legal or societal) in education regarding Roma pupils, such as segregation.” In addition, the Committee notes that, the United Nations Special Rapporteur on Minority issues commended Slovenia for the considerable efforts it has made in recent years to improve the situation of Roma and the protection of their human rights, including in key areas such as education and employment. The Special Rapporteur noted that Slovenia does not officially collect disaggregated data on ethnicity, language or religion, and for this reason, no one has a clear idea of the actual size of the country’s most vulnerable and marginalized minorities; and that no disaggregated population data have been collected since 2002. The Special Rapporteur however observed that the Roma (and the Sinti) continue to be the most marginalized and vulnerable minorities and recommended inter alia temporary affirmative action programmes in employment and increased awareness-raising campaigns to provide a more rounded view of members of the Roma community (A/HRC/40/64/Add.1, 8 January 2019, paragraphs 20, 29, 33, 62). While welcoming the various initiatives taken by the Government to promote non-discrimination, education and employment of Roma, women and men, the Committee wishes to stress that the unemployment rate for Roma people continues to be high and that improving access to education is key to combat marginalisation and poverty experienced by the Roma people. ***The Committee asks the Government to pursue its efforts to promote equal access for Roma people to education (in particular through a better access to pre-school education and the employment of suitably trained Roma teaching assistants), training and employment programmes. At the same time, the Committee asks the Government to increase its efforts to address discrimination and prejudice against the Roma community and to take steps to encourage Roma women and men to participate in programmes which will lead to their employment. Observing that there remains a fundamental gap between adopted policies and programmes on the one hand and reality as experienced by members of the Roma minority on the other hand, the Committee asks the Government to continue to provide detailed information on the results of the various initiatives taken to promote non-discrimination in education and employment of Roma women and men. Finally, recalling that appropriate data and statistics are crucial in determining the nature, extent and causes of discrimination, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and make any necessary adjustments, the Committee asks the Government to take steps to collect and analyse relevant data, including comparable statistics to enable an accurate assessment of changes over time while being sensitive to and respecting privacy.***

*General observation of 2018.* With regard to the above issues and in more general terms, the Committee would like to draw the Government’s attention to its general observation on discrimination based on race, colour and national extraction which was adopted in 2018. In the general observation, the Committee notes with **concern** that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in

persisting occupational segregation and lower remuneration received for work of equal value. Furthermore, the Committee considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population. ***The Committee draws the Government's attention to its general observation of 2018 and requests the Government to provide information in response to the questions raised in that observation.***

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

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

### **Workers with Family Responsibilities Convention, 1981 (No. 156)** (ratification: 1992)

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

*Articles 3 and 4 of the Convention. National policy, non-discrimination, leaves and benefits. Legislative developments.* The Committee notes with ***interest*** the substantial amendments to the Parental Protection and Family Benefits Act in 2014, 2015, 2017 and 2018, which have the objective of transposing European legislation, including Council Directive 2010/18/EU, and of facilitating a more equal distribution of parental protection and childcare responsibilities between both parents. The Committee welcomes the various entitlements provided under the Act, including longer paternity leave, paternity leave benefit, parental leave for both parents, parental leave benefits, the possibility of reduction from full-time to part-time work, and other family and child support allowances and assistance. The Committee also notes the adoption of the Protection against Discrimination Act 2016 which prohibits discrimination on the basis of a number of specified grounds and on the basis of "any other personal circumstance", and which covers all areas of social life, including employment. It further notes that explanatory information about the 2016 Act on the official website of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, indicates that an example of "any other personal circumstance" could be "parental or other family status". The Committee notes the adoption on 20 June 2019 of EU Directive 2019/1158 on work-life balance for parents and carers, repealing Council Directive 2010/18/EU on parental leave. ***Noting the recent adoption of EU Directive 2019/1158 on work-life balance, the Committee asks the Government to provide information on: (i) the steps taken to transpose it into its national legislation; (ii) the manner in which the Parental Protection and Family Benefits Act of 2014, as amended, has been implemented in practice by both men and women taking up the various entitlements provided under the Act; (iii) the impact of this Act on any increase in the use of these measures by men; and (iv) the manner in which the Protection against Discrimination Act 2016 has been implemented to promote application of the Convention with respect to non-discrimination in employment of persons with family responsibilities, including any action taken under the office of the Advocate of the Principle of Equality.***

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

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

## Spain

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO) and the observations of the Spanish Confederation of Employers Organizations (CEOE) transmitted with the Government's report. The Committee also notes the Government's reply.

*Article 1(1)(a) of the Convention. Discrimination based on race, colour, religion and national extraction.* The Committee notes the Government's indication in its report, in response to the Committee's request for information regarding the evolution of discrimination in employment and occupation based on race, colour, religion and national extraction, that: (1) the Council for the Elimination of Racial and Ethnic Discrimination has concluded its 2020 Study of the perception of discrimination, which finds employment to be one of the areas in which there is the most discrimination on grounds of racial or ethnic origin, with the non-Mediterranean African population group the most affected, followed by persons of African descent and those from the Maghreb; (2) according to the study, the most common discriminatory situations concern the assignment of worse timetables and harder tasks, lower wages for the same work, refusal to issue an employment contract and the obligation to perform tasks not covered by the contract; and (3) according to the "Approach to the African and Afro-descendent population in Spain: Identity and access to rights", a study conducted in 2021, 24 per cent of persons surveyed work in low-skilled employment, 44 per cent in mid-level skilled employment, irrespective of their training level, while 95 per cent consider that they have at present less chance of acceding to positions of responsibility, and 94 per cent of finding a job. The Committee also notes that the Government emphasizes, with respect to the collection of statistics, that data on belonging to a group based on race, ethnicity, sex, religion or other circumstances, are protected under Spanish law and are therefore not reflected in the statistics. However, the Government indicates that the General Directorate for Equality of Treatment and Racial and Ethnic Diversity (DGITYDER) is in dialogue with various actors concerned regarding the suitability of collecting data on ethnic origin where the objective is to eliminate racial discrimination.

The Committee welcomes the reactivation since 2018 of the Council for the Elimination of Racial and Ethnic Discrimination. In this regard, the Government indicates that the Council's care service for victims of racial or ethnic discrimination continues to provide support in specific cases of discrimination (65 cases in respect of employment in 2019), as well as undertaking information and awareness-raising activities and that, in view of the low level of complaints, measures will be taken to promote and give visibility to the service, for example by filing legal action and, in certain cases, representing victims. The Committee also notes the Government's reference to the II Strategic Plan for Citizenship and Integration (PECI) 2011–14 and that the CEOE, in its observations, considers it primordial to progress in formulating a new plan. Regarding the assistance measures taken for migrant workers, including migrant domestic workers, the Committee refers to its earlier comments made in relation to the application of the Migrant Workers' Convention (Revised), 1949 (No. 97).

With regard to the measures adopted in respect of the Gypsy population, the Committee also notes that the Government refers to the 2018 Progress Report on the National Strategy for the social inclusion of the Gypsy population 2012–20, according to which approximately 32.2 million euros has been invested in action and measures aimed at the Gypsy population, the largest proportion of which (39.04 per cent) is in the field of employment, and principally for the improvement of access to employment and the reduction precarious work. Nevertheless, the Committee notes the Government's indication of the need to intervene more effectively, given that the 2019 Comparative study on the situation of the Gypsy community carried out by *Fundación Secretariado Gitano* (Roma Foundation) shows that while the Gypsy population's participation rate in paid work fulfilled the objectives of the Strategy, the objectives for the employment and unemployment rates were not met, and the rate of

temporary employment remained at 68 per cent. In this regard, the Committee also notes, from the Government's web page, that a final evaluation of the 2012–20 strategy was begun in December 2020, and that the next national strategy is being prepared for 2021–30, in line with the guidelines issued under the European Union Roma strategic framework for equality, inclusion and participation 2020–30. The Committee notes the measures taken and the cross-cutting and substantive efforts made by the Government. ***The Committee trusts that the Government will continue its efforts to the extent possible to promote equality in employment and occupation effectively of the Gypsy population, taking account of the evaluations and results of previous measures. The Committee requests the Government to provide information on: (i) progress made in the adoption of the National Strategy for the Social Inclusion of the Gypsy Population 2021–30; (ii) the results of the II Strategic Plan for Citizenship and Integration (PECI) 2011–14 and follow-up measures; (iii) the action taken by the Council for the Elimination of Racial and Ethnic Discrimination; and (iv) the evolution of discrimination in employment and occupation based on race, colour, religion and national extraction, including the possible integration of related data in national statistics.***

*General observation of 2018.* In respect of the issues raised above, and more generally, the Committee wishes to draw the Government's attention to its general observation on discrimination based on race, colour and national extraction, adopted in 2018.

*Article 2. Equality of opportunity for men and women. Equality plans and measures. Legislative developments.* The Committee notes with **satisfaction** that in response to its request to continue adopting proactive measures, in collaboration with the social partners, with a view to increasing the number of enterprises which adopt equality plans, the Government reports the adoption of Royal Decree-Law No. 6/2019 of 1 March on urgent measures to ensure equality of opportunity and treatment for women and men in employment and occupation, amending section 45.2 of Basic Act 3/2007 of 22 March on effective equality for women and men, and making it obligatory for enterprises of more than 50 workers to adopt an equality plan (an obligation previously applicable to enterprises of more than 250 workers), and also requiring the preparation of the plan following prior negotiated analysis and its entry in the registry of equality plans in enterprises. The Government adds that the application of this obligation is gradual and allows enterprises different timeframes according to the size of the payroll. The Committee notes the implementation of these obligations through Royal Decree No. 901/2020 of 13 October regulating equality plans and their registration, and amending Royal Decree No. 713/2010 of 28 May on the registration and deposit of collective labour agreements, which addresses: (1) the procedure for negotiating equality plans, including the establishment of the negotiating commission and the negotiating procedure; (2) the content of the prior negotiated analysis covering selection and recruitment, occupational classification, training, career development, terms and conditions of employment (including a pay audit), co-responsibility in the exercise of personal, family and work life rights, under-representation of women, remuneration and the prevention of sexual and gender-based harassment; (3) the minimum content of the equality plan (qualitative and quantitative objectives, specific means and resources, implementation programme) and the plan's statistical sheet; and (4) the period of validity, follow-up, evaluation and revision of the plan. In this regard, the Committee notes the CEOE's observation that an appeal against section 5 of Royal Decree No. 901/2020 has been lodged with the Supreme Court, on the grounds that it imposes undue restrictions on the legal rights of those entitled to negotiate equality plans.

The Committee also notes that the Institute for Women (IMS) has strengthened its free counselling service to assist in the design, execution and implementation of equality plans, offers subsidies for the elaboration and implementation of plans by enterprises that are not obliged to adopt them (that is, since 2019, enterprises with between 30 to 49 workers) and has published information material on the elaboration and registration of equality plans. The Committee also observes that Royal Decree-Law No. 6/2019 amends the Royal Legislative Decree 5/2000, of 4 August approving the consolidated text of the Act on social offences and penalties to include a definition of a serious offender

in case of failure by enterprises to comply with their obligations in respect of equality plans and measures. The Government also refers to Act No. 11/2018 of 28 December amending the Commercial Code, the consolidated text of the Corporate Enterprises Act, approved by Royal Legislative Decree No. 1/2010 of 2 July, and Act No. 22/2015 of 20 July, on the auditing of accounts in respect of non-financial information and diversity, which provides that: (1) the enterprise's non-financial information shall include the measures adopted to promote the principle of equality of opportunity and treatment between women and men, non-discrimination and inclusion of persons with disabilities and universal accessibility; and (2) that the annual corporate governance report shall describe the diversity policy applied in the executive board, at management level and in the specialized commissions established.

The Committee further notes the information provided by the Government on the "Equality in the Enterprise" label, which was awarded to 57 more entities between June 2017 and May 2021, and on the various activities organized by the network of enterprises that have received the label in exchanging and sharing good practices. The Government also emphasizes the adoption in December 2020 of the III Plan for Gender Equality in the General State Administration (AGE) and in its associated or dependent public bodies, which sets out six types of cross-cutting measures: instrumental measures for organizational transformation; awareness-raising, training and skills acquisition; terms and conditions of employment and career development; responsibility-sharing and personal, family and work life reconciliation; prevention of violence against women; intersectionality and special protection situations.

***The Committee requests the Government to provide information on the implementation of Royal Decree-Law No. 6/2019 and Act No. 11/2018, including: (i) the number and most common contents of registered equality plans, as well as the number of violations observed and penalties imposed; (ii) the result of the appeal lodged with the Supreme Court against section 5 of Royal Decree No. 901/2020; and (iii) the equality and diversity measures reported in enterprises. The Committee also requests the Government to provide information on the measures adopted under the III Plan for Gender Equality in the General State Administration (AGE) and in associated or dependent public bodies.***

In respect of provisions on equal remuneration and personal, family and work life reconciliation, the Committee refers to its comments on the application of the Equal Remuneration Convention, 1951 (No. 100), and on the Workers with Family Responsibilities Convention, 1981 (No. 156).

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

### **Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1985)**

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO) and the observations of the Spanish Confederation of Employers Organizations (CEOE) transmitted with the Government's report. The Committee also notes the Government's responses.

**Article 4(b) of the Convention. Conditions of employment and social security.** The Committee notes that the Government reports the adoption of Royal Decree No. 3/2021 of 2 February adopting measures to reduce the gender gap and other matters in the economic and social security fields, which replaces the "maternity supplement" (considered to be discriminatory by the European Court of Justice decision of 12 December 2019) by the "contributory pension supplement to reduce the gender gap". The Government reports that the objective is to correct a pension situation that was structurally unjust in the case of women who assumed childcare responsibilities, and also to reduce the pension gender gap to less than 5 per cent. The number of children is taken as the criterion for the supplement, which is available to mothers and to fathers who can show that the assumption of childcare responsibilities at the birth or adoption of a child negatively impacted their regular contributions. The Committee observes the CCOO's indication that there is a persistent gender gap in the social security system, partly due to the role of women as caregivers in the home and family environment, and that while work-related and social security measures for the protection of workers have contributed to narrowing the gap, more far-reaching measures should be taken to ensure effective equality at all levels of society. The Committee

also notes the detailed information provided by the Government on the increased amounts of the childcare allowances for dependent children, for children with disabilities, for children in large or single-parent families, for mothers with disabilities, and for dependent adult children with disabilities, and the revision of the requirements for access to the allowances. The Committee further notes the Government's indication that the creation of a "minimum subsistence income" benefit has been approved by Royal Decree No. 20/2020 of 29 May. The Government explains that entitlement to this benefit is incompatible with entitlement to the childcare allowances provided for persons with children without disabilities or with a disability of less than 33 per cent, and that the provision of the latter benefit ceased as of June 2020, as it is now covered by the minimum subsistence benefit. The Government also refers, in respect of financial benefits for children suffering from cancer or other serious diseases, to the wider range of diseases covered by this benefit, as well as a more flexible approach to the requirement for continuous review. **The Committee takes due note of all the information provided and trusts that the application of the contributory pensions supplement and the minimum subsistence income will have the desired effect in reducing the gender gap. The Committee requests the Government to provide information on any developments in this regard and on the number of persons, disaggregated by sex and family situation, who are in receipt of these benefits.**

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

## Sri Lanka

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

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

*Article 1 of the Convention. Work of equal value. Legislation.* The Committee previously expressed concern at the absence of legislation providing for equal remuneration for men and women for work of equal value, as well as at the limitations of the principle of equal wages for the "same" or "substantially the same" work, arising out of wage ordinances and collective agreements. The Committee notes the Government's repeated indication, in its report, that while no legislative provision explicitly prohibits discrimination in employment, wage ordinances and collective agreements do not contain discriminatory provisions in determining wages. While noting that the Policy Framework and National Plan of Action to address Sexual and Gender-based Violence for 2016–20, elaborated with the assistance of the United Nations Development Programme (UNDP), set as an objective to ensure equal remuneration for "similar work", the Committee again draws the Government's attention to the fact that the concept of "work of equal value", which lies at the heart of the fundamental right of equal remuneration for men and women for equal value, goes beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, but which is nevertheless of equal value. It further recalls that when collective agreements or wage ordinances do not explicitly provide for different remuneration rates for men and women or when they only prohibit sex-based wage discrimination generally, this will not normally be sufficient to give effect to the Convention, as it does not fully capture the concept of "work of equal value" set out in the Convention (see 2012 General Survey on the fundamental Conventions, paragraphs 673 and 676). **Regretting that unlike the previous National Action Plan for the Protection and Promotion of Human Rights, the new Human Rights Action Plan for 2017–21 does not include "equal pay for work of equal value" as an explicit objective anymore, the Committee again urges the Government to take all the necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and to provide information on any concrete steps taken in this regard.**

*Articles 1 and 2. Assessment of the gender pay gap.* Noting that the Government only refers to the statistical information forwarded, the Committee draws the Government's attention to the fact that the information provided does not enable the Committee to assess the application of the principle of the Convention in practice. The Committee notes that women represented only 37.3 per cent of the economically active population in 2017 (against 62.7 per cent for men) and that despite steady economic growth, the employment rate of women remained low at 36 per cent in 2017 (against 41 per cent in 2010), with more than one third of working women employed in the informal economy, characterized by low wages. It notes

with **concern** that, according to the “Survey on hours actually worked and average earnings” published by the Statistics Division of the Department of Labour in 2016, the average earnings of women are lower than those of men in almost all economic sectors, even when men and women workers are employed in the same occupational category. The Committee further notes that, in its last concluding observations, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) expressed concern about the historically low participation of women in the labour market, and that women tend to be employed in low-paying jobs in tea plantations and the garment sector. It recommended that the Government take steps to effectively address sociocultural barriers that may have a negative impact on women’s opportunities for employment, particularly in sectors with high wage levels (E/C.12/LKA/CO/5, 4 August 2017, paragraphs 25 and 26). The Committee also notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the wide gender wage gap, the limited implementation and monitoring of the principle of equal pay for work of equal value and the concentration of women in the informal employment sector (CEDAW/C/LKA/CO/8, 3 March 2017, paragraph 32). **Taking into consideration the wide gender pay gap and the persistent gender segregation in the labour market, the Committee requests the Government to strengthen its efforts to take more proactive measures, including with employers and workers’ organizations, to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value, as enshrined in the Convention. It requests the Government to provide information on the specific measures taken to address the gender remuneration gap by identifying and addressing the underlying causes of pay differentials such as vertical and horizontal job segregation and gender stereotypes, covering both the formal and informal economy, and by promoting women’s access to a wider range of jobs with career prospects and higher pay. Recalling that collecting, analysing and disseminating information is important in identifying and addressing inequality in remuneration, it requests the Government to provide updated statistical information on 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.**

*Article 2. Minimum wages. Wages boards.* Referring to its previous comments, the Committee notes the Government’s statement that sex-specific terminology is no longer used in the wages board’s decisions. Regarding the Government’s earlier request for ILO technical assistance for the simplification of the wages boards system, the Committee notes that, in light of the future adoption of the Single Employment Law to replace the Wages Board Ordinance, the Shop and Office Employees Act, the Employment of Women, Young Persons and Children Act and the Maternity Benefits Ordinance – without prejudice to the labour rights guaranteed at present by labour laws – this request is now redundant. The Committee welcomes the adoption of the National Minimum Wage Act No. 3 of 2016 which sets a national minimum wage, but notes that, in its concluding observations, the CESCR expressed concern about the fact that the Act does not cover workers in the informal economy, those not unionized, those on daily wages (for example plantation workers) and domestic workers (E/C.12/LKA/CO/5, 4 August 2017, paragraph 31). **Recalling that the setting of minimum wages can make an important contribution to the application of the principle of the Convention which applies to all workers, in all sectors, both in the formal and informal economy, and noting that according to the National Action Plan for the Protection and Promotion of Human Rights 2017–21 the Government will consider the ratification of the Domestic Workers Convention, 2011 (No. 189), the Committee requests the Government to indicate how equal remuneration for men and women for work of equal value is also ensured for workers who are not covered by the National Minimum Wage Act, including workers in the informal economy, those not unionized, those on daily wages such as plantation workers, as well as domestic workers, which are sectors characterized by a high proportion of women and particularly low wages. It also requests the Government to provide information on the progress made in simplifying the wages boards system, as well as on the 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, effort, responsibilities and conditions of work), so that work predominantly done by women, as well as skills considered to be “female” (such as, for example, manual dexterity and those required in the caring professions) are not undervalued or even overlooked, compared to work predominantly done by men or skills traditionally considered to be “male” skills (such as heavy lifting).**

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: 1998)

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

*Article 1 of the Convention. Legislative protection against discrimination.* For a number of years, the Committee has been urging the Government to introduce provisions into its national legislation ensuring that all men and women, citizens and non-citizens, are effectively protected from discrimination in all aspects of employment and occupation on all the grounds enumerated in *Article 1(1)(a)* of the Convention. It previously drew the Government's attention to the fact that articles 12, 14 and 17 of the Constitution addressing discrimination appear to cover citizens only and do not prohibit discrimination on the grounds of colour or national extraction. The Committee welcomes the Government's statement, in its report, that it will discuss this matter with all relevant stakeholders exploring the possibility of amending the existing labour legislation or adopting new legislation to address discrimination in employment. The Committee notes that the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 sets, 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. However it draws the Government's attention to the fact that the Action Plan does not refer to the grounds of "colour", "political opinion", "national extraction" and "social origin" which are enumerated in *Article 1(1)(a)*. The Committee notes that, in their concluding observations, several United Nations treaty bodies (Committee on Economic, Social and Cultural Rights; Committee on the Elimination of Discrimination against Women; Committee on Migrant Workers; Committee on the Elimination of Racial Discrimination) also expressed concern about the national legislation which does not prohibit discrimination on the grounds of colour or national extraction and does not specifically prohibits both direct and indirect forms of discrimination (E/C.12/LKA/CO/5, 4 August 2017, paragraph 13; CEDAW/C/LKA/CO/8, 3 March 2017, paragraph 10; CMW/C/LKA/CO/2, 11 October 2016, paragraph 26; and CERD/C/LKA/CO/10-17, 6 October 2016, paragraph 8). In that regard, the Committee recalls that clear and comprehensive definitions of what constitute discrimination in employment and occupation are instrumental in identifying and addressing the many manifestations in which it may occur (see the 2012 General Survey on the fundamental Conventions, paragraph 743). **The Committee urges the Government to take all the necessary steps to introduce specific legislative provisions in order to ensure that all men and women, 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 requests the Government to provide information on any progress made in this regard. The Committee again requests the Government to provide information on the number and nature of employment discrimination cases that have been handled by the Supreme Court pursuant to articles 12(1) and 17 of the Constitution, and their outcome, as well as copies of any relevant judicial decisions.**

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* While welcoming the voluntary Code of Conduct and Guidelines to Prevent and Address Sexual Harassment in Workplaces developed in 2013 by the Employers' Federation of Ceylon, in collaboration with the ILO, the Committee previously raised concerns regarding the absence of effective protection of workers against sexual harassment in employment and occupation. It notes the Government's indication that articles 11 and 12 of the Constitution, on freedom from torture and right to equality respectively, can serve as a legal basis for victims of sexual harassment, and that courts have considered demands for sexual favours for job promotion as a "bribe" punishable under the Bribery Act, 1980. While noting that these general provisions do not explicitly refer to "sexual harassment", the Committee notes that the Government again refers to section 345 of the Penal Code covering sexual harassment, without providing the requested information in order to clarify the scope of the provision regarding the interpretation of the expression "a person in authority". The Committee welcomes the inclusion in the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 of proposed legislation to specifically deal with sexual harassment in the workplace both in the public and private sectors. The Committee also welcomes the plan to take steps to ensure that employers both in the public and private sectors introduce mandatory guidelines and appoint committees to respond to sexual harassment, in consultation with employers' and workers' organizations. It notes that the Policy Framework and National Plan of Action to address Sexual and Gender-based Violence for 2016–20, developed with the

assistance of the United Nations Development Programme (UNDP), which highlights that women working in Export Processing Zones (EPZs) are particularly exposed to sexual harassment, also provides for the promotion of a policy to address sexual harassment in workplaces and implementing mechanisms to address sexual harassment in the private sector. However, the Committee notes that in its concluding observations the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the high levels of gender-based violence against women, with cases of violence against women being underreported due to a lack of adequate legislation, women's limited access to justice for reasons including fear of reprisals, limited trust in the police and judiciary, extreme delays in the investigation and adjudication of such cases, arbitrary outcomes, and very low conviction rates. The CEDAW also expressed concern at the lack of disaggregated data on sexual harassment in the workplace and on measures taken to address such cases (CEDAW/C/LKA/CO8, 3 March 2017, paragraphs 22 and 32). **Referring to the National Action Plan for the Protection and Promotion of Human Rights for 2017–21, the Committee urges the Government to take the necessary steps to include specific legislative provisions that clearly define and prohibit all forms of sexual harassment in the workplace, both quid pro quo and hostile environment harassment, and requests the Government to provide information on any progress made in this regard. It again requests the Government to indicate whether section 345 of the Penal Code applies only to sexual harassment committed by a person with authority or also by a co-worker, a client or a supplier, of the enterprise. It requests the Government to provide information on any steps taken to ensure that employers both in the public and private sectors introduce mandatory guidelines and appoint committees to respond to sexual harassment, in consultation with employers' and workers' organizations, including within the framework of the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 and the National Plan of Action to address Sexual and Gender-based Violence for 2016–20. The Committee requests the Government to provide information on the measures taken to promote women's access to justice, including by ensuring that they have a better knowledge of their rights and of the legal procedures available, as well as the number of complaints concerning sexual harassment in the workplace lodged, penalties imposed and compensation awarded, including in the context of unjustified termination.**

*Article 2. Equality of opportunity and treatment between men and women.* Referring to its previous comments, the Committee notes the Government's statement that the Women's Rights Bill was renamed Women's Commission Bill and the draft bill was prepared in 2017 and awaiting Attorney General's certificate on constitutionality. The Committee takes note of the Local Authorities Elections (Amendment) Act No. 1 of 2016 which includes a 25 per cent quota for women in local public bodies, but notes that, in its concluding observations, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) indicated that despite this new legislation, the participation of women in political and public life and in decision-making remains very low (E/C.12/LKA/CO/5, 4 August 2017, paragraph 23). The Committee notes that, in 2017, women represented only 37.3 per cent of the economically active population (against 62.7 per cent for men) and that despite steady economic growth, the employment rate of women remained low at 36 per cent (against 41 per cent in 2010). It notes, from the 2016 Annual Employment Survey that there is both vertical and horizontal occupational gender segregation, with women being concentrated in the agriculture, manufacturing and education sectors, as well as in elementary occupations (28.5 per cent) and clerical support (13 per cent), while only few women are employed in managerial and senior official positions (3.3 per cent) or as technical and associate professionals (4.5 per cent). It notes in particular that, in its last concluding observations, the United Nations Committee on Migrant Workers (CMW) highlighted that women in Sri Lanka continue to be compelled to become domestic migrant workers owing to the lack of equal access to employment (CMW/C/LKA/CO/2, 11 October 2016, paragraph 52). The Committee welcomes the measures included in the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 which aims to increase the participation of women in employment both in the public and private sectors, including by training women for higher skilled occupations in the formal and non-traditional areas, as well as closing the gender gap in the formal sector by providing childcare facilities, encouraging more flexible work arrangements and promoting men's roles and responsibilities in childcare and family duties. **The Committee requests the Government to provide detailed information on any policy and measures adopted, in the framework of the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 or otherwise, to enhance women's access to employment and to a wider range of jobs and higher level positions, including through measures aimed at combating stereotypes regarding women's capabilities and role in the society and better reconciling work and family responsibilities. The Committee requests the**

**Government to provide information on the status of the adoption of the Women's Commission Bill, as well as a copy of the new legislation once adopted. It requests the Government to provide updated statistical information on the participation of men and women in education, training and employment, both in the public and private sectors, including in the informal economy, disaggregated by occupational categories and positions, as well as on the number of women in Sri Lanka employed as domestic migrant workers (including domestic migrant 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.**

## Sweden

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1962)

*Article 1(1) of the Convention. Prohibited grounds of discrimination. Legislation.* The Committee previously noted that the Discrimination Act (2008:567) does not include "political opinion" and "social origin" as prohibited grounds of discrimination. Welcoming the inclusion of the ground of "transgender identity or expression" in the national hate crime legislation on 1 July 2018, the Committee notes with **regret** that the grounds of "political opinion" and "social origin" are still not included in the national legislation. In this regard, the Committee recalls that the Government referred in its previous report to a possible investigation to establish a comprehensive ban on discrimination with an "open list" of prohibited grounds. The Committee notes the Government's statement in its 2017 report that there are currently no plans to review the possibility of having an "open list" of prohibited grounds of discrimination in the Discrimination Act. The Committee wishes to recall that, when legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention (General Survey on the fundamental Conventions, 2012, paragraph 853). **The Committee therefore asks the Government to take the necessary steps to ensure that the legislation includes an explicit prohibition of discrimination on at least all the grounds enumerated in Article 1(1)(a) of the Convention, in particular "political opinion" and "social origin". It asks the Government to provide information on any progress made to that end. In the meantime, the Committee asks the Government to provide information on the steps taken to ensure protection against discrimination in employment and occupation on the grounds of "political opinion" and "social origin" in practice, as well as any relevant administrative or judicial decisions handed down in this respect.**

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

## Switzerland

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

*Articles 1 and 2 of the Convention. Effective protection of workers against discrimination in employment and occupation. Legislation, national policy and other measures.* For many years, the Committee has been drawing the Government's attention to the fact that the legal measures in force are inadequate to ensure the effective protection of workers against discrimination on all of the grounds enumerated in *Article 1(1)(a)* of the Convention, at all stages of employment, including occupational training, recruitment and terms and conditions of employment, and to enable them to assert their rights in this respect. With regard to discrimination based on sex, the Committee recalls that the Federal Act of 24 March 1995 on equality between women and men explicitly prohibits "discrimination against workers on grounds of sex, either directly or indirectly, in particular on the basis of their civil status,

their family situation or, in the case of women, of pregnancy" (section 3(1)). In this regard, the Committee notes with **interest** that the Government refers in its report to the adoption on 28 April 2021 of the Equality Strategy 2030, a national gender equality strategy which focuses on combating discrimination, promoting equality at work, improving the work/life balance and prevention of violence.

Regarding racial discrimination, the Committee recalls that in its previous report the Government recognized that, in so far as the constitutional provisions are not directly applicable to relations between individuals and that the penal provision (section 261bis of the Penal Code) is not often applicable in the field of employment, victims have to avail themselves of the general provisions of the Civil Code or of the Code of Obligations, including general principles such as good faith or the invalidation of the contract. The Committee recalls that the provisions of the Convention, even where prevailing over national law, may not be sufficient in themselves to provide effective legal protection from discrimination to individual workers and 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 (General Survey on the fundamental Conventions, 2012, paragraphs 851 and 853).

***In order to ensure the effective protection of workers against discrimination in employment and occupation and to enable them to assert their rights, the Committee requests the Government to take the measures necessary to establish, in addition to the Federal Act of 1995 on equality between women and men, an effective legal framework adapted to the world of work that: (i) includes a definition and a prohibition of direct and indirect discrimination; (ii) covers at least all the grounds other than sex enumerated in Article 1(1)(a) of the Convention, that is colour, race, religion, political opinion, national extraction and social origin; (iii) applies to all stages of employment and occupation, including recruitment. The Committee requests the Government to provide information on any other measure taken or envisaged to prevent and combat discrimination on these grounds in practice, as well as on any measure adopted under the Equality Strategy 2030 to combat gender discrimination in employment and occupation. It also requests the Government to provide information on the access to justice of victims of discrimination in these fields, on the legal basis used and the results obtained through the courts (penalties imposed and compensation granted).***

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

The Committee notes the complexity of the situation prevailing on the ground and the armed conflict in the country.

*Articles 1 and 2 of the Convention. Legislative developments. Work of equal value.* The Committee previously noted that section 75(a) of the Labour Code of 2010 provides for the principle of equal remuneration for work of equal value as enshrined in the Convention. It notes however that section 75(b) defines "work of equal value" as "work that requires equal scientific qualifications and professional skills, as attested by a work experience certificate". The Committee points out that such a definition restricts the full application of the principle as set out in the Convention. The Committee recalls that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. This concept is fundamental to tackling occupational sex segregation in the labour market, which exists in almost every country, as it permits a broad scope of comparison, including, but going beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. Moreover, the Committee recalls that the principle has been applied to compare the remuneration received by men and women engaged in different occupations, such as wardens in sheltered accommodation for the elderly

(predominantly women) and security guards in office premises (predominantly men); or school meal supervisors (predominantly women) and garden and park supervisors (predominantly men) (2012 General Survey on the fundamental Conventions, paragraphs 673 and 675). ***In light of the above, the Committee asks the Government to take the necessary measures to amend section 75(b) of the Labour Code in order to ensure equal remuneration for men and women not only in situations in which they perform the same work, but also in situations in which they carry out work which is different but nevertheless of equal value.***

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

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

## Tajikistan

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

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

The Committee notes with ***regret*** that the Government's report once again contains no information in response to a number of its previous comments. The Committee wishes to reiterate that without the necessary information, it is not in a position to assess the effective implementation of the Convention, including any progress achieved since its ratification. ***The Committee hopes that the next report will contain full information on the issues raised below.***

***Articles 1 and 2 of the Convention. Gender wage gap. Private sector.*** In its previous comments, the Committee noted the persistence of both the gender wage gap and occupational gender segregation. It also noted that agricultural workers were still paid the lowest wage in the economy (367.59 Tajikistani Somoni (TJS) for men and TJS211.34 for women, approximately US\$39 and \$22 respectively) and that women were concentrated in the informal economy and in low-paid jobs. The Committee therefore requested that the Government step up its efforts to address the gender wage gap, particularly in the agricultural sector, and that it provide information on the measures taken in this regard. It also requested that the Government provide information on the measures taken to improve access of women to a wider range of job opportunities at all levels to address the occupational gender segregation. The Committee notes, from the Government's report, the adoption of a national strategy to enhance the role of women and girls 2011–20 and a state programme on the education, selection and appointment of managerial positions in the Republic of Tajikistan from among capable women and girls 2007–16. With regard to the fact that workers with the lowest paid jobs are found in the agricultural sector, the Government indicates that trade unions intend to make proposals to amend the General Agreement for the period 2018–20. The Government also indicates, in its report on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), that as a result of the state programme, in 2017, 1,002 women in need of special social protection were provided with employment and that 528 entrepreneurial initiatives from women received financial assistance. Further, the Committee notes, from the Government's sixth periodic report submitted under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the establishment of presidential grants to support and develop women's entrepreneurial activities in 2016–20, the Plan of Action of the National Strategy on promoting the role of women 2015–20 and the National Development Strategy of the Republic of Tajikistan for the period up to 2030, which includes a special section addressing existing problems of inequality and discrimination, particularly for women in rural areas, and ways of resolving them (CEDAW/C/TJK/6, 2 November 2017, paragraph 136). ***The Committee requests the Government to provide detailed information on the measures taken in the framework of the abovementioned policies to improve the access of women, especially women in rural areas, to job opportunities at all levels, including as managers of farms, and on the impact of such measures. The Committee further requests the Government to pursue its efforts to address the gender wage gap, particularly in the agricultural sector, and to provide information on the measures taken in this regard and the results obtained with regard to achieving pay equity. Finally, noting the absence of information provided in this regard, the Committee once again requests the Government to provide detailed and up-to-date statistics on wages of women and men, including sex disaggregated data by industry and occupational category.***

Civil service. In the absence of any information provided in this regard, the Committee once again requests the Government to indicate how it ensures equal remuneration for men and women for work of equal value in the civil service in practice and to provide statistical information disaggregated by sex on the distribution of men and women in the various occupations and grades in the civil service, and their corresponding earnings.

*Article 2. Legislation.* In its previous comments, the Committee asked the Government to clarify whether section 102 of the Labour Code and section 13 of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005, both provided for equal pay for “work of equal value” or for “equal work”. The Committee takes due note that the wording of section 140 of the new Labour Code 2017 and section 13 of the above-mentioned Framework Law of 2005 both guarantee equal remuneration for work of equal value. Noting however that, once again, the report is silent on the application of these provisions in practice, the Committee stresses that the continued persistence of significant gender pay gaps requires that governments, along with employers’ and workers’ organizations take measures to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 669). **Consequently, the Committee reiterates its request to the Government that it provide information on the practical application of section 140 of the Labour Code 2017 and section 13 of Framework Law No. 89 of 1 March 2005.**

*Article 3. Wage determination.* The Committee previously noted the adoption of Government Decree No. 98 of 5 March 2008, to approve the concept of wage reforms in the Republic of Tajikistan, which provides, among others, for mechanisms of state regulation of wage determination. In this context, it requested the Government to provide information on the measures taken to ensure that the principle of equal remuneration for men and women for work of equal value is being taken into account. The Committee notes that the Government has not provided any information in this regard. **The Committee therefore once again requests the Government to provide information on the measures taken to ensure that the principle of equal remuneration for men and women for work of equal value is being taken into account in the context of state regulation of wage determination.**

*Article 4. Collective agreements.* The Committee previously requested the Government to provide examples of collective agreements covering different sectors, to indicate how these agreements promote the principle of equal pay for work of equal value, and to indicate the percentage of the workforce covered by collective agreements. The Committee takes note of the Government’s indication that there are 20 sectorial trade union committees covering all sectors of employment. The Government also indicates that trade union committees work with employers on basic wage agreements and collective agreements. While taking due note of the information provided, the Committee notes that the Government does not indicate how collective agreements promote the principle of the Convention. **The Committee therefore once again requests the Government to provide examples of collective agreements covering different sectors and to indicate how these agreements promote the principle of equal remuneration for men and women for work of equal value. It also requests the Government to indicate the percentage of the workforce covered by collective agreements, disaggregated by sex.**

*Enforcement.* The Committee previously noted that a Coordinating Council on Gender Issues has been established in the Ministry of Labour and Social Protection and the State Labour Inspectorate to monitor discrimination against women in the labour market and requested the Government to provide information on its activities regarding equal remuneration for men and women. The Committee also requested the Government to provide information on cases of violations of the principle of equal remuneration dealt by the labour inspectorate or the courts. The Committee notes the Government’s indication that no complaints regarding remuneration have been recorded. **The Committee once again requests the Government to provide information on the activities of the Coordinating Council on Gender Issues to monitor sex-based discrimination regarding remuneration. With regard to the lack of complaints, the Committee refers the Government to its comments under Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and requests the Government to indicate the measures taken or envisaged to ensure that the principle of the Convention is enforced by the courts and the labour inspectorate. Once again, the Committee requests the Government to provide information on the number of violations of section 140 of the Labour Code dealt with by the Ministry of Labour and Social Protection and the State**

***Labour Inspectorate, and indicate whether the courts have dealt with any cases concerning the principle of equal remuneration for men and women for work of equal value.***

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

## **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** **(ratification: 1993)**

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

The Committee takes note of the supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government this year, as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations of the International Trade Union Confederation (ITUC), which were received on 11 September 2019.

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

*Article 2 of the Convention. Equality of opportunity and treatment between men and women.* The Committee notes the discussion in the Committee on the Application of Standards (CAS) of the International Labour Conference, at its 108th Session (June 2019), on the application of the Convention, and the conclusions adopted. The conclusions of the CAS called upon the Government to: (1) report on the concrete measures taken to ensure that direct and indirect discrimination on all grounds is prohibited in law and in practice; and (2) provide without delay information on the implementation in practice of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005 (Law on State Guarantees of 2005).

The Committee welcomes the detailed information provided by the Government in its report regarding the legislative framework and the policies and programmes developed and implemented with respect to equality of opportunity and treatment between men and women. The Committee notes, in particular, that the Government acknowledges that gender equality cannot be achieved if laws and policies are not implemented in practice and indirect discrimination persists. The Government adds that in order to detect indirect discrimination the country's legislation in this area needs to be improved and the first priority is to amend the national legislation. It also indicates that to improve policy to ensure de facto gender equality, the National Development Strategy for 2030 provides for the following measures: (1) improving legislation in order to realize the State guarantees of creating equal opportunities for women and men; (2) developing institutional mechanisms to introduce national and international obligations to ensure gender equality and expand women's opportunities in sectoral policies; (3) activating mechanisms for the literacy and social inclusion of women, including rural women; (4) boosting the gender capacity and gender sensitivity of staff members at agencies in all branches of government; and (5) introducing gender budgeting setting in the budget process. The Committee welcomes the Government's indication that, with a view to achieving de facto gender equality, a working group on the improvement of laws and regulations to eradicate gender stereotypes, protect women's rights and prevent domestic violence has made proposals on introducing the concepts of direct and indirect discrimination, temporary measures, and compulsory gender analysis of laws. As regards the Law on State Guarantees of 2005, the Committee notes that in 2018, the Committee for Women's and Family Affairs (CWFA) monitored its implementation, by collecting and analysing data from central ministries and agencies, and selected local executive authorities. The Government further states that a report, which includes an analysis of the implementation of the law's articles, and conclusions and recommendations to improve its monitoring and implementation, was prepared in this regard.

The Committee notes from ITUC's observations that it regrets the lack of concrete information provided by the Government to the supervisory bodies, which would enable a more comprehensive assessment of the situation in the country. It further notes that ITUC emphasizes the need not only to draft

laws but also to implement specific policies to eliminate all forms of discrimination and take proactive measures to identify and address the underlying causes of discrimination and gender inequalities deeply entrenched in traditional and societal values. The Committee notes ITUC's statement that the very name of the body responsible for the implementation of the national policy to protect and ensure the rights and interests of women and their families, the "Committee for Women's and Family Affairs", raises an issue because it appears to enshrine the idea that women are the only ones who have to assume responsibilities in relation to their families. In this regard, the Committee notes the Government's indication that, with the aim of eradicating stereotypes about the roles and duties of women and men in the family and society, and to boost awareness of and ensure equal rights and opportunities for men and women, a range of measures were implemented for different sections of society and the possibilities of the mass media are widely used. More than 200 programmes on understanding the importance of ensuring equal rights and opportunities for men and women were prepared and broadcasted by the members of the CWFA. In its supplementary information, the Government also indicates that it is taking every measure to root out gender discrimination against women based on stereotyped ideas of their capabilities and role in society, which contradict the Convention and hinder women's recruitment and employment.

The Committee notes the Government's statement that expanding economic opportunities for women and their competitiveness in the labour market, and the development of their entrepreneurial activities play a key role in ensuring gender equality. In this regard, it notes the detailed information regarding measures adopted to support the development of women entrepreneurship, through the allocation of grants, access to microcredit and an inter-agency working group to support women's entrepreneurship operating under the State Committee for State Property Investment and Management. The Government also indicates that further to the adoption of concluding observations in 2018 by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW/C/TJK/CO/6, 14 November 2018, paragraph 37), it has formulated, through broad discussions with the civil society, and adopted in May 2019, a National Plan of Action to Implement the Recommendations of the CEDAW 2019–22. In this regard, the Committee notes that the CEDAW, while welcoming the measures taken to support women entrepreneurs and to regulate domestic work and work from home, expressed concern *inter alia* about the following: (1) the concentration of women in the informal sector and in low-paying jobs in the healthcare, education and agriculture sectors; (2) the low level of participation of women in the labour market (32.6 per cent) and the low employment rate among women (40.5 per cent), compared with men (59.5 per cent); (3) the absence of social security coverage, the shortage of preschool facilities and family responsibilities non compatible with paid work, which make women particularly prone to unemployment; (4) the adoption in 2017 of the list of occupations for which the employment of women is prohibited; and (5) the lack of access to employment for women with a reduced capacity for competitiveness, such as women with disabilities, mothers with several children, women heads of single-parent families, pregnant women and women who have been left behind by male migrants.

With respect to the employment of women in the civil service, the Committee welcomes the various steps taken by the Government. It notes the indication that, as at 1 July 2019, there were 18,835 active civil servants in total (19,119 as at 1 January 2019), including 4,432 women, which represented 23.5 per cent of civil servants (4,441 or 23.2 per cent as at 1 January 2019). In leadership positions, there were 5,676 persons representing 30.1 per cent of all civil servants and 1,044 of them were women (18.4 per cent in such positions). The Committee further notes, from the Government's additional information, that as at 1 April 2020, women represented 23.7 per cent of civil servants, and 19.1 per cent of leadership positions. With a view to promoting gender equality in the civil service, the Government adds that the Civil Service Agency (CSA) together with all State bodies is taking appropriate steps to recruit women to the civil service at all levels of public administration. The Committee notes the Government's indication that, in the first half of 2019, the CSA together with the Institute for State Administration held 24 professional training courses for civil servants, including four retraining and 20 professional development courses, which were attended by 977 persons – 236, or 24.1 per cent, of whom were women. In line with the requirements of State statistical report form No. 1-GS, "Report on the quantitative and qualitative composition of civil service", the CSA also conducts quarterly monitoring and draws up statistical reports on the number of civil servants, including women, the results of which are transmitted to the appropriate State bodies and discussed at board meetings for the necessary steps to be taken. The Government also mentions positive measures adopted to promote the employment of women in the civil service, through the implementation, since 2017, of the State Programme on the Development, Selection and Placement of Gifted Women and Girls as Leading Cadres of

Tajikistan 2017–2022; the establishment of incentives and quotas for women; and, on first appointment to the civil service, the granting of three additional steps on the grading scale, pursuant to Presidential Decree No. 869 adopted in 2017. According to the Government, as a result of implementing those measures, 36 women were recruited to various civil service positions in the first half of 2019.

***Welcoming the positive developments regarding the promotion of gender equality in employment and occupation both in the private and the public sectors, the Committee asks the Government to pursue its efforts to foster equality opportunity and treatment between men and women in employment and occupation and, in particular, to take appropriate steps, including through amending legislation, to address indirect discrimination and occupational gender segregation. The Committee asks the Government to provide information on the content, conclusions and recommendations of the report prepared to analyse the implementation of the Law No. 89 on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights of 2005, as well as on any follow-up measures taken in this regard. The Committee also asks the Government to continue to provide detailed information on the situation of men and women in employment and occupation, both in the private and public sectors, as well as on the results of any positive measures taken to improve women's access to employment, and their results. Noting that the Government's report does not contain any information on any concrete measures taken, and their results, to address direct and indirect discrimination based on grounds other than sex, the Committee asks the Government to provide such information in its next report.***

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

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

## Thailand

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1999)

*Articles 1(b) and 2 of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* In its previous observation, the Committee noted that section 53 of the Labour Protection Act of 2008, in providing only equal wages in cases where men and women perform work of the same nature, quality and quantity, did not fully reflect the principle of the Convention. It: (1) expressed the hope that the necessary steps would soon be taken to amend it in order to include the principle of equal remuneration for men and women for work of equal value explicitly; (2) requested the Government to report on the progress made in this regard; and (3) asked for information on any further activities undertaken, in cooperation with workers' and employers' organizations, to promote the principle of the Convention in the public and the private sectors. The Committee notes with **satisfaction** that section 53 of the Labour Protection Act was amended in 2019 (B.E. 2562/2019) so as to prescribe that an employer shall set equal rates of wage, overtime pay, holiday pay, and holiday overtime pay for men and women for "work of equal value". The Committee also notes that, in its report, the Government indicates that under the Homeworkers Protection Act (B.E. 2553/2010) informal workers are recognized as having the right to equal remuneration, irrespective of their sex. The Committee notes that section 16 of the Homeworkers Protection Act prescribes equal remuneration for work "of the same nature and quality and with the same quantity" only, which is narrower than the principle of the Convention. Concerning the activities undertaken in cooperation with the social partners to promote the principle of the Convention in the public and the private sectors, the Committee notes the information provided by the Government on various initiatives, including awareness-raising activities on good labour practices and reach-out activities for businesses. ***The Committee asks the Government to provide information on the application in practice of section 53 as amended (B.E. 2562/2019) of the Labour Protection Act, including any judicial decisions invoking this provision and any violation detected by the labour inspectors, the sanctions imposed and the remedies granted. The Committee asks the Government to adopt the necessary measures so that section 16 of the Homeworkers Protection Act (B.E. 2553/2010) is aligned in the near future to the amended section 53 of the Labour Protection Act in order to include the principle of equal remuneration for men and women for work of equal value explicitly. The Committee***

**also asks the Government to continue to provide information on the activities undertaken, in cooperation with workers' and employers' organizations, to promote the principle of the Convention in the public and the private sectors and to raise awareness about it.**

*Articles 2 and 3. Determination of remuneration. Objective job evaluation. Public sector.* In its previous observation, the Committee urged the Government to indicate the specific measures taken to ensure that job descriptions and the selection of factors for job evaluation are free from gender bias, and more particularly with regard to employees working in the public service who are not public officials. The Committee also requested the Government to provide statistical data, disaggregated by sex, on the distribution and remuneration of men and women in the various groups of the compensation schedule. The Committee notes the Government's indications that the Remuneration System Manual for Civil Servants, which has been elaborated by the Office of the Civil Service Commission, sets out the factors that must be taken into account when determining remuneration rates for civil servants. Among these factors figures the "value of the work" performed, however the criteria used to determine the value of the work performed are not indicated. The Committee recalls that in order to determine the value of work, the use of appropriate techniques for objective job evaluation, comparing factors such as skills, effort, responsibilities and working conditions, is required (see 2012 General Survey on the fundamental Conventions, paragraph 675). **The Committee requests the Government to indicate how the value of the work performed by men and women is determined for the purpose of setting remuneration rates in the public sector and how it is ensured that there is no gender bias in the process, so as to comply fully with the principle of the Convention. The Committee also reiterates its request for statistical data, disaggregated by sex, on the distribution and remuneration of men and women in the various groups of the compensation schedule.**

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

## Togo

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1983)

*Article 1(a) of the Convention. Protection of workers against discrimination. Legislation. Public service.* The Committee recalls that the Labour Code of 18 June 2021 prohibits discrimination on grounds of sex, colour, religion, ethnicity, race, political or philosophical opinion, trade union or cooperative activities, origin, including social origin, morals, legal status, national extraction, physical appearance, age, family situation, pregnancy and health, loss of autonomy or disability (section 4). In its previous comments, the Committee noted that the provisions of the Act of 21 January 2013 issuing the General Public Service Regulations, which prohibit discrimination (section 45), do not cover all the grounds of discrimination set out in the Convention, including race, colour, national extraction and social origin, and that they only concern recruitment. It therefore requested the Government to envisage the possibility of amending section 45 of the General Public Service Regulations with a view to ensuring that public service personnel are fully protected from discrimination. The Committee notes with **concern** that the Government once again confines itself to indicating that it has taken due note of this request, without providing any details on the measures envisaged to do so. In this regard, it once again recalls that, when 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 (General Survey on the fundamental Conventions, 2012, paragraph 853). The Committee recalls that the purpose of the Convention is to protect all persons against discrimination in employment and occupation on the basis of race, colour, sex, religion, political opinion, national extraction and social origin (with the possibility of extending its protection to discrimination on the basis of other grounds) and that no provision in the Convention limits its scope with regard to individuals or branches of activity. The Convention therefore applies to all sectors of activity, the public and private sectors, formal

economy and informal economy (2021 General Survey, paragraph 733). ***In light of the above, the Committee firmly hopes that the Government will take the necessary measures in the near future to amend section 45 of the Act of 21 January 2013 issuing the General Public Service Regulations so that, in line with the Convention, public service employees are fully protected from discrimination, including discrimination based on race, colour, national extraction and social origin, as well as any other grounds that it considers useful to add (particularly to bring the protection against discrimination afforded to public servants into line with the protection for workers in the private sector) and to ensure that the prohibition of discrimination covers not only recruitment, but also terms and conditions of employment in the public service.***

*Discrimination on the basis of sex. Sexual harassment.* The Committee notes with **interest** the adoption of Act No. 2021-012 of 18 June 2021 issuing the Labour Code, which amends section 40 of the Labour Code to include and explicitly prohibit – as the Committee had requested in its previous comments – both forms of sexual harassment, namely quid pro quo sexual harassment and sexual harassment resulting in an intimidating, hostile or humiliating work environment. However, the Committee notes, that contrary to its request, the reference to “misuse of authority” has not been removed, which effectively restricts the scope of application of this provision to sexual harassment committed by a hierarchical superior and does not cover harassment by a work colleague with the same status, a junior, customers of the enterprise or other persons encountered in the work context. Furthermore, the Committee once again notes that the provisions of Act No. 2015-010 of 24 November 2015 issuing the new Penal Code relating to sexual harassment (sections 399–401) only cover quid pro quo sexual harassment, or in other words harassment “aimed at obtaining favours of a sexual nature from another person against their will”. ***The Committee requests the Government to amend section 40 of the Labour Code to remove any reference to the concept of a misuse of authority. It also requests the Government to provide information on any measures taken or envisaged to prevent sexual harassment in respect of employment and occupation, including through training for labour inspectors and awareness-raising campaigns for employers, workers and their respective organizations.***

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

## Trinidad and Tobago

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

*Articles 1 and 2 of the Convention. Assessing and addressing the gender pay gap.* The Committee previously noted the persistence of occupational gender segregation and predominant gender pay gap in favour of men. It requested the Government to provide information on the concrete measures taken and the progress made in that regard. The Committee notes the Government’s indication that the draft National Policy on Gender and Development (NPGD), which contains initiatives aimed at addressing these issues, has not been adopted yet but that, in the meantime, the Cabinet has agreed to use the draft policy as an «official government policy pending its final adoption». The Committee regrets the lack of information provided by the Government on any concrete measures implemented to address occupational gender segregation or gender pay gap, pending the adoption of the NPGD. In that regard, it notes with **concern**, from the last available statistical information forwarded by the Government, that, in 2018, women employed in the same occupational categories or industrial groups as men systematically received lower remuneration in all of them (except in “other mining and quarrying” group), with average wage differentials between men and women being estimated at 12.75 per cent. It further notes that, in 2018, the gender pay gap between men and women ranged from 8.9 per cent for technicians and associate professionals, up to 34.7 per cent for service and shop sales workers and 35.8 per cent for plant and machine operators and assemblers. The statistics concerning the average monthly income by sex and industry also show a gender pay gap in favour of men (except in transport, storage and communication), ranging from 1.3 per cent in agriculture, up to 24.5 per cent in wholesale

and retail trade, restaurants and hotels. The Committee further notes that, according to the 2020 Human Development Report from the United Nations Development Programme (UNDP), female participation in the labour market remains low at 50.1 per cent compared to 70.2 per cent for men, and the income inequality Gini coefficient (that is the measure of the deviation of the distribution of income among individuals or households within a country from a perfectly equal distribution; where a value of 0 represents absolute equality and a value of 1 (or 100 per cent) absolute inequality) was estimated at 0.323 in the 2019 index. It further notes that, as highlighted in 2021, in the context of the Universal Periodic Review (UPR), conducted under the auspice of the United Nations (UN) Human Rights Council, the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed specific concern at the wide gender wage gap and persistent occupational segregation in the labour market and specifically recommended the Government to reduce the gender wage gap by guaranteeing and enforcing the principle of equal pay for work of equal value in all sectors (A/HRC/WG.6/39/TTO/2, 26 August 2021, paragraphs 35 and 36 and CEDAW/C/TTO/CO/4-7, 25 July 2016, paragraphs 30 and 31). Regarding occupational gender segregation, the Committee refers the Government to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). **The Committee urges the Government to step up its efforts in order to address the gender pay gap and its structural causes, including persistent occupational gender segregation of the labour market. It asks the Government to provide information on any concrete measures implemented to that end, as well as on any progress made in the adoption of the National Policy on Gender and Development. The Committee also asks the Government to provide detailed statistical data on the distribution of women and men in the various economic sectors and occupations, and their corresponding earnings, both in the private and public sectors.**

*Articles 1(b) and 2. Equal remuneration for men and women for work of equal value. Legislation.* The Committee recalls that the Equal Opportunity Act, 2000, prohibits discrimination in employment but does not contain any specific provision regarding equal remuneration for men and women for work of equal value. Since 2003, the Committee has been requesting the Government to take steps to give full legislative expression to the principle of the Convention. It previously noted that, in 2018, consultations were held on the Industrial Relations Advisory Committee's (IRAC) Policy Recommendations on Employment Standards and a proposed list of definitions, and requested the Government to provide information on any progress made in that regard. The Committee notes the Government's statement, in its report, that the elaboration of the Employment Standards Bill is still ongoing. The Government indicates that, since 2018, consultations have continued between the IRAC, the Minister of Labour and Small Enterprise Development (MOLSED), and national stakeholders on the draft Policy Recommendations, which suggest the inclusion of a provision providing that "men and women shall be entitled to equal pay for work of equal value". The Government adds that, in August 2020, a new version of the draft Policy Recommendations was revised by relevant stakeholders through targeted consultations, prior to their submission to the Cabinet. The Committee takes note of this information. It however notes with **concern** the lack of progress towards a full legislative implementation of the principle contained in the Convention. It recalls, once again, that *Article 2(2)(a)* of the Convention specifies national laws and regulations as a method of applying the principle of the Convention and that guidance provided by the Equal Remuneration Recommendation, 1951 (No. 90) supports legal enactment for the general application of the principle. It emphasizes that legal provisions that are narrower than the principle laid down in the Convention – in that they do not give expression to the concept of "work of equal value" – hinder progress in eradicating gender-based pay discrimination (see 2012 General Survey on the fundamental Conventions, paragraph 679). **In light of the ongoing legislative developments that have been under way for a number of years, the Committee urges the Government to give full legislative expression to the principle of the Convention, including through the adoption of the Employment Standards Bill. It asks the Government to provide information on any progress made in that regard, as well as on any proactive measures taken to raise awareness of the**

**meaning of the principle of equal remuneration for work of equal value among workers, employers and their representative organizations and also among law enforcement officials. The Committee further asks the Government to provide information on the number, nature and outcome of cases of pay inequality between men and women dealt with by the labour inspectors, the Equal Opportunity Commission and Equal Opportunity Tribunal, the courts or any other competent authorities.**

Articles 2(2)(c) and 4. *Collective agreements and collaboration with the social partners.* The Committee previously noted the continued use of non-gender-neutral terminology in collective agreements in order to describe certain categories of workers (such as “greaseman”, “watchman”, “handyman”, “charwoman”, “female scavenger”, etc.) which may reinforce stereotypes regarding whether certain jobs should be carried out by men or women, and thus increasing the likelihood of wage inequality. It noted the Government’s indication that gender-neutral designation of posts would be given consideration in the framework of the regrading and reclassification exercise for daily rated workers of the Port-of-Spain Corporation, and requested the Government to indicate how it was ensured that, in determining wage rates in collective agreements, the principle of equal remuneration for men and women for work of equal value was effectively taken into account by the social partners. The Committee notes the Government’s indication that the regrading and reclassification exercise for daily rated workers of the Port-of-Spain Corporation is still ongoing. Regarding collective agreements, the Government states that the Employers’ Consultative Association (ECA) provides collective bargaining services to all employers during the preparation and conduct of collective bargaining negotiations, in particular to include proposals for the use of gender-neutral language to describe job positions. The Government adds that the ECA has committed to continue exploring the possibility of adding the concept of equal pay for work of equal value to new or already existing interventions of its subsidiary, the Employers’ Solution Centre (ESC), which conducts training and awareness-raising activities for over 2,000 individuals per year. **Recalling the important role played by the social partners in giving effect in practice to the principle of the Convention, more particularly in light of the absence of any legislation reflecting the principle of equal remuneration for men and women for work of equal value, the Committee asks the Government to take steps, in collaboration with employers’ and workers’ organizations, to ensure that gender-neutral terminology is used in defining the various jobs and classifications in collective agreements. It asks the Government to provide information on progress made in this regard, as well as to indicate the results of the regrading and reclassification exercise for daily rated workers of the Port-of-Spain Corporation. The Committee also asks the Government to provide information on the actions undertaken to promote the implementation of the principle of the Convention with the cooperation of the social partners, and the results of such initiatives. In this regard, it asks the Government to specify how it shares with the social partners the contours of the principle of equal remuneration for men and women for work of equal value and how the social partners take into account this principle in collective bargaining on wages.**

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

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1970)

Article 1(1)(a) of the Convention. *Discrimination based on sex.* For a number of years, the Committee has been expressing concern at the discriminatory nature of several provisions relating to married female police officers, and particularly: (1) Regulation 52 of the Police Commission Regulations, which provides that the appointment of a married female police officer may be terminated on the ground that her family obligations are affecting the efficient performance of her duties; and (2) section 14(2) of the Civil Service Regulations which requires a female officer who marries to report the fact of her marriage to the Public Service Commission. It requested the Government to revoke Regulation 52 of the Police Commission Regulations and amend section 14(2) of the Civil Service Regulations to eliminate any potentially discriminatory impact based on sex. The Committee notes the Government’s

indication in its report that, in January 2019, the Police Service Commission decided on the revocation of Regulation 52 and that new draft Regulations, omitting Regulation 52, are currently under review by the Police Service Commission and the Chief Parliamentary Counsel. Regarding the amendment of section 14(2) of the Civil Service Regulations, the Committee notes the Government's statement that a new Civil Service Act and Regulations, omitting section 14(2), have been drafted by the Personnel Department and are currently under review by the relevant stakeholders. **Welcoming these positive developments, the Committee expresses the firm hope that the Government will without further delay make every possible effort to effectively: (i) revoke Regulation 52 of the Police Commission Regulations; and (ii) amend or revoke section 14(2) of the Civil Service Regulations in order to eliminate any potentially discriminatory impact based on sex. It asks the Government to provide information on any progress made in this regard, in particular with respect to the adoption of the new draft Police Commission Regulations and the new draft Civil Service Act and Regulations, and to submit copies once adopted.**

*Articles 2 and 3. Equality of opportunity and treatment of men and women. Public service.* The Committee previously noted the persistent occupational gender segregation in the public service, as well as the sex-specific terminology used in the denomination of offices in the Schedule, Parts I–VI, of the Civil Service Regulations. It requested the Government to amend the legislation to ensure that it only contains gender-neutral terminology. The Committee notes, from the detailed statistical information provided by the Government, the persistence, and in some instances the aggravation, of horizontal and vertical segregation in the public sector. Indeed, while women represent 80.5 per cent of personnel in the judicial and legal service and 76.4 per cent in the teaching service, they only represent 16.8 per cent of personnel in the fire service (and none at the higher levels, that is grade five and above); 9.4 per cent in the prison service (and none at the higher levels); and 27.8 per cent in the police service (and only 3.9 per cent at the higher levels). Regarding the sex-specific terminology used in the denomination of the offices mentioned in the Schedule, Parts I–VI, of the Civil Service Regulations, the Committee notes the Government's statement that equality of treatment is ensured to all workers irrespective of sex. The Committee notes with **concern** the lack of steps taken by the Government to ensure that the legislation only contains gender-neutral terminology, despite the persistent occupational gender segregation in the public service. In this regard, it wishes to draw the Government's attention to the fact that, even in the absence of any discrimination based on sex, the use of sex-specific terminology to describe certain categories of workers may reinforce stereotypes regarding whether certain jobs should be carried out by men or women (for example, postman, watchman, foreman, repairman, handyman, ward or home sister, matron, maid, laundress), or whether women may have access to decision-making positions (for example, "chief male nurse", or the distinction made between "male airport attendant" and "female airport attendant" for airport attendant I and II). **In light of the persistent occupational gender segregation and ongoing revision of the Civil Service Regulations, the Committee urges the Government to take the necessary steps to amend the Schedule, Parts I–VI, of the Civil Service Regulations in order to ensure that gender-neutral terminology is used in defining the various jobs and classifications in the public service. It asks the Government to provide information on the progress made in this regard. The Committee further asks the Government to provide information on any measures taken to address occupational gender segregation in the public service and to continue providing statistical information on the distribution of men and women in the different sectors and occupations of the public service.**

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

## Tunisia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1968)

*Articles 1(b) and 2 of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* In its previous comments, the Committee asked the Government to take measures to fully integrate the principle of the Convention in its national legislation, particularly within the context of legislative reforms following the adoption of the new Constitution. The Committee notes the Government's reference in its report to a series of sectoral collective agreements, in particular in the agriculture and fisheries sectors, which mention equal remuneration between men and women. The Committee again draws the attention of the Government to the fact that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women. 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. The term "value" indicates that something other than market forces should be used to ensure the application of the principle, as market forces may be inherently gender-biased (see 2012 General Survey on the fundamental Conventions, paragraphs 673–674). **Recalling that it considers that the full and complete recognition in law of the principle of equal remuneration for men and women for work of equal value is of utmost importance to ensure the effective application of the Convention, the Committee again urges the Government to: (i) take without delay the measures necessary to fully integrate the principle of the Convention in its national legislation, in collaboration with the employers' and workers' organizations; (ii) ensure that the new legal provisions cover not only equal remuneration for men and women for "equal" work or work "performed in the same conditions", but also for work of an entirely different nature which is nevertheless of equal value within the meaning of the Convention; and (iii) provide information on all progress 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: 1959)

*Article 1(1)(a) of the Convention. Discrimination on grounds other than sex. Legislation.* For many years, the Committee has been drawing the Government's attention to the absence of provisions in its legislation, in particular in the Labour Code, prohibiting all discrimination in employment and occupation on grounds not only of sex, but also on the other grounds set out in *Article 1(1)(a)* of the Convention. The Government previously indicated that a Bill prohibiting all forms of discrimination is currently being examined by Parliament. **As the Government's report is silent on this point, the Committee once again urges the Government to take the necessary measures to: (i) explicitly prohibit all discrimination on the basis of race, colour, national extraction, religion, political opinion or social origin in law and practice; and (ii) conduct awareness-raising activities and ensure better knowledge and understanding of the provisions of the legislation implementing the principles enshrined in the Convention by workers and employers and their organizations, as well as labour inspectors and judges.**

*Discrimination on grounds of race, colour and national extraction.* The Committee takes note of Basic Act No. 2018-50 of 23 October 2018 respecting the elimination of all forms of racial discrimination. It notes that section 2 defines racial discrimination as "any distinction, exclusion, restriction or preference made on the basis of race, colour, extraction, national or ethnic origin or any other form of discrimination within the meaning of ratified international Conventions". In accordance with section 3 of the Act, "the State shall determine the policies, strategies and action plans to prevent any form and practice of racial discrimination and to combat racist stereotypes common in different groups. It also undertakes to disseminate the culture of human rights, equality, tolerance and acceptance of others among the different components of society. The State shall take, within this framework, the measures

necessary for their implementation in all sectors, notably health, teaching, education, culture, sport and the media". Section 6 also provides for a prison sentence of between six months and three years, as well as a fine of 500 dinars (US\$200), for any person committing discriminatory acts or using discriminatory language. Finally, in accordance with sections 10 and 11, a national committee to combat racial discrimination, under the Ministry responsible for human rights, shall be established. It shall be responsible for the collection and analysis of data, and for drawing up and proposing public strategies and policies to eliminate all forms of racial discrimination. **The Committee requests the Government to: (i) indicate the extent to which Basic Act No. 2018-50 of 2018 also applies to the world of work; and (ii) provide information on the measures taken or envisaged to eliminate all forms of racial discrimination in employment and occupation, in particular through activities undertaken by the future national committee to combat racial discrimination.**

*Article 2 and 3. Equality of opportunity and treatment for men and women.* In its report, the Government indicates that one of the objectives identified in the Development Plan 2016–20 was an increased level of participation in the labour market by women. In this regard, the Committee notes that, according to the findings of the Decent Work Country Programme (DWCP) 2017–22, the activity rate of women in Tunisia remains relatively low at around 25 per cent. Furthermore, according to the statistical data provided by the Government in 2016, women were over-represented in such sectors as manufacturing industries (30.7 per cent, compared with 14.1 per cent for men) and education, health and administrative services (28.2 per cent compared with 16.2 for men). With regard to the legal sector, the Committee notes that there are 935 women magistrates compared with 1,242 men magistrates; 4,193 women attorneys compared with 9,337 men attorneys, and 445 women notaries compared with 1,104 men notaries. According to the Government, the over-representation of women in health, education and social work could be attributed to prejudices that tend to undervalue the qualifications required for jobs of this type, which could be linked to children's education, for both girls and boys, which accentuates the traditional maternal role of the mother. The Committee notes that such stereotypes, which have their roots in a traditional vision of the respective roles of men and women on the labour market and in society, especially as concerns family responsibilities, have the effect of directing men and women towards different areas of education and occupational training, and thus towards different jobs and careers. As a result, that certain jobs are almost exclusively performed by women and that the jobs considered as "feminine" are generally less highly regarded and therefore poorly paid. For this reason, access to education and to a wide range of occupational training courses is of paramount importance for achieving equality in the labour market for men and women. It is a key factor in determining the actual possibilities of gaining access to a wide range of paid occupations and employment, especially those with opportunities for advancement and promotion. The Committee wishes to emphasize that, not only do apprenticeships and technical education need to be addressed, but also general education, "on the job training" and the actual process of training (General Survey on the fundamental Conventions, 2012, paragraph 750). **In light of the findings of the DWCP 2017–22, the Committee requests the Government to take proactive measures to: (i) promote and facilitate access by women and girls to more diverse training courses, especially in areas of education and training leading to occupations traditionally considered as masculine, so as to offer them real occupational prospects; and (ii) combat stereotypical attitudes in respect of women's aspirations, capacities and abilities that restrict their access to particular occupations traditionally considered to be "feminine", and promote their access to a wider range of opportunities in employment and training. It also requests the Government to indicate the results obtained in this regard and to provide updated statistics on the activities of men and women in the private and public sectors, disaggregated by economic sector and occupational category, especially positions of responsibility.**

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

## Ukraine

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

The Committee takes note of the observations of the Confederation of Free Trade Unions of Ukraine (KVPU) received on 25 August 2021 and the observations of the Federation of Trade Unions of Ukraine (FPU) received on 2 September 2021. **The Committee requests the Government to provide its comments on the observations of the FPU.**

*Articles 1–4 of the Convention. Gender pay gap and its underlying causes, including occupational gender segregation.* In its previous comment, the Committee asked the Government to continue its efforts to reduce the gender pay gap and to provide information on any activities undertaken and the results achieved in this respect as well as statistical data on the wages and salary levels of men and women. In its report, the Government indicates that Ukraine joined two leading international initiatives, the Biarritz Partnership for Gender Equality and the Equal Pay International Coalition (EPIC). In this context, the Government approved the plan of action to implement the commitments accepted within the framework of the Biarritz Partnership. According to this plan, the reduction in the gender pay gap shall be achieved by: (1) ensuring that Ukraine meets the relevant criteria for engagement with EPIC; and (2) adopting and implementing a national strategy to reduce the gender pay gap for the period up to 2023 and a draft plan to measure its implementation, that would include specific measures to increase pay transparency. Since Ukraine joined the EPIC, additional efforts have been made towards the adoption of new laws, policies, and measures in line with EPIC's criterion regarding work–family reconciliation or increase in the representation of women in companies' boards. In this regard, the Government refers to the adoption of Act No. 1401-IX, dated 15 April 2021 on the introduction of several legislative acts to ensure equal opportunities for mothers and fathers to care for a child. In addition, the Government indicates that it is working on the implementation of the 2013 OECD Council on Gender Equality in Education, Employment and Entrepreneurship and the 2015 Recommendation of the OECD Council on Gender Equality in Public Life.

In its observations, the KVPU stresses that the wage disparity between men and women is primarily caused by high levels of gender segregation in the labour market and hopes that the successive modifications of the legislation and ongoing efforts to remove restrictions on the employment of women in certain sectors or occupations will improve the situation. In this regard, the Committee also notes that high levels of occupational gender segregation (horizontal and vertical) are also pointed out in the report on the national-level review of the implementation of the Beijing Declaration and Platform for Action, 1995 (Beijing +25 national report) and the concluding observations of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) (Beijing +25 national report, pages 11–12; and E/C.12/UKR/CO/7, 2 April 2020, paragraph 19).

With regard to the collection of statistical information, the Government indicates that the State statistics service collects and publishes statistics on wages in various sectors of the economy, disaggregated by sex. It underlines that, over the course of 2020 and the first quarter of 2021, the gender pay gap in Ukraine showed a steady downward trend: for 2019, it was 22.8 per cent compared to 20.5 per cent at the end of 2020 and 17.8 per cent for the first semester of 2021. Furthermore, a reduction was recorded across almost all types of economic activity. According to the Government, one of the factors that reduced the gender pay gap in that period was a significant increase in the minimum wage.

**Noting the persisting significant gender pay gap in the country and its recent trend downwards, the Committee asks the Government: (i) to intensify its efforts towards reducing the gender pay gap and to provide information on the measures adopted to this end, including as a result of the technical assistance received from the ILO, in the context of EPIC or in the framework of the Biarritz Partnership or otherwise, as well as on the impact of these measures; and (ii) to provide detailed information**

**regarding the planned adoption of a national strategy and a draft plan to reduce the gender pay gap and, if applicable, on their content, implementation and results. Noting the persistence of high levels of occupational gender segregation, the Committee also asks the Government to take steps to address this issue and refers in this regard to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). As no information was provided by the Government in this regard, the Committee also asks it to provide detailed statistics on the wages and salary levels of men and women, by sector of economic activity and, if possible, occupational category, as well as any information or survey available on the gender pay gap.**

*Articles 1(b) and 2. Equal remuneration for men and women for work of equal value. Legislation.* In its previous comment, the Committee requested the Government to indicate the measures taken to amend section 17 of the Law on Ensuring Equal Rights and Equal Opportunities of Women and Men (2005) which requires employers “to pay equally for the work of women and men with the same qualification and the same working conditions”, to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and to provide information of the application of this section in practice. The Committee recalls that there are no provisions in the current Labour Code reflecting the principle of the Convention. With respect to the draft labour code, the Committee notes the Government’s indication that it was not registered with the Parliament and that the draft Labour Act No. 2708 that had been registered with Parliament was subsequently withdrawn. The Government also indicates that it is currently developing a draft law on the introduction of amendments to several acts relating to the application of the principle of equal remuneration for work of equal value. In its observations, the KVPU states that the current legislation does not contain a provision that would enshrine the principle of the Convention. While taking note of the development of a draft law, the Committee stresses once again that legal provisions narrower than the principle laid down in the Convention hinder progress in eradicating gender-based pay discrimination. The legislation should not only provide for equal remuneration for equal, same or similar work, but also address situations where men and women perform different work that is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 679). **The Committee therefore once again requests the Government to take steps without delay to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. In this regard, the Committee asks the Government to take the necessary steps to modify accordingly section 17 of the Law on Ensuring Equal Rights and Opportunities of Women and Men (2005) and seize the opportunity of the labour law reform to include provisions reflecting the principle of the Convention in the future labour code. It asks the Government to continue to provide information on any legislative developments regarding the labour law reform. Noting that the Government did not include such information in its report, the Committee also once again asks the Government to provide details on the application in practice of section 17 of the above law, including on the number of cases brought before the competent authorities and their outcome (compensation granted, sanctions imposed and remedies granted).**

*Article 3. Objective job evaluation.* In its previous comments, the Committee had requested the Government to take specific measures to promote the use of objective job evaluation methods free from gender bias in the public and private sectors, with a view to ensuring the establishment of wages and salary scales in accordance with the principle of equal remuneration for men and women for work of equal value. The Committee takes note of the Government’s indication that the draft plan of measures to implement the draft national strategy to reduce the gender pay gap provides for the development, adoption, and implementation of a gender-neutral methodology for assessing work. It would introduce new criteria to compare jobs, such as skills, effort, working conditions and responsibility. Furthermore, the Government specifies that, in 2021, the Confederation of Employers of Ukraine developed and published an employers’ guide to gender equality and non-discrimination covering matters related to remuneration. In its observations, the KVPU indicates that measures to promote objective job

evaluation on the basis of the work performed are lacking in the legislation and are not implemented in collective agreements. **The Committee therefore asks the Government to take steps towards the development, adoption and implementation of a gender-neutral objective job evaluation method, in the context of the adoption of the draft national strategy and plan to reduce the gender pay gap or otherwise. It specifically asks the Government to promote the use of objective job evaluation methods, free from gender bias, in the establishment of wages and salary scales in the private and the public sectors, including when determining remuneration in collective agreements. The Committee once again encourages the Government to seek ILO technical assistance in this regard.**

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

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

## United Arab Emirates

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

*Articles 1 and 2 of the Convention. Equal remuneration for men and women for work of equal value. Definition of remuneration. Legislation.* The Committee previously urged the Government to take the necessary measures to bring section 32 of the Federal Act No. 8 of 1980 (Labour Law) into conformity with the Convention, as it only provides for equal remuneration between men and women for the same work, which is narrower than the concept of “work of equal value” provided for in the Convention. The Committee notes with **satisfaction** that section 32 of the Labour Law was amended by Legislative Decree No. 6 of 2020 as follows: “a woman shall be granted an equal remuneration to a man’s remuneration if she performs the same work, or another work of equal value. The Council of Ministers – upon the proposal of the Minister of Human Resources and Emiratization – shall issue a decision which specifies the necessary rules and checks for the evaluation of work of equal value”. The Committee also notes the broad definition of remuneration which encompasses all the emoluments in kind or cash (the UAE minimum wage per month is US\$1,361).

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

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

*Article 1(1)(a) of the Convention. Definition and prohibition of discrimination in employment and occupation. Legislation and practice.* The Committee recalls that Federal Law No. 8 of 1980 on the Regulation of Labour Relations (the Labour Law) does not contain a general definition and prohibition of discrimination. Consequently, in its last comment, the Committee urged the Government to take the necessary steps to ensure that future amendments to the Labour Law include a specific provision defining and explicitly prohibiting both direct and indirect discrimination on all the grounds set out in Article 1(1)(a) of the Convention covering all workers, including non-nationals. The Committee takes note of the adoption of Legislative Decree No. 6 of 2019 (amending the Labour Law of 1980), which provides in section 7bis that: “Discrimination shall be prohibited between persons if it weakens equality of opportunity or jeopardizes equality in obtaining or in retaining a job, or in enjoying rights arising therefrom. Discrimination shall also be prohibited in work involving the same tasks”. The Committee also notes the Government’s indication in its report that the prohibition of discrimination on the grounds set out in the Convention will be enacted in new legislation and that a copy of the legislation will be sent to the Office once it has been promulgated. **While noting the above amendments of Labour Law No. 8 of 1980, the Committee firmly hopes that the new law announced by the Government will be adopted in the near future and will define and prohibit direct and indirect discrimination based on all the grounds in the Convention with respect to all aspects of employment and occupation (i.e. access to vocational training, to employment and to particular occupations, and terms and conditions of employment). The Committee expects that all workers (i.e. both nationals and non-nationals, in all**

**sectors of activity, in the public and private sectors, and in the formal and informal economy) will be covered.**

***Discrimination based on sex. Sexual harassment. Legislation. The Committee hopes that the Government will take the opportunity of the new legislation on discrimination that has been announced to: (i) incorporate a comprehensive definition of sexual harassment, applicable to both the public and private sectors; (ii) provide for access to effective remedies; and (iii) prevent and address sexual harassment in employment and occupation by, for example, launching awareness-raising campaigns, encouraging management training on the prevention of sexual harassment and inviting employers to establish formal workplace policies and procedures to deal with sexual harassment. The Government is requested to provide information on any progress made to this end.***

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

## United Kingdom of Great Britain and Northern Ireland

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

The Committee notes the observations of the Trades Union Congress (TUC) received on 30 August 2021 and communicated to the Government. The Committee also takes note of the Government's reply.

*Article 1(1)(a) of the Convention. Protection against discrimination based on social origin and political opinion. Law and practice.* In its previous comments, the Committee noted that the Equality Act 2010 did not specifically refer to the grounds of social origin and political opinion. It requested the Government to provide concrete examples of how cases alleging discrimination based on social origin and "caste" are dealt with by courts and tribunals, and information on the number of cases of discrimination based on political opinion and on the measures taken to protect workers against such form of discrimination.

*Discrimination based on social origin.* With regard to the protection against discrimination based on membership of a "caste", the Government, in its report, states that it is aware of only three cases brought before the courts that involved considerations of caste and its relation to social origin. In *Naveed v. Aslam* (2012), the Employment Tribunal declared that the complaint was not well-founded as the "incidents were entirely unrelated to the claimant's caste (or indeed to any other racially tainted characteristic)". In *Begraj v. Manak* (2014), the case was not concluded after the judge in charge of the Employment Appeal Tribunal recused herself. In *Tirkey v. Chandhok* (2014), the Employment Appeal Tribunal found in favour of the claimant's contention that she was discriminated against because of her low status including by reason of her caste. While the judge accepted that "caste" was not explicitly part of the Equality Act 2010, he also stated that many of the identifying features of a person's descent which determined their caste related to their "ethnic origins" and this is explicitly protected under the Equality Act. The claimant was awarded compensation of £180,000. In the Government's view, this judgment means that it is likely that anyone who believes that they have been discriminated against because of caste could now bring a race discrimination claim under the existing ethnic origin limb of the race provisions of the Equality Act 2010 because of their descent. The Government considers therefore that the best way to provide the necessary protection against unlawful discrimination because of caste is by relying on emerging case-law as developed by courts and tribunals. Consequently, section 9(5) of the Equality Act 2010 providing that a Minister of the Crown: (1) must by order amend this section so as to provide for caste to be an aspect of race, and (2) may by order amend this Act so as to provide for an exception to a provision of this Act to apply, or not to apply, to caste or to apply, or not to apply, to race in specified circumstances, will be repealed. In this regard, the Committee takes note of the observations of the TUC on the employment situation of working-class workers. The TUC emphasizes that people from working class backgrounds still earn less than those from middle class backgrounds,

even when they have the same qualifications and do the same type of job. Even when those from working-class backgrounds attend university, they still enter the job market earning less than those from middle-class and private-school backgrounds. The TUC's analysis of data provided by the Higher Education Statistics Agency (HESA) shows that graduates with parents in "professional and routine" jobs are more than twice as likely as working-class graduates to start on a high salary, no matter what degree level they attain. The Government refers in its response to the National Living Wage and the National Minimum Wage that it states provide essential protection for the lowest paid workers.

While taking note of the information provided by the Government on the case law regarding discrimination based on "caste", the Committee recalls that discrimination and lack of equal opportunities based on social origin refers to situations in which an individual's membership of a class, socio-occupational category or caste determine his or her occupational future (see 2012 General Survey on the fundamental Conventions, paragraph 802). The Committee notes that there has been only one successful case of discrimination connected to "caste", which may indicate that the absence of explicit mention of it in the Equality Act demonstrates a lack of awareness of its protection under the Act. The Committee notes with **regret** the fact that the Government is proposing to repeal section 9(5)(a) of the Equality Act 2010.

Further, the notion of "social origin" is broader in scope than the notion of "caste" referenced in the case law reported by the Government. The Committee takes note of the Government's response to the TUC's comments that it does not propose to introduce the socio-economic duty under Part 1 of the Equality Act 2010 for England or in respect of Great Britain-wide bodies, and notes with **regret** that the Government does not propose to add a new characteristic to the Equality Act 2010 addressing social origin.

*Discrimination based on political opinion.* With regard to cases relating to discrimination based on political opinion, the Government indicates that there are no central records on the number of cases brought domestically, broken down by protected characteristic. It is open to people to contest that their political beliefs are so strong that they can be captured by the religion or belief provisions within the Equality Act 2010, and domestic courts have been open to considering such cases on their individual merits. Discrimination on the basis of political opinion is therefore protected against. Furthermore, the Committee notes that while the Equality Act 2010 covers "philosophical belief", it does not appear to cover "political opinion". The Committee notes that protection for political opinion implies protection in respect of the activities of expressing or demonstrating opposition to established political principles and opinions, and covers discrimination based on political affiliation. The notion of "belief" explained by the Government is narrower than the concept of political opinion enshrined in the Convention (see 2012 General Survey, paragraph 805). The Committee also 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 (see 2012 General Survey, paragraph 853). **The Committee requests the Government to take steps to ensure that at least all the prohibited grounds of discrimination specified in Article 1(1)(a) are included in the legislation and that, in the meantime, workers are protected in practice against discrimination based on their social origin and political opinion. It further asks for detailed information on the measures adopted to address discrimination faced by workers from working-class backgrounds reported by the TUC, as well as on any cases relating to claims of discrimination based on social origin or political opinion, including the facts of those cases (such as the scope and particulars of discrimination based on social origin, at least in terms of salaries and opportunities for advancement) and the remedies provided.**

*Discrimination based on religion.* The Committee previously requested the Government to continue to provide information on the measures taken or envisaged to address discrimination and stereotyped attitudes concerning religion, including on the impact of these measures on access to employment and education for the Muslim community. The Committee takes note of the indication that the Government engages with Muslim communities through a number of faith and integration projects.

These projects are often geographically targeted to address problems faced by the communities where there can be high degrees of segregation and often seek to address issues of disadvantage or exclusion that create barriers to integration and employability. **Noting this information, the Committee requests the Government to provide data on the impact of the measures taken on access to employment and education for the Muslim community, as well as any other activities undertaken specifically in the field of discrimination in employment and occupation.**

*Northern Ireland.* The Committee has been asking the Government to take steps to abolish the exclusion of teachers from protection against discrimination on the ground of religious belief in Northern Ireland (section 71(1) of the Fair Employment and Treatment (NI) Order, 1998). The Committee notes with **regret** that the Government's report does not contain any information in this regard. **The Committee once again requests the Government to take steps to repeal the exclusion of teachers from protection against discrimination on the ground of religious belief in Northern Ireland provided in section 71(1) of the Fair Employment and Treatment (NI) Order, 1998.**

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

## Gibraltar

### Equal Remuneration Convention, 1951 (No. 100)

*Articles 1–4 of the Convention. Assessing and addressing the gender pay gap.* The Committee takes note of the statistical data from the Employment Survey for 2019 provided by the Government further to its request. It also notes the data from the Employment Survey for 2020, which continue to show an important gender pay gap and persistent horizontal and vertical occupational gender segregation. In October 2020, the average gross annual earnings for monthly paid full-time employment was £41,936.98 for men and £33,741.18 for women (with an annual gender pay gap around 19.5 per cent). At the same date, the average monthly earnings for the same type of work was £3,430.41 for men employees and £2,813 for women employees (with a monthly gender pay gap around 18 per cent). Similarly, the average annual earnings for weekly-paid full-time employees was £23,032.85 for men and £18,134.93 for women. For part-time work, the average monthly earnings in respect of monthly-paid adult male employees was £1,393.27 against £1,295.46 for women employees. The survey also shows significant occupational gender segregation, with women being predominantly represented in the sectors of health and social work (1,839 women for 861 men), financial intermediation (1,004 women for 886 men), and education (775 women for 219 men), and underrepresented in the occupations of managers and senior officials (1,369 women for 2,952 men), professional (915 women for 1,190 men), and associate professional and technical (1,144 women for 2,190 men).

On the measures adopted to address the gender remuneration gap, the Committee notes the Government's indication that on 8 March 2017, the Minister of Equality had announced the creation of a Working Group to examine the issue of whether there is a pay gap issue between men and women in Gibraltar. However, the COVID-19 pandemic and Gibraltar's departure from the European Union have delayed the implementation of such decision and continue to delay many initiatives. The Government further reports that the Minister for Equality participated in a high-level meeting organised in Iceland by the Equal Pay International Coalition (EPIC) and has provided training on "unconscious bias in the workplace and its effect on women" for both the public and private sectors. It further adds that two cycles of the Women's Mentorship Programmes have been completed and a third is due to commence in the autumn of 2021; and that more women are applying for vacancies within the emergency services and for senior positions. The Government is also encouraging women and girls to take up STEM (science, technology, engineering, and maths) subjects in school. Lastly, the Government reports that the Ministry of Equality has met with the Equalities Committee of the workers' organization in Gibraltar to establish a working relationship for the discussion of any equality issue which may affect any member; and collaborates actively with the unions to address grievances within the public sector. **Noting the**

***persistent and significant gender pay gap and occupational gender segregation, the Committee asks the Government to intensify its efforts to enforce the application of the principle of equal remuneration for men and women for work of equal value. It also asks the Government to adopt targeted measures to reduce the gender pay gap in both the private and public sectors and promote women's access to higher pay jobs. The Committee asks the Government to provide information on the measures taken, including the creation of the working group previously announced, and their results, and continue to provide detailed statistics on the respective earnings of men and women.***

Articles 1(b) and 2. *Equal remuneration for men and women for work of equal value beyond the same employer. Legislation.* In its last comment, the Committee requested the Government to provide updated information on any revision of section 31 of the Equal Opportunities Act, 2006, initiated in order to ensure that the right to equal remuneration between men and women for work of equal value is not restricted to the same or an associated employer and specific information regarding the application of section 31 of the Act in practice. The Committee notes that the Government indicates being committed to considering any necessary reforms of section 31 of the Equal Opportunities Act but has been unable to address this issue at this stage, due to the substantial workload created by its departure from the European Union and the COVID-19 pandemic. The Committee also notes the indication of the Government that it is not aware of any local administrative or judicial decision relating to equal remuneration for men and women for work of equal value. ***Recalling that ensuring a broad scope of comparison is essential for the application of the principle of equal remuneration given the continued prevalence of occupational gender segregation, the Committee reiterates its request to consider reviewing section 31 of the Equal Opportunities Act, 2006, to ensure that the right to equal remuneration between men and women for work of equal value is not restricted to the "same" or an "associated" employer. The Committee also asks the Government to continue to provide information on the practical application of section 31 of the Act relating to equal pay, and to provide information on any measures adopted to ensure that workers can avail themselves in practice of their right to equal remuneration for work of equal value.***

Articles 2 and 3. *Application of the principle in the public sector.* With respect to the criteria used to determine the classification of jobs and the applicable salary scales in the public sector, the Government indicates that the salary scales applicable in the public sector are set by grade and not by gender and are historically derived from the civil service pay scales of the United Kingdom. The Committee observes that according to the Employment Survey for 2020, the differences in remuneration in the public sector remain prevalent with an average monthly earning of £4,605.29 for full-time men employees against £3,394.14 for full-time women employees (average gender pay gap: 27 per cent). The Committee once again recalls that despite the existence of salary scales applicable to all public officials, without discrimination on the ground of sex, pay discrimination in the public service can arise from the criteria applied in classifying jobs and from an undervaluation of the tasks performed largely by women, or from inequalities in certain supplementary wage benefits (General Survey on the fundamental Conventions, 2012, paragraphs 700–703). ***The Committee therefore asks the Government to take the necessary steps to identify and address efficiently the gender pay gaps in the public sector, in particular to consider the revision of salary scales based on objective criteria that are free from gender bias, such as skills, efforts, responsibilities and conditions of work. It also asks the Government to adopt measures to address horizontal and vertical occupational gender segregation in the public sector and, specifically, to improve the access of women to higher ranking and better paid positions, through training or other means. The Committee asks the Government to provide detailed information on the measures taken and the results achieved on the reduction and elimination of the gender pay gap in the public sector.***

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

## United Republic of Tanzania

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

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. Assessing and addressing the gender wage gap.* The Committee previously noted that, as a result of sections 7(1) and (2) of the Employment and Labour Relations Act, 2004, and Part III of the Employment and Labour Relations (Code of Good Practice) Rules, 2007, employers have an obligation to elaborate and implement a plan to prevent discrimination and promote equal opportunity in employment, which shall be registered with the Labour Commissioner. The Committee notes the Government's statement, in its report, that a generic plan to be used by employers is being elaborated to that end, in collaboration with the ILO as well as employers' and workers' organizations. The Government adds that it will consider availing itself of ILO technical assistance for building capacities of employers' and workers' organizations in that respect. The Committee notes that, according to the 2018 Global Gender Gap Report of the World Economic Forum, the labour force participation rate of women was 81.1 per cent (compared to 88.3 per cent for men), with women being still mostly concentrated in informal employment (76.1 per cent of women) characterized by low wages. It notes, from the 2016 Formal Sector Employment and Earnings Survey, carried out by the National Bureau of Statistics (NBS) that while the proportion of women employed in formal employment is nearly half of the proportion of men (37.8 per cent and 62.2 per cent of total employees, respectively), 23.7 per cent of women are employed in the private sector, while only 14.1 per cent of them are employed in the public sector, where monthly average cash earnings are about three times higher than in the private sector. Furthermore, in 2016, the remuneration of women (monthly average cash earnings) was 15.3 per cent lower than those of men in the public sector and 6.1 per cent lower than men in the private sector. The Committee also notes that women are still concentrated in lower paid sectors such as manufacturing (19.6 per cent) and agriculture (10.3 per cent) and their average remuneration is lower than their male counterparts in almost all industries. The Committee notes with **concern** that, according to the World Economic Forum, men earned on average 39 per cent more than women in 2018. It further notes that, in its 2016 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) remained concerned at the persistent discrimination against women in the labour market, in particular: (i) the high rate of unemployed young women and their marginalization from formal labour markets; (ii) the continuing horizontal and vertical occupational segregation and the concentration of women in low-paid jobs; (iii) the lack of implementation of the principle of equal pay for work of equal value; and (iv) the persistent gender wage gap (CEDAW/C/TZA/CO/7-8, 9 March 2016, paragraph 32). **The Committee therefore urges the Government to provide information on: (i) the proactive measures taken to address the gender wage gap, both in the public and private sectors, by identifying and addressing the underlying causes of pay differentials, such as vertical and horizontal job segregation and gender stereotypes, covering both the formal and the informal economy, and by promoting women's access to a wider range of jobs with career prospects and higher pay; (ii) any measures taken to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value, including through the elaboration and implementation by employers of plans to promote gender equality at the workplace, as provided for under sections 7(1) and (2) of the Employment and Labour Relations Act; and (iii) statistical data on the earnings of men and women in all the sectors and occupations of the economy to monitor any progress achieved.**

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

**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: 2002)

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

*Article 1(1)(a) of the Convention. Discrimination based on sex. Job advertisements.* The Committee previously noted that 14.9 per cent of job vacancies in 2013 contained a sex preference. The Committee

notes the Government's indication in its report that it is developing, with the support of the ILO and in consultation with employers' and workers' organizations, a plan with a view to giving effect to the provisions of section 7(1) and (2) of the Employment and Labour Relations Act No. 6 of 2004 (ELRA), which require an employer to prepare and register with the Labour Commissioner a plan to promote equal opportunities and eliminate discrimination at the workplace. It notes the Government's statement that this plan will provide guidance to employers on the implementation of all matters relating to equality and discrimination, including sex based discrimination in recruitment and job advertisements. The Committee notes that, according to the 2016 Formal Sector Employment and Earnings Survey carried out by the National Bureau of Statistics (NBS), 6.7 per cent of job vacancies still contained a sex preference. It notes that 4.4 per cent of those vacancies (representing 8,914 job vacancies) preferred male employees, while specific sectors which are traditionally considered as female dominated preferred female candidates, such as clerical occupations (92 per cent of job vacancies preferred women). The Committee recalls that recruitment decisions that are based upon stereotyped assumptions regarding women's capabilities and their suitability for certain jobs is a form of sex discrimination. Such discrimination results in segregation of men and women in the labour market. The Committee reminds the Government that the application of the principle of equality guarantees every person the right to have his or her application for a chosen job considered equitably, without discrimination based on any of the grounds of the Convention, and that only objective recruitment criteria should be used in the choice of the candidate (see the 2012 General Survey on the fundamental Conventions, paragraphs 754 and 783). **The Committee therefore urges the Government to address without delay discriminatory advertising and hiring practices, through the development and implementation of the envisaged generic plan to promote equal opportunity and eliminate discrimination or otherwise through awareness-raising activities, in order to eliminate gender stereotypes, including stereotyped assumptions by employers of women's or men's suitability for certain jobs. The Government is further asked to provide information on any steps taken to encourage women to apply for posts traditionally held by men. The Committee also asks the Government to provide information on the proactive measures taken to this end, including in collaboration with employers' and workers' organizations, and to continue to provide statistical information on the number of job vacancies containing a sex preference.**

*Article 1(1)(b). Additional grounds of discrimination. HIV Status.* The Committee previously noted the Government's indication that the HIV and AIDS (Prevention and Control) Act No. 28 of 2008 is enforced through policy formulation and the HIV and AIDS Guidelines in the Public Service adopted in February 2014. The Committee notes that the Government repeats the information provided in its last report, namely that (i) the regulations under section 52(m) of Act No. 28 of 2008 have not yet been adopted; (ii) the Tripartite Code of Conduct on HIV and AIDS at the workplace, providing for the promotion of equal opportunities and the elimination of stigma and discrimination at workplaces, has been reviewed in collaboration with the social partners; and (iii) the third National Multi-Sectoral Strategic Framework for HIV and AIDS for 2013/14–2017/18 has been adopted. It notes, however, that the Government has not provided the information previously requested by the Committee in this regard. The Committee further notes that in the framework of the Universal Periodic Review, the United Nations Country Team (UNCT) in Tanzania stated that discrimination related to HIV/AIDS remained institutionalized at the workplace and the practice was prevalent, inter alia, in certain large mining companies in the private sector and in the police force (A/HRC/WG.6/25/TZA/2, 7 March 2016, paragraph 17). **Noting that the third National Multi-Sectoral Strategic Framework for HIV and AIDS for 2013/14–2017/18 aims at zero stigma and discrimination against persons living with HIV, including in the workplace interventions both in the public and private sectors, the Committee repeats its request that the Government provide information on the implementation of the Framework with respect to matters that relate to discrimination based on HIV and AIDS in employment and occupation in the public and private sectors, in particular in the police force. The Committee requests that the Government provide a timetable for the adoption of the implementing regulations of the HIV and AIDS (Prevention and Control) Act No. 28 of 2008, and asks the Government to provide a copy of such regulations once adopted. The Committee also asks the Government to provide information on any cases of discrimination on the ground of HIV status in employment and occupation dealt with by the labour officers, the courts or any other authorities, specifying the penalties imposed and the compensation awarded.**

*Articles 2 and 3. Equality of opportunity and treatment between men and women.* The Committee previously noted the low participation rate of women in the economy and the continued occupational gender segregation in the labour market. The Committee notes the Government's general statement that it has continued to take affirmative action, reaffirming its commitment to improving women's access to education,

training, employment and income generation. The Government refers in particular to the measures taken to increase women's access to credit facilities and loans, in collaboration with the private sector, development partners and civil society organizations, including through the Women Development Fund, and to promote rural micro finance services, such as the Savings and Credit Cooperative Societies and the Village Community Banks (VICOBA). The Government adds that it has also strengthened its efforts to promote women's transition from the informal economy to the formal economy, in collaboration with the social partners, with regard to the provision of business development services, the extension of social protection, and the enhancement of the enforcement of labour laws. The Committee takes note of the Five Year Development Plan 2016/2017–2020/21 (FYDP II), implemented in the framework of the Tanzania Development Vision 2025, which sets as objective to accelerate economic growth by making sure that it will benefit to significant poverty reduction and job creation especially for the youth and women. The Committee notes, however, that according to the 2016 Formal Sector Employment and Earnings Survey, the participation of women in the formal employment remained relatively low with only 37.8 per cent of total employees in the formal economy being women. Furthermore, according to the 2018 Global Gender Gap Report of the World Economic Forum, women remain disproportionately concentrated in informal employment (76.1 per cent). The Committee also notes the persisting occupational gender segregation, with women still over-represented in certain sectors, such as education and human health and social work activities. It also notes that in its 2016 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) remained concerned at the persistent discrimination against women in the labour market, in particular: (i) the high rate of unemployed young women and their marginalization from formal labour markets; (ii) the continuing horizontal and vertical occupational segregation and the concentration of women in low-paid jobs; (iii) the low representation of women in decision-making positions at the local level and in management positions on supervisory boards of companies; (iv) the limited access of women to financial assistance and credit, as well as at the limited support for women's entrepreneurial activities which are mainly confined to the informal sector without access to the wider economic growth; (v) the persistence of adverse cultural norms and practices and deep-rooted patriarchal attitudes regarding the roles and responsibilities of women and men in the family and in society; and (vi) the lack of information on labour inspections of women's working conditions, in particular in the private and informal sectors. The CEDAW was more particularly concerned at the disadvantaged position of women in rural and remote areas who form the majority of women in the country (CEDAW/C/TZA/CO/7-8, 9 March 2016, paragraphs 18(a), 26, 32, 38 and 40). In light of the above, the Committee wishes to emphasize the importance of regularly monitoring and assessing the results achieved within the framework of the national equality policy with a view to reviewing and adjusting existing measures and strategies and identifying any need for greater coordination between measures and strategies and between competent bodies in order to streamline interventions, in order for the Government and the social partners to be able to assess the real impact of such measures periodically. ***The Committee therefore urges the Government to strengthen its efforts to address both vertical and horizontal segregation between men and women in the labour market, as well as gender stereotypes. The Government is asked to provide information on the specific and concrete measures taken to promote women's economic empowerment and access to formal employment as well as to decision-making positions, including within the framework of the FYDP II. The Government is also asked to provide detailed information on the impact of any such measures in improving equality of opportunity and treatment between men and women in employment and occupation, by means of regularly monitoring and assessing the results achieved. Noting that in the framework of the Universal Periodic Review, the Government indicated that it was in the process of reviewing the National Gender Policy in order to incorporate current emerging issues (A/HRC/WG.6/25/TZA/1, 10 February 2016, paragraph 37), the Committee asks the Government to provide information on any progress made in that regard. It also asks the Government to provide updated statistical information on the participation of men and women in employment and occupation, disaggregated by occupational categories and positions, both in the public and private sectors, as well as in the informal economy.***

*Access of women to education and vocational training.* The Committee notes the statistical information provided by the Government and the efforts made to increase the enrolment rate of children in education as a result of the National Strategy on Inclusive Education (2009–17). The Committee notes, however, that according to the 2017 study on "Women and Men in Tanzania – Facts and Figures" carried out by the NBS, the percentage of men with secondary education or above was larger (25 per cent) than women (18.6 per cent); women account for the highest proportion of those who did not attend school (22.3 per cent of women

compared to 11.3 per cent of men). Only 0.8 per cent of women attended university. The Committee notes that, according to its 2016 concluding observations the CEDAW expressed concern at the persistence of structural and other barriers to girls' access to high-quality education, in particular at the secondary and tertiary levels, especially in rural areas, as well as at the continued prevalence of the practice of mandatory pregnancy testing of girls as a precondition for admission to school and their expulsion if found to be pregnant (CEDAW/C/TZA/CO/7-8, paragraph 30). The Committee wishes to stress in that regard that mandatory pregnancy testing and discrimination on the basis of pregnancy constitutes a serious form of sex discrimination. ***The Committee therefore urges the Government to take all the necessary measures without delay to ensure effective protection of girls and women against discrimination on the basis of pregnancy and mandatory pregnancy testing, including through awareness-raising activities on this serious form of sex discrimination, and to provide information on any progress made in this regard, as well as on the number of girls and women expelled from educational institutions as a result of pregnancy. It also asks the Government to provide information on the concrete measures taken to enhance access for girls and women to higher education and vocational training, especially in areas traditionally dominated by men, as well as on their impact in improving equality of opportunity and treatment between men and women in employment and occupation, including by combatting sexist stereotypes and prejudices which continue to hinder the participation of women in the country's economy. The Committee asks the Government to provide updated information on the number of men and women enrolled in education and vocational training including information on the share of men and women in the different areas of specialization.***

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

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

## Uruguay

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1989)

*Articles 1 and 4 of the Convention. Gender wage gap.* The Committee previously requested the Government to provide information on any measures adopted with a view to reducing the wage gap between men and women workers, including the measures adopted within the framework of the National Gender Equality Strategy 2030 and Act No. 19580 on gender-based violence against women, and any measures adopted with a view to addressing educational and occupational segregation between men and women, and the results achieved. The Committee notes that the Government: (1) reports that it has carried out awareness-raising activities, and information and educational campaigns relating to the Convention, through Government bodies, in particular the Tripartite Commission on Equality of Opportunity and Treatment in Employment (CTIOTE), coordinated by the Ministry of Labour and Social Security, and together with the National Institute for Women and the employer and worker sectors, aiming to overcome, improve and eliminate the gender pay gap; (2) recognizes that there are challenges to the professional advancement of women, known as the glass ceiling, which prevents them from accessing high-level positions in enterprises and institutions, and indicates that work continues in this area; (3) has attached gender statistics from 2019 and indicates that it is noted that women receive on average 76.3 per cent of what men receive (it considers that the gap is due to the fact that, on average, women work fewer paid hours than men as a result of the high burden of unpaid work that constitutes a barrier to the full integration of women in the labour market); (4) states that with regard to the analysis of the difference between women's and men's income, there are significant differences according to the branch of activity in which men and women are occupied; (5) indicates that women's representation increased substantially in the legislative power owing to the Act on quotas; and (6) states that, in the University of the Republic, 54 per cent of the teaching posts are occupied by women and 46 per cent by men (it indicates that in the higher positions, women are less represented). With regard to the National Gender Equality Strategy 2030, the Government states that under the current administration new priority strategic lines are being defined aimed at achieving gender equality. Lastly, with regard to the application of Act No. 19580, the Government indicates that:

(1) the National Institute for Women of the Ministry of Social Development has a gender-based violence response system; (2) the system is integrated into various mechanisms, which in turn are part of the inter-institutional comprehensive response system to gender-based violence, in accordance with the law; and (3) the 2016–2019 Action Plan “For a life free from gender-based violence, with a generational perspective” recognizes the strategic importance of including within the inter-institutional comprehensive response system, a faster and more effective occupational integration response for women who are suffering or who have suffered gender-based violence. The Committee notes this information. **While noting that the Government acknowledges that there are challenges to the professional advancement of women, which prevents them from accessing high-level positions in enterprises and institutions, the Committee requests the Government to take the necessary measures, in cooperation with workers’ and employers’ organizations, to continue its efforts to reduce the gender pay gap. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.**

*Articles 1 and 2. Equal remuneration for men and women for work of equal value. Definition of remuneration. Legislation.* With regard to its request to consider giving full legislative effect to the principle of the Convention and including in the legislation a definition of the term “remuneration”, in accordance with *Article 1(a)* of the Convention, the Committee notes in the Government’s report that the country has still not established a regulation defining the term “remuneration” and work of equal value. **The Committee asks the Government to take, without delay, appropriate measures to give full legislative effect to the principle of equal pay for men and women for work of equal value.**

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

## Uzbekistan

### Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF), received on 30 August 2021. **The Committee requests the Government to provide its comments in this regard.**

*Article 1(1) of the Convention. Protection against discrimination in employment and occupation. Prohibition and definition of direct and indirect discrimination. Prohibited grounds of discrimination. Legislation.* The Committee recalls that, in its previous comment, it requested the Government to consider amending section 6 of the Labour Code, which contains an open list of discrimination grounds, in order to include an explicit reference to the grounds of “colour” and “political opinion” and a prohibition of indirect discrimination. The Committee notes the Government’s indication that a draft revised Labour Code is currently at the final stage of adoption. It notes in particular that draft section 4, which is reproduced by the Government in its report, includes: (1) an open list of prohibited discrimination grounds as follows: “sex, age, race, nationality, skin colour, language, social origin, material and employment status, place of residence, attitude towards religion, beliefs, membership of public associations, and any other circumstances unrelated to the qualifications of the worker or the results of his/her work”; (2) an explicit prohibition of discrimination; (3) a definition of discrimination that is not in line with *Article 1(1)* of the Convention; and (4) no definition of indirect discrimination. The Committee further notes the Government’s indication that Presidential Decree No. 6012 of 22 June 2020 adopted the National Human Rights Strategy and the Roadmap for its implementation. The Government adds that, pursuant to the Roadmap, a draft law on equality and the prohibition of discrimination, which was originally scheduled for completion by April 2021, will provide for the introduction into law of the concepts of “discrimination”, “direct, indirect and multiple discrimination” and “basis of discrimination”, and full protection for citizens against possible discrimination in various areas of public life on the basis

of race, sex, language, religion, political beliefs, national or social origin, and material, class or other status.

The Committee notes that, in its observations, the IUF describes the national legal framework respecting discrimination in employment (the Labour Code of 1995, the Law on Employment of 2020 and the Law on the Guarantees of Equal Rights for Women and Men of 2019) and emphasizes that this legislation does not: (1) provide a general definition of discrimination; (2) define the terms “direct discrimination” and “indirect discrimination” on grounds other than gender; (3) refer to “multiple discrimination”; (4) provide any specific examples of actions that are considered discriminatory; and (5) provide any efficient measures of legal protection for victims of discrimination through judicial and administrative litigation procedures. The IUF adds that, in this context, the general prohibition of discrimination is of declarative nature and protection against discrimination remains insufficiently effective. Therefore, there is no clarity for employers and the judiciary of what discrimination is about, what actions are considered discriminatory and how discrimination can and must be prevented, while for employees it is not clear in which cases they should seek protection against discrimination and what to do about it. The Committee wishes to recall that direct discrimination occurs when less favourable treatment is explicitly or implicitly based on one or more prohibited grounds and that it includes sexual harassment and other forms of harassment. It also recalls that indirect discrimination refers to apparently neutral situations, regulations, or practices which in fact result in unequal treatment of persons with certain characteristics. It occurs when the same condition, treatment or criterion is applied to everyone, but results in a disproportionately harsh impact on some persons on the basis of characteristics such as race, colour, sex or religion, and is not closely related to the inherent requirements of the job (General Survey on the fundamental Conventions, 2012, paragraphs 744 and 745).

***In light of the above, the Committee asks the Government to seize the opportunity of the revision of the Labour Code, currently before Parliament, to ensure that it includes a definition of “direct discrimination” and “indirect discrimination” and a clear prohibition of both, in all aspects of employment, including recruitment, and an explicit reference to the grounds of “political opinion” and “national extraction” in addition to the grounds already explicitly covered. In the meantime, the Committee asks the Government to indicate how the expression “any other circumstances unrelated to the qualifications of the worker or the results of his/her work” in section 6 of the Labour Code has been interpreted by the courts, indicating in particular if it has ever been used to address discrimination based on “political opinion” or “national extraction”. The Committee also asks the Government to indicate the progress made regarding the draft law on equality and the prohibition of discrimination envisaged in the Roadmap for the implementation of the Human Rights Strategy.***

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* In its previous comment, the Committee asked the Government to: (1) take steps to include provisions in the legislation defining and prohibiting both quid pro quo and hostile working environment sexual harassment; and (2) provide information on any practical steps taken to raise awareness and address the issue of sexual harassment in employment and occupation and any related collaboration with the workers’ and employers’ organizations. In this regard, the Committee notes that the Government refers to section 121 of the Criminal Code, which criminalizes forced sexual intercourse, physically and verbally, and to section 3 of Law No. ZRU-562 of 2 September 2019 on Guarantees of Equal Rights and Opportunities for Women and Men, which includes “sexual harassment” in the definition of “discrimination based on sex”. The Government also refers to Law No. ZRU-561 of 2 September 2019 on the Protection of Women against Harassment and Abuse, which does not define “sexual harassment” as such. The Committee observes however that section 3 of Law No. ZRU-561 contains various definitions, including: (1) “sexual abuse” defined as “a form of abuse of a woman that impinges upon her sexual integrity and sexual freedom through the commencement of acts of a sexual nature without her consent, as well as the compulsion to engage in sexual intercourse with a third party, or female child molestation”; (2) “abuse” defined as

“illegal action (or inaction) against a woman that impinges upon her life, health, sexual integrity, honour, dignity and other rights and freedoms protected by law through the use or threat of other kinds of physical, psychological, sexual or economic coercion”; and (3) “harassment” defined as “action (or inaction) humiliating the honour and dignity of a woman or any repetitive act which does not presuppose administrative or legal liability”. The Committee further observes that Law No. ZRU-561 only applies to women, whereas provisions regarding sexual harassment must apply to both men and women, and that the definitions in the Criminal Code and Law No. ZRU-561 do not cover the whole range of behaviours that can constitute *quid pro quo* and hostile work environment sexual harassment. In that regard, the Committee recalls that addressing sexual harassment through criminal proceedings only is often not sufficient (due to the sensitivity of the issue, the more onerous burden of proof, and the limited range of behaviours addressed) and that *all* forms of sexual harassment (criminal offences or not) should be covered by national legislation. With regard to practical steps taken to raise awareness and address the issue of sexual harassment in employment and occupation and any related collaboration with workers’ and employers’ organizations, the Committee notes that, according to Law No. ZRU-561, the main objectives of the State policy shall be: (1) the creation of an atmosphere of zero tolerance to harassment and abuse of women in the society; (2) the enhancement of legal awareness and legal culture in the society and the strengthening of the rule of law; and (3) the cooperation between state bodies, self-governing bodies of citizens, non-governmental non-profit organizations and other civil society institutions in order to prevent harassment and abuse (section 5). Moreover, authorized bodies and organizations shall interact in the following areas: exchange of information on the verified facts of harassment and abuse; coordination of response measures and provision of effective assistance to victims of harassment and abuse; joint implementation of measures to exchange experiences; training and advanced training of specialists; monitoring compliance with legislation; and development of proposals for improving the legislation and its application (section 14). **Recalling that addressing sexual harassment through criminal proceedings only is not sufficient to combat all forms of sexual harassment, the Committee urges the Government to take steps to formally prohibit in the civil or labour law both *quid pro quo* and hostile environment sexual harassment and to provide dissuasive sanctions and appropriate remedies. In this regard, the Committee asks the Government to provide information on the number of cases of sexual harassment dealt with by the competent authorities.**

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

## Bolivarian Republic of Venezuela

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)

The Committee notes the observations of the Confederation of Workers of Venezuela (CTV), the Independent Trade Union Alliance Confederation of Workers (CTASI) and the Federation of University Teachers' Associations of Venezuela (FAPUV) regarding the application of the Convention, received on 30 August 2021. The Committee also takes note of the observations of the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP) on 8 September 2021. **The Committee requests the Government to provide its comments in this respect.**

*Articles 1(a) and 2 of the Convention. Definition of remuneration. Legislation.* In its previous comment, the Committee asked the Government to adopt the necessary measures to ensure that all the additional benefits received by workers and arising out of their employment, such as those set out in section 105 of the Basic Act concerning labour and men and women workers (LOTTT), are considered to be remuneration so that the principle of the Convention is fully implemented. The Committee observes that, in its report, the Government once again refers to section 104 of the LOTTT, which provides a definition of “remuneration” and “normal salary”, and that remuneration is used as the basis to calculate social benefits. The Committee notes, however, that section 105 of the LOTTT continues to

enumerate social benefits that are not considered to form part of remuneration. **The Committee therefore urges the Government to amend its legislation to ensure that all additional benefits received by workers and arising out of their employment, such as those set out in section 105 of the LOTT, are considered as remuneration for the purposes of applying the principle of equal remuneration for work of equal value set out in the Convention.**

*Articles 1(b) and 2. Equal remuneration for men and women work of equal value. Legislation.* Since 2003, the Committee has been referring to the need to include in the legislation the principle of equal remuneration for men and women for work of equal value. The Committee notes that the Government reiterates in its report that section 109 of the LOTT, which provides for the principle of equal salary for equal work, is in line with the principle of the Convention. It also clarifies that distinctions in salary may be made depending on productivity or reasons founded in criteria foreseen by law, such as family responsibilities, seniority, professional training, assiduity, savings in raw materials, union membership and others. The Committee is bound once again to draw the Government's attention to the fact that provisions that limit equal remuneration to "equal", "the same", "similar" or "substantially similar" are narrower than what is required by the Convention (see General Survey of 2012 on the fundamental Conventions, paragraph 677). **The Committee once again requests the Government to take the necessary measures without delay to amend section 109 of the LOTT in order to give full legislative expression to the principle of the Convention. It also asks the Government to provide information on how section 109 of the LOTT is applied 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: 1971)

The Committee notes the observations made by the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), and the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 30 August 2021, which refer to allegations of discrimination on the basis of political opinion in access to teaching in the public sector, and also to cases of harassment at work and dismissals on the basis of political opinion. The Committee also notes the observations of the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), received on 8 September 2021. **The Committee asks the Government to send its comments in this respect.**

*Article 1(1)(a) of the Convention. Discrimination on the basis of political opinion.* In its previous comments, the Committee noted with concern the allegations made by numerous workers' organizations concerning acts of discrimination in employment for political reasons (in particular against employees of the public administration and state enterprises) and asked the Government to take the necessary steps without delay to ensure full respect and compliance with the Convention. The Committee also urged the Government to take measures without delay to establish a working group including all the trade union organizations concerned to examine and to deal with all the complaints, and also to consider the development of a system to prevent discrimination and the establishment of mechanisms and institutions to address in an independent manner complaints of discrimination in employment and occupation, particularly on the basis of political opinion. The Committee notes with **deep concern** that once again several trade union confederations allege acts of discrimination, harassment at work and dismissal on the basis of political opinion in the administration of the State, including discrimination against graduates of the Libertador Experimental Pedagogical University (UPEL), dismissals at the Ministry of Foreign Affairs and the Financial Institution Deposit Guarantee Fund, and the dismissal of over 650 officials, workers and contractual employees at the National Assembly.

In this regard, the Committee notes the Government's emphatic reiteration in its report that neither persecution nor discrimination against men and women workers or jobseekers on the basis of

political opinion is a policy of the State. The Government also refers briefly to the forums for dialogue and consultation with the various social partners, which have been taking place since early 2021 with respect to other ratified Conventions, even though it indicates that some organizations have been “self-excluded” from these bodies. The Government also indicates that the Ombudsman’s Office has competence for protecting fundamental rights and that any person or organization whose fundamental rights have been violated can have recourse to it. The Committee notes that, according to the recent report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, the activities reported by the Ombudsman’s Office in relation to the large number of complaints and petitions that it receives fall short of fulfilling its constitutional role to further, defend and oversee rights and guarantees established under the Constitution (A/HRC/48/69, 16 September 2021, paragraph 101). ***In light of the above, taking account of the seriousness and large number of instances of discrimination based on political opinion reported for years by various trade union confederations in the country, the Committee once more firmly urges the Government to take measures without delay to establish a working group involving all the trade union organizations concerned – and including the Ombudsman’s Office, if the parties consider it appropriate – in order to examine and deal with all the complaints in question. The Committee considers that there is an urgent need to consider a system of prevention and mechanisms or institutions to deal independently with complaints of discrimination in employment and occupation, particularly discrimination on political grounds. The Committee asks the Government to provide information on any cases of discrimination on political grounds filed with the Ombudsman’s Office or with any judicial body or dispute settlement mechanism, and also their outcome.***

*Discrimination on the basis of national extraction. Legislation.* With regard to the Committee’s request to the Government, in its previous comments, to take measures to include “national extraction” in the prohibited grounds of discrimination, the Government reiterates in its report the reference to article 21 of the Constitution, section 21 of the Basic Act on labour and men and women workers (LOTTT) of 30 April 2012, and section 37 of the Basic Act to combat racial discrimination of 19 December 2011, the latter referring to discrimination on the basis of “ethnic origin”, “phenotype features” and “national origin”. Taking account of the fact that “national origin” is defined as “nationality of birth or the nationality acquired under specific circumstances”, the Committee once again wishes to emphasize that this formulation does not completely cover the concept of “national extraction” provided for in the Convention, since it would not cover cases of discrimination among persons who, though of the same nationality – and without presenting a specific ethnic origin or phenotype features – are of foreign birth or origin, are descendants of foreign immigrants or belong to groups of different extraction. In this regard, the Committee refers to its general observation of 2018 on discrimination on the basis of race, colour and national extraction. ***The Committee firmly urges the Government to take the necessary steps to ensure that the legislation explicitly includes national extraction as one of the prohibited grounds of discrimination. The Committee asks the Government to provide information on any measures taken or envisaged in this respect.***

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

## Viet Nam

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

*Articles 1–4 of the Convention. Assessing and addressing the gender wage gap.* Previously, the Committee requested the Government to indicate how the measures adopted under the National Strategy on Gender Equality (2011–20) have an impact on reducing the persistent gender wage gap and to provide specific information on any measures taken or envisaged to address the underlying causes. The Committee also requested the Government to collect and provide more specific statistical data, disaggregated by sex, on the distribution of men and women in different sectors of economic activity, occupational categories and positions and their corresponding earnings in both the private and public

sectors. The Committee notes the information provided by the Government in its report on the measures adopted under the National Strategy on Gender Equality (2011–20), including: the promulgation of legal texts containing provisions on gender equality; the implementation of a ratio of male/female employment which has facilitated a relatively balanced gender distribution in the labour force with 52.7 per cent of men and 47.3 per cent of women, according to data from the 2019 Population and Housing Census; and support for woman-owned enterprises or business start-ups. In this regard, the Committee notes that, based on the information on business registration contained in the National Database of Business Registration, as of October 2019, there were 285,689 enterprises owned by women, accounting for 24 per cent of the total number of enterprises in the country. The highest number of enterprises owned by women is found in the field of trade and services (75 per cent), followed by construction (12 per cent), industry (7 per cent) and agriculture/forestry/fisheries (7 per cent). The Government also refers to the measures adopted to promote greater access of women to vocational training, including the scheme on “Support for women in vocational training and employment”, which includes the provision of tuition fees and loans to promote self-employment. The Government further reports that in the period 2011–20, women accounted for 52 per cent of customer loans and for 54 per cent of total lending by the Bank for Social Policies.

Concerning the gender wage gap, the Committee notes the Government’s indication that the gap has tended to widen. In 2019, the average monthly salary of male salaried workers was VND 6,183 million/month, compared to VND 5,446 million/month for women. The Government indicates that the gender wage gap is related to the average number of working hours of men and women. According to the 2018 Labour and Employment Survey report of the General Statistics Office, about 42.7 per cent of workers work 40–48 hours/week and the proportion of men working more than 48 hours/week is higher (38.4 per cent) than women (31.8 per cent). The Government also indicates that in almost all sectors of the economy the average monthly salary of women is lower than that of men. However, in various occupations with a high proportion of women who have technical qualifications similar to men, notably office assistance and sales, there is almost no gender wage gap. ***Noting the above information, the Committee invites the Government to step up its efforts to address the underlying causes of the persistent gender wage gap, including measures aimed at promoting women’s access to a greater range of training opportunities and jobs and to higher level positions, as well as measures to encourage men and women to share career and family responsibilities more equally. The Committee also requests the Government to provide statistical information, disaggregated by sex, on the distribution of men and women in different sectors of economic activity, occupational categories and positions, and their corresponding earnings in both the private and public sectors.***

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

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1997)

*Article 1(1) of the Convention. Grounds of discrimination. Legislative developments.* The Committee notes the adoption of the new Labour Code of 2019 (Law No. 45/2019/QH14) that entered into force on 1 January 2021. It welcomes section 3(8) of the 2019 Labour Code which extends further the list of prohibited grounds of discrimination that were included in the 2012 Labour Code by adding five additional grounds, namely “national origin”, “age”, “pregnancy status”, “politics”, and “family responsibilities”. It notes with ***interest*** that the ground of “social class” has been replaced by “social origin”, to bring the text in line with the Convention. ***The Committee asks the Government to confirm its understanding that the grounds of “politics” and “national origin” correspond to the grounds of “political opinion” and “national extraction” laid down in the Convention. It also asks the Government to provide information on the application in practice of section 8(1) of the Labour Code, including information on any violation detected by the labour inspectors or addressed by courts, the sanctions imposed and the remedies granted. The Committee also asks the Government to provide information***

**on any awareness-raising activities about these provisions undertaken for workers, employers and their respective organizations, as well as public enforcement officials.**

*Article 1(1)(a). Discrimination based on religion.* The Committee notes that, in its report, the Government provides information on the adoption of the Law on Belief and Religion of 2016 that has replaced Ordinance No. 21/2004/PL-UBTVQH11. The Committee notes that section 5 of the Law prohibits, among other things, discrimination and stigmatization of people for their beliefs or religion. The Government states that at present 43 organizations belonging to 16 religions have been recognized by the State and have been granted registration to carry out their religious activities. The Committee notes that the United Nations Human Rights Committee (CCPR) expressed the following concerns: (1) that the Law on Belief and Religion unduly restricts the freedom of religion and belief, such as through the mandatory registration and recognition process for religious organizations and restrictions on religious activities based on vague and broadly interpreted legal provisions related to national security and social unity; and (2) that members of religious communities and their leaders, predominantly unregistered or unrecognized religious groups, ethnic minorities or indigenous peoples, face various forms of surveillance, harassment, intimidation, and property seizure or destruction, and are forced to renounce their faith, pressured to join a competing sect, and subject to physical assaults, which sometimes leads to death (CCPR/C/VNM/CO/3, 29 August 2019, paragraph 43). ***In light of the above, the Committee asks the Government to provide information on the implementation of the Law on Belief and Religion of 2016, in particular on any cases dealt with by the labour inspectorates or the courts regarding religious discrimination alleged by individuals with unrecognized religious beliefs, as well as their outcome.***

*Discrimination based on sex. Sexual harassment.* In reply to its previous request on the application of the 2012 Labour Code provisions on sexual harassment, the Committee welcomes the fact that the 2019 Labour Code includes a definition of sexual harassment, which did not appear in the previous Code, and that: (1) according to section 3(9) of the Code, “sexual harassment at a workplace is any behaviour of a sexual nature by any person towards another person at a workplace that is not wanted or accepted by the latter person”; (2) section 3(9) clarifies that a workplace is any place where a worker undertakes work as agreed with or assigned by the employer; (3) section 6(2)(d) provides that employers shall develop and implement solutions to prevent sexual harassment at the workplace; (4) section 5(1)(a) recognizes workers’ right to be free from sexual harassment at the workplace; (5) section 118 establishes that employers must issue internal work regulations which shall include “prevention and control of sexual harassment at the workplace” and “Steps and procedures for handling sexual harassment at the workplace”; (6) section 125 provides that dismissal, as a disciplinary measure, may be applied by an employer in the case of a worker who commits sexual harassment at the workplace as defined in the internal work regulations; and (7) section 135 provides that the State shall implement measures to prevent sexual harassment at the workplace.

The Committee notes with **interest** that section 84 of Decree No. 145/2020/ND-CP of 2020, which supplements the Labour Code, further clarifying the definition provided in the Labour Code by indicating that sexual harassment “may occur in the form of a request, demand, suggestion, threat, [or] use of force to have sex in exchange for any work-related interests; or any sexual act that thus creates an insecure and uncomfortable work environment and affects the mental, physical health, performance and life of the harassed person”. The same section specifies that sexual harassment may include: actions, gestures, or physical contact with the body of a sexual or suggestive nature; sexual or suggestive comments or conversations in person, by phone or through electronic media; body language; and display, description of sex or sexual activities whether directly or through electronic media. Furthermore, section 84 of the Decree specifies that “workplace” under section 3(9) of the 2019 Labour Code means “any location where the employee works in reality as agreed or assigned by the employer, including the work-related locations or spaces such as social activities, conferences, training

sessions, business trips, meals, phone conversations, communications through electronic media, shuttles provided by the employer and other locations specified by the employer”.

Concerning the application of the Code of Conduct on Sexual Harassment in the Workplace of 2015, the Committee notes the information provided by the Government concerning awareness-raising and capacity-building activities for labour inspectors. The Government observes that despite the increased awareness among different actors about the phenomenon and the applicable rules, few cases of sexual harassment at work are detected and addressed. According to the Government, this is partially due to the lack of understanding or the hesitation of the victims. However, in the Government’s view the main reason for the few cases detected and handled resides in the lack of specific and clear regulations on sexual harassment in the workplace and effective complaints procedures within enterprises, agencies and organizations. In order to address this weakness, the Decree No. 145/2020/ND-CP of 2020 provides guidance on the application of the relevant provisions of the 2019 Labour Code and the Ministry of Labour, Invalids and Social Affairs is planning to revise the 2015 Code of Conduct on Sexual Harassment in the Workplace. **Welcoming all these developments, the Committee asks the Government to provide information on the application of the relevant provisions of the Labour Code and the Decree No. 145/2020/ND-CP, including examples of measures adopted to prevent sexual harassment pursuant to section 135 of the Labour Code and examples of internal regulations setting out measures and procedures to prevent and address cases of sexual harassment at work. The Committee also asks the Government to provide information on any cases of sexual harassment addressed by the labour inspectors and the judiciary, as well as disciplinary measures, including dismissal, applied by employers pursuant to the 2019 Labour Code. The Committee also requests the Government to provide information on the revision of the 2015 Code of Conduct on Sexual Harassment in the Workplace and its outcome.**

*Article 5. Restrictions on women’s employment.* In its previous observation, the Committee requested the Government to provide information on the application of section 160 of the Labour Code of 2012, which prohibits the employment of female workers on work that is harmful to parenting functions, including a list of occupations prohibited under section 160(2) and (3), in addition to the occupations designated in Circular No. 26/2013/TT BLDTBXH of 2013. The Committee also requested the Government to take measures to ensure that future revisions of the above Circular limit its restrictions to women who are pregnant or breastfeeding. The Committee notes with **interest** that, with the adoption of the 2019 Labour Code, the norms that established a ban on women’s employment in those cases considered harmful to parenting functions have been removed. In this respect, the Committee notes that section 142(1) of the 2019 Labour Code, concerning “occupations and work adversely affecting reproductive and child-nursing functions” provides that the Ministry of Labour, Invalids and Social Affairs shall issue a list of the occupations and works falling under this heading. Section 142(2) provides that the employer has a duty to provide adequate information to all workers about the dangers, risks and requirements of jobs, and to ensure statutory occupational safety and health for workers when requesting them to perform any work included in the list issued by the Ministry of Labour, Invalids and Social Affairs. At the same time, the Government indicates that the new Labour Code places an emphasis on women’s “choice” by establishing, for example, at section 137(2) that “a female worker who performs heavy, hazardous or harmful work or extremely heavy, hazardous or harmful work, or work that adversely affects reproductive and child-rearing functions, when pregnant and having informed the employer, is entitled to be transferred to lighter and safer work by the employer or to have her daily working time reduced by one hour without any reduction in her wages, rights and interests during the period while she is caring for a child less than 12 months old”. Likewise, section 137(1) leaves to the woman the choice to perform night work or overtime work or to go on long-distance work trips. **Welcoming these changes, the Committee asks the Government to provide information on the application in practice of both sections 137 and 142 of the 2019 Labour Code, and in particular, regarding: (i) whether the reduction of daily working time provided for in section 137(2)**

*applies to pregnant women; and (ii) whether any awareness-raising activities have been foreseen or undertaken for workers and employers, and their respective organizations, as well as public enforcement officials, regarding these two provisions. The Committee also asks the Government to provide a copy of the list of occupations and work adversely affecting reproductive and child-nursing functions issued by the Ministry of Labour, Invalids and Social Affairs under section 142(1) of the 2019 Labour Code.*

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

## Zambia

### Equal Remuneration Convention, 1951 (No. 100) (ratification: 1972)

*Articles 1–4 of the Convention. Gender wage gap.* Previously, the Committee requested the Government to: (1) strengthen its efforts to take more proactive measures, including with employers' and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value; (2) provide information on the specific measures taken to address the gender remuneration gap; and (3) provide updated statistical information on the earnings of men and women in all the sectors and occupations of the economy. The Committee notes that the Government's report does not contain information in response to its questions. It notes, however, from the Government's report on the national-level review of the implementation of the Beijing Declaration and Platform for Action, 1995 (Beijing +25 national report), that the percentage of women with at least secondary school education represented 52.3 per cent in 2016. **Recalling that it had previously noted the persistent vertical and horizontal segregation of men and women in certain sectors and occupations, as well as the significant gender wage gap in the country, the Committee once again requests the Government to: (i) step up its efforts to take more proactive measures, including with employers' and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value; (ii) provide information on the specific measures taken to address the gender wage gap by identifying and addressing its underlying causes, such as vertical and horizontal job segregation and gender stereotypes, in both the formal and informal economy, and by promoting women's access to a wider range of jobs with career prospects and higher pay; and (iii) provide updated statistical information on the earnings of men and women in all sectors and occupations.**

*Articles 1 and 2. Equal remuneration for men and women for work of equal value. Legislation.* In its previous observation, the Committee requested the Government to provide information on: (1) the actual methods and criteria used to evaluate the "demands" made by a specific job, in order to ensure that the definition of the expression "work of equal value" provided for in section 31 of the Gender Equity and Equality Act, 2015, permits a broad scope of comparison in practice, based on the principle of equal remuneration for men and women for work of equal value, as required by the Convention; (2) the measures taken to raise awareness among workers, employers and their respective organizations of the new equal remuneration provisions and the existence of penalties for non-observance; (3) the application and enforcement of section 31 of the Gender Equity and Equality Act in practice, and particularly the number of violations dealt with by labour inspectors, courts and the Gender Equity and Equality Commission, and the penalties imposed; and (4) the progress made with the draft Labour Code.

The Committee notes the document containing "method and criteria used to evaluate demands of specific jobs to cater for the principle of work of equal value in the public service" of May 2021, attached to the Government's report. It notes that the document outlines the factors to be used for the evaluation of management jobs and non-management jobs in the public service. These factors include: professional, academic and vocational qualifications; relevant previous experience; skills; physical and mental effort; responsibility; hazards; and working conditions. The Committee also notes that an appeal

procedure is available for workers who consider that the job evaluation is incorrect. The Committee however notes that the document refers to “equal pay for equal work” explaining that “personnel in job positions with similar job content would be remunerated comparably”, which is narrower than the principle of the Convention as well as the notion of “work of equal value”, as defined in section 31 of the Gender Equity and Equality Act. Concerning the private sector, the Committee notes the Government’s indication that it monitors, through the Ministries of Gender, and Labour and Social Security, compliance with the Gender Equity and Equality Act by means that include the conclusion of collective agreements, contracts of employment attested by the labour officers and the undertaking of labour inspections. The Government also indicates that it carries out sensitization programmes on TV, radio, electronic and social media.

The Committee notes with **satisfaction** that section 5(4) of the Employment Code Act, No. 3 of 2019, provides that: “An employer shall pay an employee equal wages for work of equal value”. It also notes that section 3 of the Act defines wage as “the pay, remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by a contract of employment which are payable by an employer to an employee for work done or to be done or for services rendered or to be rendered”. In this regard, the Committee recalls that *Article 1(a)* of the Convention contains a broad definition of remuneration that also includes “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”. **Noting the document outlining methods and criteria for job evaluations in the public service refers to equal pay for “equal work”, the Committee requests the Government to indicate how it is ensured that the job evaluation methods and criteria applied in the public service also cover in practice work of a different nature that is of “equal value”, and to provide information on any appeals filed against job evaluations and the corrective measures adopted as a result. The Committee also requests the Government to supply information on the results of the monitoring activities undertaken through the Ministries of Gender, and Labour and Social Security concerning the application of the Convention in the private sector and to continue providing information on the application of section 31 of the Gender Equity and Equality Act in practice. The Government is also requested to clarify whether section 5(4) of the Employment Code Act, 2019, also applies to the additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment, and to provide examples of the application in practice of this provision.**

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

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1979)

*Article 1 of the Convention. Protection of workers against discrimination. Legislation.* In its previous observation, the Committee noted that the Employment Amendment Act of 2015 (“Act of 2015”) and the Constitution of Zambia (Amendment) Act, 2016 do not refer to the grounds of “national extraction” and “social origin” set out in *Article 1(1)(a)* of the Convention. It also noted that the Act of 2015 only refers to discrimination in case of termination of employment under section 36(3). The Committee therefore requested the Government: (1) to provide updated information on the practical application of section 36(3) of the Employment Act, including a copy of any court decisions on cases where dismissal was based on prohibited grounds, more particularly on the ground of “social status” in order to enable the Committee to assess its meaning in practice; and (2) to strengthen its efforts to give full legislative expression to the principle of the Convention by defining and prohibiting direct and indirect discrimination in all aspects of employment and occupation with respect to all the grounds set out in *Article 1(1)(a)* of the Convention and to provide information on any progress made in this regard. The Committee notes with **satisfaction** that the Employment Code Act, adopted in 2019, at section 5, prohibits direct and indirect discrimination against an employee or a prospective employee “in respect

of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment". Section 5(2) of the Act lists the following grounds of prohibited discrimination: "colour, nationality, tribe or place of origin, language, race, social origin, religion, belief, conscience, political or other opinion, sex, gender, pregnancy, marital status, ethnicity, family responsibility, disability, status, health, culture or economic grounds". Although national extraction is not expressly referred to, it appears to be covered by the grounds of "tribe or place of origin". The Committee also notes that section 5(5) provides that a person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding 200,000 penalty units. Following the adoption of the Employment Code Act, 2019, the Employment Act Cap 268 of the laws of Zambia, and its Amendment of 2015, were repealed. **Welcoming this legislative development, the Committee requests the Government to provide information on the application in practice of the provisions of Employment Code Act, 2019, regarding discrimination, including the number and type of offences for which fines have been applied pursuant to section 5(5) of the Act, and examples of cases of discrimination based on the grounds of "tribe or place of origin" which have been addressed under the Act, with a view to allowing the Committee to ascertain the scope of these grounds in practice.**

*Articles 2 and 3. National equality policy.* The Committee notes the Government's information about the development of a national policy to promote equality of opportunity and treatment in respect of employment and occupation. **The Committee requests the Government to provide information on any developments concerning the formulation and adoption of the national equality policy and encourages it to consult the social partners and other interested groups with regard to the formulation of such policy in order to ensure its relevance, raise awareness about its existence, promote its wider acceptance and ownership, and enhance its effectiveness.**

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 100** (Albania, Angola, Barbados, Belize, Congo, Djibouti, Dominica, Equatorial Guinea, Grenada, Guyana, Haiti, Lebanon, Madagascar, Malawi, Mongolia, Peru, Poland, Portugal, Romania, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovenia, South Sudan, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Kingdom of Great Britain and Northern Ireland: Gibraltar, United Republic of Tanzania, Uruguay, Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia); **Convention No. 111** (Afghanistan, Barbados, Belize, China, Congo, Djibouti, Dominica, Equatorial Guinea, Ghana, Grenada, Guyana, Haiti, Honduras, Iraq, Lebanon, Liberia, Madagascar, Malawi, Mongolia, Namibia, Nigeria, Panama, Papua New Guinea, Peru, Poland, Portugal, Romania, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Slovenia, South Sudan, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia); **Convention No. 156** (Belize, Guinea, Peru, Portugal, San Marino, Serbia, Slovenia, Spain, Sweden).

## 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 2022, 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)

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 report sent in June 2019, in response to comments formulated in previous observations, starting in 2013. With regard to the serious failure of the obligation to submit the instruments adopted by the Conference, laid down in article 19(5) and (6) of the ILO Constitution, the Government indicates its commitment to submitting the instruments adopted by the International Labour Conference to the competent authorities, in full respect of the provisions of the Convention. It also supplies a list of representative organizations of employers (three organizations) and of workers (12 organizations), indicating that they participated in the drafting of the reports. The Committee nevertheless notes with **regret** that the Government's report contains no response to the Committee's previous comments, reiterated since 2013, requesting the Government to provide detailed information on the content of the consultations and the recommendations made by the social partners on each of the matters listed in *Article 5(1)* of the Convention. **Noting that the Government has not provided for many years any information on the practical application of the Convention, the Committee again requests the Government to provide information on the consultations held with the social partners concerning the proposals made to Parliament upon the submission of instruments adopted by the Conference (Article 5(1)(b) of the Convention. It again requests the Government to provide detailed information on the frequency, the content and the results of the tripartite consultations held on the questions concerning international labour standards covered by the Convention and other ILO activities, in particular with regard to questionnaires concerning items on the agenda of the Conference (Article 5(1)(a)); the submission of instruments adopted by the Conference to the Parliament (Article 5(1)(b)); the re-examination, at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given (Article 5(1)(c); and reports on the application of ratified Conventions (Article 5(1)(d)).**

**COVID-19.** The Committee notes that as a result of the COVID-19 pandemic, tripartite consultations on international labour standards may have been postponed. With that in mind, the Committee recalls the guidance provided by international labour standards and encourages the Government to use tripartite consultations and social dialogue as a solid basis for formulating and implementing effective responses to the profound socio-economic repercussions of the pandemic. **The Committee invites the Government to provide, in its next report, up-to-date information on all measures taken in this regard, particularly as concerns the measures taken to strengthen constituents' capacities and also to improve national tripartite mechanisms and procedures. It also requests the Government to provide information on the challenges encountered and good practices identified regarding application of the Convention during and after the pandemic period.**

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

## Djibouti

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)

The Committee notes the observations of the General Union of Djibouti Workers (UGTD) and the Labour Union of Djibouti (UDT), received on 4 May 2021. **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 2022, 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 3(1) of the Convention. Participation of representative organizations.* The Government reiterates in its report that two legislative texts were drafted in 2013 in consultation with the social partners. These texts were referred to the National Council for Labour, Employment and Social Security (CONTESS) in 2014. The aim of the first text is to create an institutional framework for setting the issue of representativeness as provided by section 215 of the Labour Code, which establishes that "the representative nature of trade union organizations shall be determined by the outcome of workplace representation elections" and that "the ranking ... thus determined by the workplace elections shall be recorded in an order issued by the Minister in charge of labour". Nevertheless, the draft order is in preparation, hence the criteria for determining the representativeness of employers' and workers' organizations is still to be established. The aim of the second text is to reinforce the electoral procedures to be followed in occupational or national elections, with free and independent elections which are essential for ensuring the formation of legitimate workers and employers' organizations and also their representativeness. The Government points out that the two draft texts have not been approved by CONTESS, which assigned the task of examining the drafts to the standing committee but the latter did not adopt them. The Government indicates that it will keep the Office informed of any developments in the matter. **The Committee refers to its comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and expresses the firm hope that the Government will adopt the abovementioned draft texts as soon as possible so that objective and transparent criteria can be established for appointing workers' representatives to national and international tripartite bodies, including the International Labour Conference.**

*Article 4(2). Financing of training.* The Government indicates that a seminar on labour law was held for members of grassroots unions affiliated to the two most representative federations of workers' unions in Djibouti. The seminar took place from 28 to 31 August 2016 at the National Institute of Public Administration and was funded by the executive secretariat responsible for reform of the administration. In addition, the Operational Action Plan 2014–18, adopted under the national employment policy, includes a component of training on labour legislation for trade union representatives and employers. **The Committee requests the Government to continue providing information on appropriate arrangements made for the financing of any necessary training for participants in consultation procedures, as provided for by the Convention.**

*Article 5. Tripartite consultations required by the Convention. Frequency of tripartite consultations.* The Committee notes the detailed record of the meeting of CONTESS that took place on 27 and 28 November 2016, which the Government attached to its report. In this regard, it notes the agenda of the meeting, which included draft texts for the implementation of the Labour Code and also the discussion of unratified Conventions (*Article 5(1)(c)* of the Convention). In this regard, the Committee notes with **interest** the ratification proposals adopted unanimously concerning the Maritime Labour Convention, 2006 (MLC, 2006), and the Protocol of 2014 to the Forced Labour Convention, 1930. **The Committee requests the Government to continue providing detailed information on the content and outcome of the tripartite consultations held on each of the matters referred to in Article 5(1) of the Convention, and in particular to continue to send copies of the records of CONTESS meetings.**

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

## El Salvador

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

The Committee notes the observations of the National Business Association (ANEP), endorsed by the International Organisation of Employers (IOE), received on 13 October 2020 and 25 October 2021, providing information on issues addressed in this comment. The Committee observes with **deep concern** that the observations of the ANEP from October 2020 state, as an element contrary to compliance with the Convention, that since the current President of the ANEP took office in April 2020, the Government has refused to deliver his credentials, and the highest government authorities, including the President of the Republic and the Minister of Labour and Social Welfare – who chairs the Higher Labour Council (Consejo Superior de Trabajo) (CST) – refuse to recognize the unanimous election of Mr Javier Ernesto Simán Dada as President of the ANEP and representative of the employers, as well as denigrating him and launching slanderous attacks against him personally, against his family and his enterprises, and also against the ANEP.

The Committee also takes note of the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021, and of the Single Confederation of Salvadoran Workers (CUTS), endorsed by the National Trade Union Federation of Salvadoran Workers (FENASTRAS) and the Single Federation of Rural Workers of El Salvador (FUOCA) received on 14 October 2021, both of which concern issues addressed in this comment.

### Follow-up to the conclusions of the Committee on the Application of Standards (109th Session of the International Labour Conference, June 2021)

The Committee notes the discussion in the Conference Committee on the Application of Standards, in June 2021, on the application of the Convention. The Committee observes that the Conference Committee urged the Government to: (i) refrain from interfering in the constitution and activities of independent workers' and employers' organizations, in particular the National Business Association (ANEP); and (ii) reactivate, without delay, the Higher Labour Council (CST) and other tripartite entities, respecting the autonomy of the social partners and through social dialogue in order to guarantee their full functioning without any interference. The Conference Committee decided to include the case in a special paragraph of its report and requested the Government to continue to avail itself of ILO technical assistance, to submit a detailed report on the application of the Convention in law and in practice to this Committee, in consultation with the social partners, and to accept a high-level tripartite mission to be carried out before the 110th International Labour Conference. The Committee notes that, through a communication received on 3 December 2021, the Government has informed the Office that it agrees to receive the high-level tripartite mission.

*Articles 2 and 3(1) of the Convention. Adequate procedures. Reactivation of the Higher Labour Council.* In its previous comments, the Committee requested the Government to continue providing detailed and updated information on the measures adopted to ensure the effective operation of the CST, and on the content and outcome of the tripartite consultations held within the framework of that tripartite body. The Committee observes that the Government:

- (i) indicates that during the COVID-19 pandemic crisis, it engaged in dialogue with the employers and workers, including holding meetings between the leadership of the ANEP and the President of the Republic, and emphasizes that the drafting of 39 health and safety protocols for different types of enterprises or workplaces, developed following a broad discussion and consultation process with the participation of trade unions from each sector, bears witness to this social dialogue with the enterprise sector. The Government also underlines that for the first time in the country's history, employers' associations collaborated

- in establishing the “Institutional Strategic Plan 2020–2024” of the Ministry of Labour and Social Welfare, which includes social dialogue among its main objectives; and refers to the approval of the Act on protecting Salvadoran employment and the Act on teleworking;
- (ii) adds that the Minister of Labour sought to maintain tripartite communication to ensure due compliance with the labour standard, to maintain respect for workers’ labour rights, and to support the enterprise sector to counter the negative effect the COVID-19 pandemic on enterprise, highlighting meetings regarding the health sector in particular. The Government also reports that, on 29 April 2021, the Ministry of Labour and Social Welfare inaugurated the first Trade Union Training Institute (IFS), to strengthen social dialogue and benefit more than 150,000 workers grouped in various unions; and
  - (iii) reiterates that the CST was activated on 16 September 2019 – and indicates that in November 2019, the National Minimum Wage Council was also established, with the social partners freely electing their representatives. With regard to the activity of the CST, the Government recalls that the CST, at its meeting held in November 2019, approved ILO participation in the elaboration of a National Strategy for the Generation of Decent Employment. The Government specifies, however, that both the Higher Labour Council and the National Minimum Wage Council have been unable to meet in the normal manner due to the health crisis, and the measures adopted to suspend activities in order to contain it. To address the situation, the Ministry of Labour held meetings with representatives of the workers’ organizations, establishing an Inter-sectoral Trade Union Roundtable on 22 April 2020, with a view to providing a space for legitimate, permanent dialogue that would be recognized by workers in the health sector.

With regard to the observations by the social partners, the Committee notes that the ANEP: (i) while recognizing that the CST was reactivated in 2019, specifies that it was not possible to induct all the employer representatives without an amendment to the rules to that end, since the rules listed explicitly the employers’ organizations entitled to appoint representatives, and three of the eight organizations listed were inactive; (ii) reports that, after its inaugural meeting, the CST only met on three occasions, the last of which was in March 2020 (to address issues related to childcare facilities), and that no meetings were held during the four months prior to the pandemic emergency; (iii) reports that no meeting of the Officers or of a plenary meeting of the CST has been called since then; (iv) claims that the Government only reactivated the CST for a few months as a publicized tactical move to give the impression of compliance with the conclusions of this Committee and of the Conference Committee; and adds that the CST has not been convened due to the fact that the President of the Republic does not recognize the President of the ANEP, and to the President of the Republic’s order, made clear on television and backed up by the Minister of Labour, to prohibit public servants from meeting with the ANEP; (v) emphasizes that the Government’s justification for not holding CST meetings as a consequence of the pandemic is not credible (the Government’s agenda includes many meetings held during the period that it decided not to convene the CST); since July 2020 the activity in the country has gradually returned to near normality with the corresponding preventive measures in place; the size of the CST is such that a plenary sitting could be accommodated in a large, well-ventilated space – not to mention its three Officers alone; and in any case, the CST would have been able to meet in a virtual session through online platforms; and (vi) rejects the claims that consultations were held with the participation of employers’ representatives and affirms that in practice the Government had chosen its interlocutors at its own discretion and that when other employers’ representatives are invited, the aim is purely for publicity and there is no true tripartite or bipartite dialogue.

The Committee also notes the observations of the ITUC, emphasizing that by freezing the CST, the Government is failing to comply with the obligation to consult provided under the Convention; and denouncing the Government for its unilateral appointment of workers’ representatives for the tripartite consultations.

The Committee also takes note of the observation of the CUTS, indicating that: (i) since its last session on 2 March 2020, neither the plenary nor the Officers of the CST have been convened; (ii) the term of office of the CST expired on 16 September 2021, and there is no indication of what the mechanism for electing representatives might be, given that no clear rules have been established, in consultation with the social partners, for designating the worker representatives on the CST, as the Committee has been requesting; (iii) tripartite consultation is thus absent in the country; and (iv) trade union organizations that are not among the group of unions close to the Government are not invited to meetings convened by the Ministry of Labour and Social Welfare, such as the consultations for the Ministry's Institutional Strategic Plan 2020–2024 or the general health safety protocol for the pandemic.

The Committee notes that the Government claims to have been able to hold a wide variety of meetings and gatherings for social dialogue during the pandemic, including in virtual format, and to take concrete measures. It nevertheless notes with **concern** the allegations made by the social partners that the Government, in a contrary and deliberate manner, has not taken a single measure to enable the CST to continue meeting, regardless of the repeated requests from the ILO's supervisory machinery – most recently from the Committee on the Application of Standards in June 2021. The social partners allege that this has enabled the Government to dialogue only with like-minded interlocutors, thus failing to comply with the requirements for tripartite consultation under the Convention. In this regard, the Committee **regrets** to observe that despite having requested up-to-date, detailed information on the measures adopted to ensure the effective operation of the CST, the Government simply attributes its inactivity to the pandemic without providing a fuller explanation, when the CST was supposed to play a key role in tripartite consultations on measures to address the pandemic, and the Government itself claims that despite the challenges posed by the pandemic it successfully managed the operation of many other dialogue mechanisms, even creating new, differently constituted fora, instead of promoting tripartite consultation within the CST.

The Committee further notes that, in its communication received on 3 December 2021, the Government indicates that a new CST is in the process of being set up for the period 2021–23. The Government affirms in this respect that the preliminary steps required by the regulations have been taken in order for the worker and employer sectors to designate their representatives and that, these designations having been completed, the first session of the new CST is scheduled to take place on 8 December 2021.

***The Committee urges the Government to take all the necessary measures to ensure the effective operation of the CST, respecting the autonomy of the social partners, including with regard to the appointment of their representatives – urging it in particular to ensure full recognition of the President of the ANEP and of this most representative employers' organization in social dialogue and tripartite consultation, as well as during any revision of the Statute of the CST. The Committee refers to its previous recommendations in this regard, and requests the Government to provide information on any developments, as well as on the content and outcome of the tripartite consultations held within this tripartite body. The Committee also urges the Government to take the necessary measures to ensure the full autonomy of the ANEP, the recognition of the results of its April 2020 elections and, in particular, of its President, Mr Simán Dada, and of this employers' organization as a social partner, to allow the full participation of the ANEP in social dialogue through its chosen representatives.***

*Interference in the election of representatives for tripartite consultation and in delivery of credentials.* With regard to the allegations formulated by the ANEP in respect of government interference in the election of representatives at the Superintendency for the Electricity and Telecommunications Sectors (SIGET), the Committee requested the Government to provide a copy of the ruling of the Supreme Court of Justice (CSJ) definitively setting aside the election of the 2017 employer representatives on the SIGET that is challenged by the ANEP, and further requested the Government to provide information on the forms of elections of the representatives of employers and the date on which the elections were held.

The Committee notes that the Government, while reiterating its respect for the free election of representatives of tripartite and joint bodies: (i) recalls that in its judgment of 17 January 2018, the CSJ ordered precautionary measures with immediate provisional effect that suspended the appointments challenged by the ANEP; (ii) specifies that although a definitive ruling was requested, the CSJ stated that the ruling was still pending, with the result that the private sector representatives remained the same persons appointed by the ANEP, and (iii) indicates that, given that procedures for the election of private sector representatives on the SIGET board of directors have not been initiated since the issuance of precautionary measures in January 2018, and because of the pending CSJ decision, for the moment, no election mechanism has been implemented.

The Committee notes that the ANEP, in its observations: (i) states that it is awaiting the results of its appeal regarding the election of the employers' representatives on the SIGET, recalling that in this case the Government had constituted 60 supposed employers' organizations that had participated and won the election illegally; (ii) indicates that the ANEP proposed a reform to the Labour Code which would allow employers' organizations to follow clear, objective, predictable and binding rules for appointing the social partners; (iii) alleges however that the current Government is continuing the same delaying tactics, withholding delivery of credentials to employers organizations with the intent of hindering their participation in the appointment of the directors of various autonomous tripartite or joint public entities; (iv) states in this regard that in September 2020 the Government refused the ANEP's participation in the election of the Board of Governors and Executive Board of the Development Bank of El Salvador – BANDESAL (the refusal was on the grounds of the absence of the ANEP's credentials, which were withheld by the Government itself); and refers to other examples where the appointment of employer representatives was obstructed, in the Salvadoran Social Security Institute, the Maritime Port Authority, and the Independent Executive Committee for Ports; and (v) denounces the submission to the Legislative Assembly by the President of the Republic on 29 May 2021 of reforms, which were then approved by Legislative Assembly, to the manner in which directors are appointed by employers' organizations in 23 autonomous public entities. These reforms grant the President power to appoint the directors who represent the employers' organizations, as well as to arbitrarily remove them from their posts.

The Committee also takes note of the observations of the ITUC, denouncing the Government for imposing a legal obligation on trade unions to request renewal of their legal status every 12 months, thereby deciding unilaterally to withdraw the unions' credentials, preventing them from carrying out their trade union activities, and denying them the conditions for carrying out tripartite consultations.

The Committee also notes that the CUTS alleges that: (i) the Government has been excluding organizations that are not close to it from participating in the elections of tripartite bodies; (ii) as well as the problems regarding worker representation on the CST, the majority of federations and confederations were not convened for the election of representatives in the Salvadoran Vocational Training Institute (INSAFORP), an election that was held without respect for the applicable rules and which resulted in the appointment of persons close to the Government; and (iii) the fact that the Ministry of Labour and Social Welfare delayed delivery of credentials for up to nine months, while other organizations were issued credentials promptly to allow them to participate in the INSAFORP elections, is germane to this issue.

***In light of the above and observing with deep concern that multiple allegations of interference by the authorities in the appointment of employers' and workers' representatives in public tripartite and joint bodies have been made for a long time, and that recent developments indicate a worsening of the situation, the Committee urges the Government, in consultation with the social partners, to take the necessary measures to ensure respect for the autonomy of the employers' and workers' organizations in this regard, both in law and in practice, including measures to ensure the prompt delivery of credentials for all organizations, as well as the repeal of any legal provisions in respect of***

***the above-mentioned 23 autonomous entities that allow the Government the possibility of interfering in the appointment of employers' representatives.***

*Article 5(1). Effective tripartite consultations.* In its previous observation, the Committee reiterated its request to the Government to provide updated information on the outcome of the tripartite consultations held concerning the Protocol on the submission procedure that the Government indicated was drawn up with ILO assistance, and to provide a copy of the Protocol when it has been adopted. It also reiterated its request to the Government to send detailed and updated information on the content and outcome of the tripartite consultations held on all the matters relating to international labour standards covered by *Article 5(1)(a)–(e)* of the Convention. In this regard, the Committee notes that the Government: (i) indicates that an analysis has been conducted, and there is no previous example of a submission process in the country, as no official procedure for undertaking one existed; (ii) asserts that first steps have been taken in defining the procedure for the submission of Conventions, and an inter-institutional round table between the Ministry of Labour and the Ministry of Foreign Relations has been established for that purpose; and (iii) requests ILO assistance to take account of best practices at international level to establish and strengthen the submission process. The Committee further notes in this regard that the ANEP and the CUTS both assert that the tripartite consultations that the Committee requested the Government to undertake in respect of the Protocol on the submission procedure did not take place, and that they concur with the ITUC in denouncing the absence of tripartite consultations in matters related to international labour standards.

The Committee notes with **concern** that the Government, in reply to the Committee's previous observation, has not provided the information requested on the content and outcome of the tripartite consultations held on all matters related to international labour standards covered by the Convention, nor on the Protocol on the submission procedure, which the Committee was told had been elaborated; and principally affirms that there is no precedent in the country, nor any procedure in place for submitting international labour standards to the competent authorities exists.

***While referring to the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted by the Governing Body of the ILO, the Committee strongly hopes that, in conformity with the Constitution of the International Labour Organization, the submission of international labour standards to the Legislative Assembly can resume as soon as possible, and urges the Government, in consultation with the social partners, to take the necessary measures, in particular with regard to the CST, to comply with the obligation of tripartite consultation provided in the Convention. Once again, the Committee requests the Government to provide detailed and updated information on the content and outcome of tripartite consultations held on all issues related to international labour standards covered by Article 5(1)(a)–(e) of the Convention, including the submission of international labour standards and the preparation of its next report in consultation with the social partners.***

*Technical assistance.* In its previous comments, the Committee requested the Government to continue providing detailed and updated information on the measures adopted or envisaged to promote tripartism and social dialogue in the country within the context of ILO technical assistance, and on their outcome. The Committee duly notes that the Government is grateful for the support and follow-up provided through ILO assistance and cites various areas of cooperation in this regard, including social protection, occupational safety and health or the labour market information system. With regard to social dialogue, the Government reiterates that it had support from the ILO to reactivate the CST in 2019 and that the ILO also provided accompaniment in regional coordination spaces.

***In the hope that it will shortly see progress in tripartite consultation, and compliance with the Convention in the country, the Committee recalls that ILO technical assistance remains at the disposal of the tripartite constituents, while emphasizing the importance that such assistance be defined through social dialogue, for example within the framework of the CST.***

***[The Government is asked to reply in full to the present comments in 2022.]***

## 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 2022, 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)

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 2022, 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 2 and 5 of the Convention. Effective tripartite consultations.* In its previous comments, the Committee requested the Government to provide detailed information on the subjects and outcome of the tripartite consultations held on each of the items set out in *Article 5(1)*. The Government indicates that it is making efforts to ensure compliance with the obligations deriving from the Conventions that it has ratified, including Convention No. 144, and recognizes that tripartite consultations on international labour standards were not undertaken effectively. However, it emphasizes that significant improvements have been implemented following a workshop to strengthen capacities on international labour standards and for the preparation of reports organized by the ILO on 22 and 23 October 2016. In 2016, the Government replied to the Committee's comments on Conventions Nos 29, 87, 98, 100, 105, 111 and 182. It adds that, although the social partners were consulted before the final replies were sent, they made no observations in that regard. In 2017, the Government replied to the Committee's comments concerning Conventions Nos 6, 26, 81, 87, 88, 95, 97, 98, 124, 129, 159 and 173. Following the tripartite consultations held, the observations made by the most representative workers' organizations were included in the final replies. With regard to the re-examination of unratified Conventions and of Recommendations to which effect has not yet been given, the Government indicates that tripartite consultations have been held on 11 instruments respecting working time (Conventions Nos 1, 30, 47, 106 and 175 and Recommendations Nos 13, 98, 103, 116, 178 and 182). The

Government adds that it sent its replies to the most representative organizations of employers and workers, but that the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) was the only one to provide comments on this subject. It adds that, between 28 February and 1 March 2017, the Ministry of Labour organized, with ILO support, a tripartite workshop to validate the situation with regard to the Labour Relations (Public Service) Convention, 1978 (No. 151). This review was validated unanimously by the representatives of the three partners present. Furthermore, a steering committee to promote Convention No. 151 was established to follow the process of ratification and engage in advocacy with the competent authorities, including the Government and Parliament. The Government adds that it has responded to the abrogation of Conventions Nos 21, 50, 64, 65, 86 and 104 and to the withdrawal of Recommendations Nos 7, 61 and 62, included on the agenda of the 107th Session of the International Labour Conference in 2018. It specifies that these responses were communicated to the most representative social partners, but that the latter made no observations on this subject. In its 2000 General Survey, *Tripartite Consultation International Labour Standards*, paragraph 71, the Committee recalls that *Paragraph 2(3)* of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), specifies that consultations may only be undertaken through written communications, “where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient”. The Committee notes with **interest** that the Government, with ILO support, organized a workshop on 12, 13 and 14 September 2017 to validate the comparative study of the legislation in force and the provisions of the Maritime Labour Convention, 2006 (MLC, 2006), and the Work in Fishing Convention, 2007 (No. 188), with a view to their ratification. It adds that two roadmaps on the ratification of the MLC, 2006, and Convention No. 188 were unanimously approved by the tripartite partners present. **The Committee requests the Government to continue providing updated information on the manner in which it ensures effective tripartite consultations, as well as on the content and outcome of the tripartite consultations held on each of the issues covered by Article 5(1). It also requests the Government to keep it informed of any developments relating to the ratification of Conventions Nos 151, 188 and the MLC, 2006.**

*Article 3. Choice of the representatives of employers and workers by their respective organizations.* The Committee notes that the implementation of Decree No. 2011-490 on trade union organizations and representativity implies for the tripartite partners the implementation of various types of action, including the holding of elections for staff delegates at the enterprise level within the territory of Madagascar by the Ministry of Labour, the convening of the social partners for an indication of the provisional results, and the consolidation by ministerial order of the definitive results for national and regional representation. The Government indicates that, in accordance with this process, the elections of staff representatives were launched in 2014 throughout Madagascar. It adds that Order No. 34-2015 to determine trade union representativity for 2014 and 2015 was adopted and was issued in February 2014. However, the Order has been contested by certain workers’ organizations, including the General Confederation of Malagasy Trade Unions (FISEMA), FISEMARE and the Revolutionary Malagasy Union (SEREMA), challenging the outcome of the ballot, which placed the Christian Confederation of Malagasy Trade Unions (SEKRIMA) first among the most representative unions at the national level. In March 2015, these unions lodged an appeal for the result to be set aside. The Government explains that, as the appeal was suspensive in its effect, the application of the Order was suspended until the court issued its ruling rejecting the appeal in 2017. Moreover, as the establishment of the various labour-related bodies is conditional upon representativity, as they involve tripartite representation, such as in the case of inter-enterprise medical services management councils and the executive council of the National Social Insurance Fund (CNAPS), the tripartite actors concerned agreed to adopt an alternative solution. In this context, the Government indicates that all the representatives of the various organizations appointed to the different social dialogue structures in existence, and the labour-related bodies referred to above, were subject to tacit renewal of their mandates. **The Committee requests the Government to make every effort, in consultation with the social partners, to ensure that tripartism and social dialogue are promoted so as to facilitate procedures that guarantee effective tripartite consultations (Articles 2 and 3). In this respect, it requests the Government to provide updated information on any developments relating to the choice of employers’ and workers’ representatives for the purposes of the procedures covered by the Convention, including the dates and organization of their elections. The Committee also requests the Government to provide a copy of the Order that is in force with its next report.**

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

## Bolivarian Republic of Venezuela

### Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

The Committee notes the observations, concerning the application of the Convention in law and in practice, of the Independent Trade Union Alliance Confederation of Workers (CTASI) of 31 August 2021; and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), with the support of the International Organisation of Employers (IOE), of 1 September 2021; as well as the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), of 8 September 2021. **The Committee requests the Government to provide its comments thereon.**

#### Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

In its previous observation, the Committee noted the conclusions and recommendations of the report of the Commission of Inquiry concerning the implementation of the Convention. The Committee notes the discussion at the 343rd Session (November 2021) of the Governing Body on the examination of all measures, including those provided for in the ILO Constitution, required to ensure that the Bolivarian Republic of Venezuela complies with the recommendations of the Commission of Inquiry, and the decision adopted in this regard. The Committee notes that the Governing Body will again consider at its 344th Session (March 2022) the Government's progress in ensuring compliance with the recommendations of the Commission of Inquiry and will continue examining possible measures to achieve this objective.

*Articles 2, 5 and 6 of the Convention. Effective tripartite consultations.* The Committee recalls that the Commission of Inquiry recommended, through tripartite dialogue with the representative organizations of employers and workers: (i) the establishment of effective tripartite consultation procedures, and (ii) the institutionalization of dialogue and consultation covering the subjects envisaged in all ratified ILO Conventions or relating to their application. In its previous observation, having regretted to note that no progress had been made either in complying with the Convention or in implementing the recommendations of the Commission of Inquiry, the Committee encouraged the Government to engage in the widest possible tripartite consultations and social dialogue and invited it to provide updated information on the measures taken in this respect, including on capacity-building measures for the tripartite constituents and measures to reinforce mechanisms and procedures, and on the identified challenges and good practices.

The Committee notes the Government's indication that, within the framework of its renewed policy of national dialogue with all sectors of the country, in accordance and in order to improve compliance with the Convention, it has been conducting wide and inclusive dialogue with all employers' and workers' organizations. In this regard, the Government indicates that: (i) since early 2021, dialogue round tables have been established with the various employers' and workers' organizations, in a climate of respect and goodwill, to address matters related to the Conventions concerned by the Commission of Inquiry, with a view to reaching solutions and continuing to make progress in accordance with the obligations established in the Convention. This invitation was answered by FEDECAMARAS, the Venezuelan Federation of Craft, Micro, Small and Medium-sized Business Associations (FEDEINDUSTRIA), the CBST-CCP, the CTASI, the General Confederation of Labour (CGT), National Union of Workers of Venezuela (UNETE), the Confederation of Autonomous Trade Unions (CODESA, which submitted a document and withdrew), as well as the Confederation of Workers of Venezuela (CTV, which sent a communication declining to attend the dialogue proposed as a dispute settlement mechanism); (ii) meetings were subsequently held in response to the social partners' requests and, as of May 2021, a

forum designated the Meeting for National Dialogue on the World of Work was held virtually through six working sessions, one of which was devoted to matters relating to the implementation of the Convention; and (iii) during these sessions, the partners were able to express their views and make extensive presentations on matters relating to the implementation of the Convention, in a climate of respect and goodwill, with wide participation of a number of them: FEDECAMARAS, FEDEINDUSTRIA, CBST-CCP, the CTASI, UNETE, CTV (which took part in the first two sessions), CODESA (which attended the first session only), and CGT (which expressed interest but had connection problems).

In this respect, the Committee welcomes the actions that, in the context of these forums for dialogue, the Government indicates it has undertaken or will carry out to ensure compliance with the Convention and to strengthen social dialogue. The Committee encourages the Government to continue with these actions:

- (i) referral to the National Assembly of the Committee's comments on the revision of laws and standards implementing ILO Conventions, as well as the Government's commitment to engage in consultations with the social partners on draft laws, or their respective reforms initiated by the National Assembly relating to international labour standards (to this end, the social partners were formally consulted on suggestions and recommendations regarding draft laws or reforms currently on the legislative agenda, and the Ministry of People's Power for the Social Process of Labour (MPPPST) undertook to act as a liaison between the legislature and the social partners);
- (ii) the establishment of three technical working groups between the social partners and the Government on the application of the Conventions concerned by the Commission of Inquiry, to develop specific proposals on methods and procedures referred to in the texts of the Conventions while taking into account national realities. The Government indicates that these technical working groups started their work on 30 July 2021 and continued on 17 and 18 August 2021, and indicates that a general discussion was held on enhancing procedures to comply with the Convention;
- (iii) virtual coordination meetings in May 2021 with the various social partners, employers and workers, to report on the progress of the 109th International Labour Conference, including its special format, agenda items and the composition of delegations. The Government indicates that additional coordination meetings are planned for the second part of the 109th Conference (25 November–11 December 2021);
- (iv) referral to the National Assembly of the list of international labour standards adopted by the Conference pending ratification, with a view to furthering consultations on those standards, in accordance with the Convention. In this regard, in March 2021, the National Assembly approved an Agreement for the revision and evaluation of ILO Conventions, through which the competent Ministries were urged to take measures to ensure the participation of workers, employers and other public authorities. Also in March, the MPPPST initiated the consultation process on the Violence and Harassment Convention, 2019 (No. 190), submitting an evaluative instrument on the Convention to the social partners in April 2021, together with the national legal framework and ILO documentation on the instrument (at the time of writing, responses have been received from three of the eight organizations consulted); and
- (v) consultation with the social partners on the content of the reports on Conventions Nos 1, 22, 26, 27, 87, 95, 100, 111, and 144, starting on 18 August 2021 with a presentation on each subject and a deadline for submission prior to the deadline set by the ILO.

The Government also indicates that: (i) it plans to hold a forum, with the participation of ILO technical representatives, to discuss the progress made in the framework of the Meeting for National Dialogue on the World of Work and the technical working groups for the improvement of compliance

with the Conventions that are concerned by the Commission of Inquiry; (ii) other spaces for dialogue have been opened between the social partners and the executive authorities, such as the invitation of the Executive Vice-President of the Cabinet to FEDECAMARAS to attend the Higher Council of Productive Economy, with a meeting that took place on 30 July 2021 and which was attended by representatives of FEDECAMARAS and FEDEINDUSTRIA, as well as other productive sector associations in agri-food, fisheries and agriculture; and (iii) spaces for dialogue are being created with other public authorities, such as the dialogue initiated in early 2021 with the new leadership of the National Assembly, through the Special Committee for Dialogue, Peace and National Reconciliation, in which various workers' and employers' organizations have participated.

While noting that the CBST-CCP similarly highlights the spaces for dialogue referred to by the Government as progress, the Committee also notes the other social partners' observations (FEDECAMARAS and CTASI) that the exploratory tripartite and bipartite dialogue carried out has not yet translated into tangible progress, nor does it meet the criteria established in the recommendations of the Commission of Inquiry, given the lack of minutes, independent chairing, methodology for a results-oriented agenda or ILO assistance. Furthermore, FEDECAMARAS indicates that a number of the planned mechanisms, such as the coordination of consultations with regard to the National Assembly's legislative agenda, have not yet been implemented; the CTASI also emphasizes that it is of fundamental importance for the dialogue to ensure the full freedom of all trade unionists and leaders being restricted under judicial proceedings, and freedom from interference in their organizations' autonomy.

***While duly noting the above developments, the Committee refers to the recommendations of the Commission of Inquiry and requests the Government, in consultation with the social partners and with the assistance of the ILO, to take additional measures for the proper functioning of effective tripartite consultation procedures, including mechanisms to institutionalize dialogue and consultation. The Committee invites the Government to continue providing updated information on the measures taken in this respect in accordance with the Convention, and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), including on the consultations undertaken, the nature and form of the procedures established, the measures to strengthen these mechanisms and the capacity-building measures for the tripartite constituents, taking national circumstances into account, and the good practices and challenges that have been identified.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 144** (Afghanistan, Bahamas, Barbados, Belize, Congo, Czechia, Dominica, Gabon, Ghana, Hungary, Iceland, India, Israel, Jamaica, Japan, Jordan, Kenya, Kuwait, Lesotho, Malaysia, Mali, Mauritania, Mauritius, Morocco, Netherlands: Sint Maarten, New Zealand, North Macedonia, Trinidad and Tobago).

## Labour administration and inspection

### Bangladesh

#### Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021, referring to the matters addressed below, and requests the Government to provide its comments in this respect.

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 343rd Session (November 2021), taking note of the road map of actions submitted by the Government on 23 May 2021 and the report submitted by the Government on 30 September 2021, on the progress made with regard to its timely implementation, the Governing Body: (i) requested the Government to inform it of progress made in the implementation of the road map to address all the outstanding issues mentioned in the article 26 complaint at its 344th Session (March 2022), during which the Governing Body will again discuss the implementation of the road map; and (ii) deferred the decision on further action in respect of the complaint to its 346th Session (November 2022).

The Committee takes note of the additional information provided by the Government on 30 September 2021 on the progress made in the implementation of the road map to address all the outstanding issues mentioned in the article 26 complaint.

*Legislative developments.* The Committee takes note that, in the additional information provided concerning the implementation of the first priority area of the road map of actions (labour law reform), the Government details the progress made and envisaged with respect to the amendment of the Bangladesh Labour Rules (2015), the Bangladesh Labour Act (2006) (BLA), the Export Processing Zones (EPZs) Labour Act (2019), as well as to the adoption of the EPZs Labour Rules. **The Committee requests the Government to adopt measures in order to ensure that the ongoing legislative reform process will take into account the outstanding issues addressed below as well as in the direct request to the Government, with a view to ensuring conformity of the legal framework with the Convention. The Committee requests the Government to provide detailed information on any progress made in this respect.**

*Articles 2, 4, 12 and 23 of the Convention. Labour inspection in EPZs and special economic zones (SEZs).* The Committee previously noted: (i) that Chapter XIV of the EPZs Labour Act provides for inspections to be undertaken by the Directorate of Inspection for Factories and Establishments (DIFE) in the EPZs; (ii) the ongoing consultations with workers, investors and relevant stakeholders to see how labour inspections undertaken by the DIFE can best be integrated with the existing supervision exercised by the Bangladesh Export Processing Zones Authority (BEPZA); and (iii) that under section 168 of the EPZs Labour Act, DIFE inspectors are allowed to undertake inspections but a prior approval of the Executive Chairman of the BEPZA is required. The Committee notes the Government's indication that the development of inspection modalities for EPZs is ongoing and that, to this effect, a further meeting is expected to be held between the DIFE and the BEPZA to follow up on their last meeting held on 16 February 2021. The Committee further notes the Government's indication that labour inspectors of the DIFE are regularly inspecting factories in EPZs without obstacles and in most cases without prior notice (inspections have been undertaken in nine factories between March and May 2021). Furthermore, the Committee takes note of the Government's indication that the Bangladesh SEZs Authority (BEZA), which controls and supervises SEZs, will take all the necessary measures for the effective inspection of

SEZs in accordance with Chapter XIV of the EPZs Labour Act (which provides for inspections by the DIFE). ***The Committee requests the Government to continue to provide information on the outcome of the above-mentioned discussions on the development of DIFE inspection modalities for EPZs. Noting the absence of information on any progress made in this regard, the Committee once again requests the Government to take the necessary measures to ensure that labour inspectors are empowered to enter freely establishments in EPZs and SEZs without any restrictions, such as the approval required from the Executive Chairman of the BEPZA for the undertaking of inspections, pursuant to section 168 of the EPZs Labour Act. In this respect, the Committee once again requests the Government to provide information on the nature and the modalities of the above mentioned approval of the BEPZA, including whether a separate request is required before each inspection, and if so, the number of requests made, the number approved, the time elapsed between each request and approval, and any reasons given for each failure to approve. It also requests the Government to provide statistical information on the labour inspections undertaken in EPZs and SEZs that are in operation, disaggregated into inspections by the DIFE and inspections under the BEPZA and the BEZA, including the overall number of inspections undertaken, the number and nature of all violations detected and the measures taken as a result.***

*Article 6. Status and conditions of service of labour inspectors.* With regard to its previous comments, the Committee notes the Government's statement in the additional information that the approval process of the proposal providing for the creation of new posts of labour inspectors is already underway and that a meeting was held on 31 August 2021 in the Ministry of Public Administration (MOPA) to assess that proposal. The Government also states that, upon clearance from all the Ministries involved in the approval process, this matter will be referred to the Bangladesh Public Service Commission (BPSC) (responsible for the selection of public service workers) for initiating the recruitment process. The Government specifies in its report that the number of labour inspector posts to be created will depend on the approval of the concerned Ministries. The Committee also notes the Government's indication that new positions for 4 inspector generals, 12 joint inspector generals, 51 deputy inspector generals and 288 assistant inspector generals have been included as part of the proposal submitted to the MOPA. The Government indicates that, if approved, this will create more promotion opportunities for labour inspectors, and it further states that conditions of service for labour inspectors are the same as for other Government employees. The Committee also notes the observations of the ITUC that despite Government commitments in prior years to increase substantially the number of labour inspectors, there were 312 filled inspector posts and 221 vacant posts as of March 2019. ***The Committee requests the Government to provide information on the career structure of the DIFE, including levels and positions as well as the number of appointments made at each position. The Committee requests the Government to continue to provide information on any progress made in the process of creation of new posts and the recruitment of labour inspectors. Noting the absence of information in this regard, the Committee requests once again the Government to provide information on the attrition rate among inspectors at different professional levels. Finally, the Committee requests the Government to provide detailed information on the conditions of service of labour inspectors, including their levels of remuneration and their employment tenure in comparison to the remuneration levels and job tenure of other officials exercising functions of similar complexity and responsibility, such as tax collectors and the police.***

*Articles 7, 10, 11 and 16. Human and material resources of the labour inspectorate. Frequency and thoroughness of labour inspections.* The Committee takes note that, in reply to its previous comments on the number of labour inspectors, the Government informs that: (i) the DIFE organigram consists of 993 posts, among which 575 are for labour inspectors; (ii) currently, 313 labour inspectors work in the DIFE; (iii) following a request from the DIFE, the recruitment process of 108 inspectors to fill vacant posts is underway; and (iv) due to the COVID-19 pandemic, the normal recruitment process is elongated and many of the public examinations are on hold. The Committee also notes the Government's additional information that the BPSC has recommended to fill 99 of the 108 vacant posts requested by the DIFE,

and that the Government is working on the preparation of a list of qualified inspectors to be promoted to the next upper level. Moreover, the Committee takes note that the labour inspection report of 2020–21 indicates that 14 labour inspectors (health) have joined in the DIFE and that 11 officers and staffs of different grades have retired and left from their jobs in this period. Furthermore, the Committee also notes the Government's information that 47,361 labour inspection visits were carried out between 2020 and 2021. **The Committee requests the Government to continue to provide information on the number of labour inspectors working at the DIFE and to provide information on any progress made in filling the 108 vacant posts, as well as on any other measures taken or envisaged to fill all of the remaining vacant posts. The Committee also requests the Government to provide information on the promotion of labour inspectors to senior posts, as well as on any specific measures taken to fill the posts left vacant because of those promotions. It also requests the Government to continue to include, in the labour inspection annual report, information on the number of labour inspection visits carried out, disaggregated by sector.**

Furthermore, the Committee also notes the up-to-date information provided by the Government, in reply to its previous comments, on the training provided to labour inspectors (including the number of participants and subjects covered by in-house training programmes between 2020 and 2021). It also notes that, according to the information provided by the Government, the number of computers with internet connections increased from 80 in 2019 to 425 in December 2020 and that labour inspectors were equipped with 425 Android tablets to use during inspections. The Committee also notes that the number of vehicles allocated to the labour inspection service remained the same as in 2019. The Committee also notes an increase in the budget allocated to the DIFE, from 418.5 million taka in 2019–20 to 445 million taka in 2020–21. The Committee takes note that, in its observations, the ITUC indicates that inspectors suffer from logistic and transport shortages to carry out their duties properly, especially considering the additional inspection duties gained by the DIFE with regard to EPZs and SEZs. **The Committee requests the Government to provide its comments in this respect.**

*Articles 12(1) and 15(c). Inspections without previous notice. Duty of confidentiality in relation to complaints.* In relation to its previous comments, the Committee notes the Government's indication that: (i) the confidentiality of the complaint and the anonymity of the complainants are ensured, where applicable; (ii) according to the standard operating procedure on labour complaints investigation, adopted in 2020, a minimum of 50 per cent of the regular inspections are unannounced; and (iii) generally, all the special inspections (such as accident investigations and complaint investigations, among others) are unannounced, except where the presence of witnesses or certain documentation are required. The Committee notes that, pursuant to *Article 15* of the Convention, exceptions on confidentiality are understood to require particular justification, with strict standards applied in this respect. **The Committee requests the Government to take specific measures to ensure that labour inspectors treat as absolutely confidential the source of any complaint and give no intimation to the employer that an inspection visit was made in consequence of the receipt of such a complaint. Noting the absence of information in this regard, the Committee once again requests the Government to provide specific information on the number of unannounced inspection visits and those undertaken with prior notice, disaggregated by ready-made garment factory, shop, establishment, and other factories, as well as statistical information on the outcome of those visits, disaggregated in the same manner.**

*Articles 17 and 18. Legal proceedings. Effectively enforced and sufficiently dissuasive penalties.* With regard to its previous comments, the Committee notes that the Government once again reiterates that there is one legal officer at the DIFE responsible for the follow-up of labour law violations detected by labour inspectors, and that there is a plan to establish a legal unit at the DIFE, which is proposed to be composed of nine legal officers (less than the 17 legal officers previously mentioned by the Government). The Committee takes note of the Government's additional information that the creation of new posts for a legal unit has already been requested by the DIFE to the MOPA. Furthermore, the

Committee also notes the ITUC's indication that fines for violations under the BLA remain too low to be dissuasive and are not enforced due to the lengthy legal process and to corruption. The ITUC also indicates that little data is available on the extent to which fines or penalties are imposed and that criminal proceedings for violations of the BLA are rare. **The Committee requests the Government to continue to provide information on the progress made to establish a legal unit at the DIFE, indicating the number of staff and their functions, and to provide information on any other measures taken or envisaged to improve the proceedings for the effective enforcement of legal provisions. While noting the absence of information in this regard, the Committee once again requests the Government to provide information on: (i) any measures introduced or envisaged to ensure that penalties for labour law violations are sufficiently dissuasive; and (ii) the specific outcome of the substantial number of cases, indicated by the Government in the labour inspection report, that are referred to the labour courts (such as the imposition of fines, the amounts collected from fines imposed, and also sentences of imprisonment) and to specify the legal provisions to which they relate. Finally, the Committee requests the Government to provide up-to-date information on the number and nature of violations detected.**

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

**[The Government is asked to reply in full to the present comments in 2022.]**

## Congo

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1999)

### Labour Administration Convention, 1978 (No. 150) (ratification: 1986)

The Committee notes with **deep concern** that the Government's reports on Convention No. 81, due since 2012, and on Convention No. 150, due since 2018, have 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 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 labour administration and labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 150 (labour administration) together.

#### A. Labour inspection

##### *Labour Inspection Convention, 1947 (No. 81)*

*Application of the Convention in law and in practice.* The Committee notes the adoption of Order No. 21399 of 16 August 2021 on the responsibilities and organization of the departmental labour directorates, which, inter alia, determines the responsibilities of the head of the labour inspectorate. The Committee also notes that a Decent Work Country Programme (DWCP) 2018–22 has been developed in collaboration with the Office. The Committee notes that one of the priority actions to strengthen the social dialogue capacities of actors in the world of work is the restructuring of the labour administration to increase its efficiency (outcome 2.4). Aware of the country's budgetary difficulties, the Committee observes that the Government has not provided detailed information on the legislative framework and the implementation of the Convention for many years. Thus, the Committee is lacking important details for the examination of the labour inspection system in the country. **The Committee therefore urges the Government to provide, in its next report, any information to enable it to assess the degree of application of the Convention in law and practice. This should include information on:**

- (i) **the organization of the labour inspectorate, including the updated geographical distribution of the number of officials empowered with inspection functions (Articles 2, 4, and 10);**

- (ii) *the proportion of inspectors' enforcement activities vis-à-vis their conciliation activities (Article 3(1) and (2));*
- (iii) *the cooperation established between the labour inspector services and other government services (Article 5(a)) and collaboration with employers' and workers' organizations (Article 5(b));*
- (iv) *the frequency and content of, and number of participants in training provided to labour inspectors throughout their career (Article 7(3));*
- (v) *the conditions of service of inspection staff, including progress in adopting a special status for labour inspectors (Article 6);*
- (vi) *the financial resources, means of action and transport available to the labour inspectorate (Article 11);*
- (vii) *the measures taken to ensure that cases of occupational disease are notified to the labour inspectorate (Article 14).*

*In addition, the Committee urges the Government to take the necessary measures to ensure that annual reports on the activities of the labour inspectorate are published and communicated regularly to the ILO, within the time lines set out in Article 20, and that they contain the following information, as set out under Article 21: (a) laws and regulations relevant to the work of the inspection service; (b) number and composition of staff of the labour inspection service, in accordance with the requirements of Articles 6, 7, 8, 9 and 10; (c) statistics of workplaces liable to inspection and the number of workers employed therein; (d) statistics of inspection visits in accordance with the requirements of Article 16; (e) statistics of violations and penalties imposed in accordance with the requirements of Articles 13, 17 and 18; and (f) and (g) statistics of industrial accidents and occupational diseases in accordance with the requirements of Article 14.*

*The Committee also requests the Government to provide information on the progress made regarding the revision of the Labour Code and to provide a copy of the draft law.*

*The Committee once again reminds the Government of the possibility of availing itself of ILO technical assistance and of requesting, within the framework of international financial cooperation, financial support in order to ensure the establishment and operation of the labour inspection system, and would be grateful for information on any progress made or difficulties encountered.*

## B. Labour administration

### *Labour Administration Convention, 1978 (No. 150)*

*Articles 1, 4, 5, 6, 8 and 10 of the Convention. Structure and operation of the labour administration.* Noting the above-mentioned DWCP 2018–22, the Committee observes an absence of up-to-date information on the structure and operation of the system of labour administration. **Aware of the complex socioeconomic context, the Committee urges the Government to provide in its next report information on all the following points:**

- (i) *the updated structure of labour administration at central, regional and local levels and the organizational charts of the bodies provided for in Decree No. 2009-469 (Article 1);*
- (ii) *measures taken to ensure the effective organization of the labour administration in the territory and the coordination between the central administration and the departmental directorates (Article 4);*
- (iii) *consultation, cooperation and negotiation between the public authorities and the most representative organizations of employers and workers carried out within the social dialogue tripartite bodies at the national, regional and local levels for the implementation of the provisions of the Convention (Article 5);*

- (iv) *the responsibilities of the competent bodies within the system of labour administration relating to the preparation, administration, coordination, checking and review of national employment policy (Article 6);*
- (v) *the composition and activities carried out by the technical advisory committee on international labour standards, the issues which led to consultations within the committee and the results thereof (Article 8).*

*Referring to its comments above concerning the application of Articles 6 and 11 of Convention No. 81, the Committee requests the Government to provide information on the measures taken to ensure that the staff of the labour administration system have the status, material means and financial resources necessary for the effective performance of their duties, in accordance with Article 10 of the Convention.*

## Dominica

**Labour Inspection Convention, 1947 (No. 81)** (ratification: 1983)

**Labour Administration Convention, 1978 (No. 150)** (ratification: 2004)

The Committee notes with **deep concern** that the Government's reports on Convention No. 81, due since 2014, and on Convention No. 150, due since 2015, have not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Conventions on the basis of the information at its disposal.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour administration and labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 150 (labour administration) together.

### A. Labour inspection

*Labour Inspection Convention, 1947 (No. 81)*

*Article 3 of the Convention. Functions of labour inspection.* The Committee notes that inspectors, as defined under the Labour Standards Act, ensure the enforcement of provisions relating to wages, working hours and employment conditions (section 28(2)), while safety officers, as defined under the Employment Safety Act (section 8) are responsible for the inspection of working conditions that affect occupational safety and health. **The Committee requests the Government to indicate through what measures or activities inspectors and safety officers: (i) provide technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions; and (ii) bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions, as required by Article 3(1)(b) and (c) of the Convention.**

*Articles 4, 6, 7, 8, 10 and 16. Central authority. Number and conditions of service of labour inspection staff. Frequency of inspection visits.* The Committee notes that, according to the information available on the official website of the Government, the Division of Labour is now under the Ministry of National Security and Home Affairs. The Committee notes that the Government Directory of officials in the Division of Labour includes the Labour Commissioner, the Deputy Labour Commissioner and labour officers. It is not clear which of these officials perform the functions of inspectors and safety officers, and there is no information on how the inspection activities are performed. **The Committee requests the Government to indicate which officials in the Division of Labour perform the functions of inspectors and safety officers. It also requests the Government to provide information on the employment status of the inspectors and safety officers, as well as the recruitment procedures, qualification requirements and trainings available to them. The Committee finally requests the Government to provide**

**information on the frequency of inspection visits carried out by both inspectors and safety officers, with a view to ensuring that all workplaces are inspected as often and as thoroughly as necessary.**

**Article 11. Necessary equipment and material resources available to labour inspectors. The Committee requests the Government to provide information on the provision of necessary equipment and material resources to inspectors and safety officers for the performance of their duties, including suitably equipped offices, transport facilities and reimbursement of expenses.**

**Articles 14, 20 and 21. Data collection and reporting. Publication and content of annual report. The Committee observes that there does not seem to be any information regarding the notification of industrial accidents and cases of occupational diseases to the Division of Labour. The Committee further notes that no recent annual reports on inspection services have been published or submitted. The Committee requests the Government to provide information on the arrangements for the notification of industrial accidents and occupational diseases in practice. The Committee also requests the Government to take the necessary measures to ensure that an annual report on the work of the labour inspection services is prepared and published, and that it contains information on all the items listed under Article 21 of the Convention, notably, statistics of inspection visits, violations and penalties imposed, as well as industrial accidents and cases of occupational disease.**

## B. Labour administration

### *Labour Administration Convention, 1978 (No. 150)*

**Articles 1 and 4 of the Convention. Organization and operation of the labour administration system. The Committee notes that the Division of Labour is now under the Ministry of National Security and Home Affairs, consisting of a Labour Commissioner, Deputy Labour Commissioner, labour officers, a senior clerk, a senior executive officer and a tribunal officer. The Committee requests the Government to provide information on the functions and responsibilities of each of those positions, and on how those functions and responsibilities are coordinated within the labour administration system.**

**Articles 5, 6 and 8. Consultations within the system of labour administration. Formulation and monitoring of national labour policy. Participation in the preparation of a national policy concerning international labour affairs. The Committee previously noted that, according to the Government, the Industrial Relations Advisory Committee (IRAC), which is tripartite, is involved in the formulation of the national policy and the preparation of policy concerning international labour affairs, through the submission of draft legislation to Parliament. However, the Committee also recalls that, according to the observations submitted by the Waterfront and Allied Workers Union in 2010 the IRAC was inactive. The Committee also notes that, according to section 7 of the Employment Safety Act, consultative and advisory committees, consisting of the Ministers responsible for planning and health and representatives of employers and workers, may be established to advise on any matters in relation to the administration of the Act, to assist in the establishment of reasonable standards of safety, and to recommend regulations respecting safe employment practices, procedures and techniques. The Committee requests the Government to provide information on the activities carried out by the IRAC, including specifically all activities carried out since 2018, and to provide information on the scope of the IRAC's proposals, together with any relevant documents on its meetings. It also requests the Government to indicate whether any consultative and advisory committees, as provided for under section 7 of the Employment Safety Act, have been established, and if so, to provide further information on their functioning in practice. Regarding the preparation of policy concerning international labour affairs, the Committee also refers to its comments under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

**Article 7. Extension of the functions of the system of labour administration. The Committee notes that, according to the information provided by the Government in its first report, the national labour**

legislative system does not cover workers who are not employees, and the Division of Labour does not have the mandate to consider this extension. **The Committee requests the Government to indicate whether it has any plans to extend the functions of labour administration to include activities relating to the conditions of work and working life of categories of workers who are not, in law, employed persons, as set forth in Article 7(a)–(d) of the Convention.**

*Article 10. Human resources and material means for the labour administration system.* The Committee notes that, according to the information in the Government's first report, the recruitment of officials in the labour administration falls under the purview of the Public Service Commission and is regulated by the Public Services Act. The Government also indicated that the status of staff of the labour administration and the conditions of services are negotiated between the Establishment, Personnel and Training Department and public personnel unions, such as the Dominica Public Service Union, and reflected in memorandum agreements and general orders. Moreover, specialized technical trainings are available both internally and with external collaboration. The Government further stated that financial resources for the performance of labour administration duties are allocated and budgeted for in the annual estimates of the Government, and are subject to the annual budget change. **The Committee requests the Government to provide further information on the recruitment procedure and qualifications required for labour administration personnel. It also requests the Government to provide detailed information on the status and conditions of service of those personnel, including copies of related memorandum agreements and general orders, as well as on the content of initial and in-service trainings. The Committee finally requests the Government to provide information, as far as possible, on the elements taken as a basis to determine the annual budgetary allocation for the material means and financial resources available to the labour administration.**

## Grenada

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)

*Articles 20 and 21 of the Convention. Establishment, publication and communication to the ILO of annual inspection reports.* The Committee notes that, in reply to its previous comments regarding the publication and transmission to the ILO of the annual inspection report, the Government indicates that no labour inspection report has been produced. The Government notes that during the year 2020, given the onset of the pandemic, the Ministry of Labour, along with workers' and employers' representatives, inspected a number of Government offices and statutory bodies to ensure compliance with COVID-19 protocols. The Government indicates that a copy of the report produced on the occasion of those visits will be shared with the Office. **The Committee once again urges the Government to indicate the measures adopted or envisaged to ensure that annual inspection reports are published and transmitted to the ILO, in accordance with the requirements of Articles 20 and 21. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance for this purpose.**

**The Committee requests the Government, in any event, to provide statistical information that is as detailed as possible on the activities of the labour inspection services (such as industrial and commercial workplaces liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, penalties applied, number of industrial accidents and cases of occupational disease) to enable the Committee to make an informed assessment on the application of the Convention in practice.**

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

## Guatemala

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1994)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the information provided by the Government in reply to its previous comments in relation to *Article 17* of Convention No. 81 and *Article 22* of Convention No. 129 (legal or administrative proceedings in the case of violations of or failure to comply with legal provisions enforceable by labour inspectors).

*Article 3 of Convention No. 81 and Article 6 of Convention No. 129. Functions of labour inspectors.* The Committee notes that, in reply to its request for information on the measures adopted to ensure that the conciliation functions of labour inspectors do not interfere with the effective discharge of their primary duties, the Government indicates that labour inspectors fulfil conciliation functions on a daily basis within their inspection duties, as part of their obligation to ensure compliance with conciliatory settlements as set out in section 278 of the Labour Code. The Committee however notes that the Government has provided additional information according to which there are certain labour inspectors to whom conciliation cases are assigned and others who are responsible for carrying out inspections. In this regard, the Government indicates that the delegation of the General Labour Inspectorate of the department of Guatemala has 18 inspectors who undertake conciliation and 23 who carry out inspection visits of workplaces following denunciations. The Committee recalls that, in accordance with *Article 3(2)* of Convention No. 81 and *Article 6(3)* of Convention No. 129, any further functions which may be entrusted to labour inspectors, such as conciliation, shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. ***In view of the high proportion of inspectors in at least one department who undertake conciliation functions on a daily basis, and the absence of information regarding the fulfilment of inspection visits and related duties by these same inspectors, the Committee requests the Government to provide detailed information on the time and resources allocated to the conciliation activities undertaken by labour inspectors, as a percentage of the total time and resources used by inspectors for the discharge of their primary duties, as envisaged in Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129.***

*Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129. Powers of labour inspectors to enter freely at any hour of the day or night any workplace liable to inspection.* With reference to its request to adopt measures to ensure that labour inspectors can enter enterprises at any hour of the day or night, the Committee notes the Government's indication in its report that for inspectors to be able to enter any workplace liable to inspection without previous notice, they have to take into account its working hours so that their inspection can take the time that is necessary. The Committee notes the Government's indication that the National Tripartite Commission on Industrial Relations and Freedom of Association (CNTRLLS) has been discussing a draft legislative initiative for the reform, among other provisions, of section 281(a) of the Labour Code which, according to the Government's indications, limits the entry of labour inspectors into any workplace liable to inspection to the working day, in accordance with the internal rules or the authorizations issued by the Ministry of Labour and Social Welfare (MTPS). The Committee also notes that, according to the information provided by the Government, the number of inspections carried out at night between 2017 and May 2021 represented fewer than 1 per cent of the total number of inspections undertaken by day over the same period. ***The Committee requests the Government to take concrete measures, including within the context of a possible amendment to section 281(a) of the Labour Code, in order to guarantee that labour inspectors***

***provided with proper credentials are empowered to enter at any hour of the day or night any workplace liable to inspection, in accordance with Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129. The Committee also requests the Government to report any progress in the adoption of the legislative initiative for the amendment of section 281(a) of the Labour Code.***

*Article 12(2) of Convention No. 81 and Article 16(3) of Convention No. 129. Notification of the presence of inspectors unless such notification may be prejudicial to the performance of inspection duties. With reference to its request to adopt measures to ensure that inspectors have the power to omit to notify their presence to the employer if such notification may be prejudicial to the performance of their duties, the Committee notes the Government's indication that labour inspectors do not give prior notice to employers that they will be carrying out controls at workplaces, but only show the employer the letter of appointment and identity documents of the inspectors concerned and the purpose of the control, and the employer is then required to allow the entry of the inspectors. In this regard, the Committee also notes that, according to the information provided by the Government, the CNTRLLS has also been discussing a draft initiative to reform section 271 of the Labour Code, which sets out the requirement to notify the presence of inspectors by producing proof of their identity and appointment, without envisaging exceptions in this regard. **The Committee requests the Government to adopt concrete measures, including within the context of a possible amendment to section 271 of the Labour Code, to ensure that labour inspectors 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. The Committee also requests the Government to provide information on any progress achieved in the adoption of the legislative initiative to amend section 271 of the Labour Code.***

*Article 18 of Convention No. 81 and Article 24 of Convention No. 129. Adequate and effectively enforced penalties. The Committee notes that, in reply to the observations of the Autonomous Popular Trade Union Movement and Global Unions of Guatemala concerning the failure of the labour inspection services to impose penalties in practice, the Government indicates that, although in the past the conditions did not exist for the effective enforcement of the penalties issued by labour inspectors (the necessary units had not been established and the personnel to monitor the enforcement of such penalties had not been recruited), penalty procedures are now being initiated and decisions issued to impose fines on enterprises that are in violation. In this regard, the Committee notes the Government's indication that the lack of personnel responsible for following up cases is still affecting their processing, especially in the General Labour Inspectorate of the department of Guatemala. **The Committee requests the Government to provide information on the functioning of the units responsible for enforcing the effective application of the penalties imposed by labour inspectors, with an indication of the measures adopted to reinforce their activities and improve the human resources available to them. The Committee also requests that the Government provide detailed information on the number and nature of penalties imposed, including the amounts of fines imposed and collected, once the penalty procedures have been initiated and decisions issued.***

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

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) received on 1 September 2019, in which it reiterated its observations of 2016, 2017 and 2018 and adds that the situation has deteriorated.

*Articles 3, 12, 13, 15, 16, 17 and 18 of the Convention. Discharge of primary duties of the labour inspectorate. Appropriate sanctions.* In its previous comment, the Committee noted the Government's indications concerning the obstacles faced in applying the Convention in practice, particularly the inadequate numbers of labour inspectors, and requested the Government to supply detailed information together with statistics on the planning and implementation of systematic inspections throughout the country, including in the export processing zones, and also their results. The Committee notes the information provided by the Government concerning the planning and implementation of inspection visits in two of the ten departments in the country in several activity sectors, including: (i) in the western department: 64 inspections (32 initial inspections and 32 catch-up inspections) conducted in 2017; 16 inspections (11 of which in the textile industry), 31 unannounced inspection visits in enterprises and 24 investigations, conducted in 2018; and 42 visits planned and ten advice services carried out in 2019; and (ii) in the north-eastern department, ten initial inspections and ten follow-up inspections were conducted in 2018. The Government indicates that the main objective of labour inspection over this period has been redressing the inconformity identified, rather than imposing penalties. The Committee also notes that the CTSP in its observations indicates that inspectors do not provide technical advice to workers and employers, but limit themselves to calculating the statutory benefits due in disputes between employers and workers. The CTSP also indicates that there are no statistics on labour inspection in the country; to its knowledge, there is no planning or implementation of systematic inspections throughout the country; and, in practice, labour inspection was carried out only in the textile industry. **While duly noting the progress achieved since 2017 by the labour inspectorate in the country, particularly concerning the planning and implementation of visits in two of the ten departments in the country, the Committee requests the Government to strengthen its efforts to progressively expand the planning and conducting of inspection visits to all regions and all economic sectors of the country. The Committee also requests the Government to continue to provide information on the measures taken in this regard, including the statistics concerning the number of inspections planned and conducted, disaggregated by sector, along with details of the results of these visits, including the warnings issues, legal procedures brought or recommended, and penalties imposed and applied. The Committee also requests the Government to ensure that, during their inspection visits, the inspectors perform their primary functions in conformity with Article 3 of the Convention.**

*Articles 6, 10 and 11. Human and material resources available to the labour inspectorate.* The Committee notes the Government's indication in reply to its previous comments that: (i) between 2014 and 2017, thanks to the project to build the capacities of the Ministry of Social Affairs and Labour (ILO/MAST), piloted by the ILO, a team was established of 20 officials, 12 of whom are inspectors in the field and eight are trainers; (ii) in 2018, means of transport (six motorcycles and a car) were provided to certain regional MAST offices and that efforts are envisaged to equip all inspection services with the means necessary to guarantee labour inspection in workplaces; and (iii) it planned to upwardly revise the salaries of labour inspectors in the same way as all other inspectors of the public administration. The Committee notes the CTSP's observations, according to which the Government has not made an effort to change the status of labour inspectors in order to provide them with better employment conditions, such as a decent salary, a guarantee of productive employment and social advantages, which could jeopardize the independence of inspectors. **The Committee requests the Government to pursue its efforts towards progressively increasing the number of inspectors and the material means placed at their disposal to enable them to effectively discharge the functions of the inspection services. The Committee also requests the Government to take the necessary measures to improve the conditions of service of the inspectors, including increasing their remuneration. In this regard, it requests the Government to provide information on the salary scales and labour inspectors' career prospects, compared with public servants who carry out similar functions within other government services, such as tax inspectors and the police.**

*Articles 6, 7(1) and Article 15(a). Recruitment of inspectors. Prohibition from having any direct or indirect interest in the undertakings.* In its previous comment, the Committee noted that, in its observations, the CTSP indicated that recruitment of labour inspectors was carried out on the basis of clientelism. The Committee notes the Government's indication that, to ensure full application of sections 47 to 75 of the Decree of 17 May 2005, revising the general public service regulations, which regulate the recruitment procedure of public service agents, including labour inspectors, an administrative structure has been established for this purpose, entitled the Office for Human Resources Management (OMRH). The Committee also notes that the CTSP reiterated in 2019 its previous observations on this matter and indicated the further deterioration of the labour inspectorate's independence vis-à-vis employers. **The Committee requests the**

**Government to ensure that labour inspectors are recruited with sole regard to their qualifications for the performance of their duties and that their status and conditions of service are such that they are independent of changes of government and of improper external influences in conformity with Articles 6 and 7(1) of the Convention. The Committee also requests the Government to provide information on the composition of the OMRH as well as on its prerogatives.**

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

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

## Honduras

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

The Committee notes the observations of the Honduran National Business Council (COHEP), received in 2020, as well as the Government's reply. The Committee also notes the observations of COHEP, received on 31 August 2021 and the Government's response to these observations, received on 18 November 2021.

*National Labour Inspection Strategy 2018–22.* Further to its previous comments on the specific measures taken for the implementation of the National Labour Inspection Strategy, the Committee notes from the Government's report that it is receiving ILO technical assistance, on which basis the cities of Tegucigalpa and San Pedro Sula have been established as pilot cities to implement the Strategy, in which labour inspectors from the various regional offices will participate. It also notes that the Government indicates that the priority areas of the Strategy target industry, trade, tourism, mining, transport, agriculture, as well as the informal economy. Regarding the progress made, the Committee notes the Government's indications relating to the training and diploma courses for inspectors on the application of labour law, as well as the provision of work equipment. The Committee also notes COHEP's observations that: (i) the National Labour Inspection Strategy has been integrated into the Annual Operating Plan of the Secretariat of Labour and Social Security (STSS); (ii) the implementation of the Strategy has been carried out with all the regional inspectors of the General Directorate of Labour Inspection (DGIT), by introducing information workshops, during which the goals were established in an inclusive manner with all staff, taking into account the available resources; and (iii) to date, COHEP has not received an update from the STSS on the current status of the Strategy's implementation. **The Committee requests the Government to continue providing information on the specific measures taken to implement the National Labour Inspection Strategy, as well as on the progress made in pursuit of the established goals.**

*Article 6 of the Convention.* Adequate conditions of service of labour inspectors, including sufficient remuneration to ensure their impartiality and independence from any improper external influences. Further to its previous comments on the remuneration of labour inspectors and investigations launched against them, the Committee notes the Government's indication that the lowest wage paid to a labour inspector is 11,200 Honduran lempiras (equivalent to US\$464). The Government also indicates that labour inspectors receive wages graded according to their classification level, based on seniority, five-year bonuses and increments granted. The Committee further notes the Government's indication that on 4 June 2018, it requested budgetary support from the Secretariat of State to cover the wages, as it does not have its own funds to carry out a wage adjustment at the national level. The Committee also notes that COHEP provides information on the budget allocated to the STSS in the general income and expenditure budget for the financial years 2020 and 2021. Regarding the investigations launched against labour inspectors, the Committee notes the information provided by the Government that, in 2018, 2019 and 2020, 74 disciplinary proceedings were undertaken, resulting in 40 complaints being set aside, 24 warnings, 8 suspensions without pay and 2 dismissals. The Committee also notes the Government's indication regarding the creation of the Technical Inspection Audit, governed by

sections 8, 20, 21 and 22 of the Labour Inspection Act. The Government indicates, in this regard, that tripartite efforts are under way to establish the Audit's operating procedure. **The Committee requests the Government to continue providing information disaggregated by year on the number of complaints received against labour inspectors, indicating the grounds for such complaints, the number of investigations actually launched and their outcomes. It also requests the Government to provide information on the progress made on the functioning of the Technical Inspection Audit. The Committee also requests the Government to step up its efforts and take measures to ensure that the remuneration levels of labour inspectors are in line with those of other public officials carrying out similar functions. It also requests the Government to provide detailed information on the results achieved by these measures, including wage figures for each of the levels of labour inspectors (levels I, II, and III), relative to the wage levels of public officials carrying out similar duties.**

*Articles 10 and 16. Number of labour inspectors and the performance of a sufficient number of regular visits throughout the country.* Further to its previous comments on the progress achieved in the recruitment of labour inspectors, the Committee notes the Government's indication that, to date, labour inspectors have been recruited on the basis of vacancies left by other inspectors who have retired. The Government reports that the DGIT has 169 labour inspectors nationwide, which allows the Committee to observe that there has been no new recruitment since December 2018. The Committee further notes COHEP's observations that labour inspectors have few financial resources allocated to their activities and that the number of labour inspectors is insufficient to meet the national labour inspection needs. Concerning inspection coverage and priority issues for labour inspection, the Government provides information on controls carried out through the various types of labour inspection, envisaged in the Labour Inspection Act (regular, extraordinary and advisory), in workplaces in prioritized sectors throughout the country. The Government also indicates that priority issues for labour inspection include wages, safety and health, child labour and freedom of association, and that priorities are determined on the basis of the number of complaints received and the violations identified through scheduled and advisory inspections. Finally, the Committee notes the information provided by the Government on the number of regular and extraordinary inspections disaggregated by year and region according to which, in 2019 and 2020, 3,356 regular inspections and 23,252 extraordinary inspections were carried out. It also notes that there was a fall in both regular and extraordinary inspections in the period 2018–20. **The Committee urges the Government to take the necessary measures to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspection service. In this regard, it requests the Government to provide information on the efforts made to recruit new labour inspectors, indicating the updated number of active inspectors. The Committee also requests the Government to provide detailed information on the number of regular and extraordinary inspections carried out, including in the informal economy. Furthermore, it requests the Government to indicate the resources of the labour inspectorate allocated to labour dispute mediation and the number of cases mediated by labour inspectors each year.**

*Article 12(1)(a). Scope of labour inspectors' free access to workplaces liable to inspection.* In its previous comments, the Committee noted that section 15(I) of the Labour Inspection Act provides that labour inspectors are authorized to freely enter any workplace, establishment or place liable to inspection at any time of day or night, provided that work is in progress in the workplace. In this respect, it requested the Government to provide information on the application in practice of this requirement. The Committee notes the Government's indication that section 45 of the Labour Inspection Act ensures the employer's participation in the inspection to ensure equality between the parties, transparency and fairness of the inspection. The Government adds that conducting an inspection in a workplace where no work is in progress would not safeguard these principles and could result in the invalidity of the proceedings, and thereby the ineffectiveness of the inspection and consequent impunity of labour violations. The Committee also notes COHEP's observations that section 33 of the Regulations Implementing the 2019 Inspection Act allows for days and hours to be designated for any type of

inspection and provides that, in the event that the workplace to be inspected is not operating on the designated days and times, the labour authority will reschedule the inspection. The Committee notes that the designation of days and times for inspections restricts inspectors' free initiative to enter workplaces. The rescheduling of inspection in the event that the workplace is not operating on the designated days and times also leaves open the possibility that workplaces may close to prevent labour inspectors from verifying compliance with the legal provisions. The Committee recalls that the different restrictions placed in law 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. ***It therefore requests the Government to take the necessary measures, without delay, to remove these restrictions to ensure that labour inspectors may enter freely and without previous notice, at any hour of the day or night, any workplace subject to inspection, as provided for in Article 12(1)(a) of the Convention.***

*Article 12(1)(c)(i). Scope of interviews as an investigation method.* In its previous comments, the Committee requested the Government to take the necessary measures to amend section 49 of the Labour Inspection Act, which establishes that, during the inspection, the labour inspector shall question the workers and the employer or their representatives separately and the questions shall only relate to the subject matter of the inspection, in order to avoid possible influence on the replies. The Committee observes that, to date, the provisions of section 49 of the Labour Inspection Act have not been amended. It also notes the Government's indications relating to the mechanism for interviewing the parties, that the questions should be directly related to the inspection and not to matters that do not fall within the labour inspector's competence, or even less within the labour sphere. The Government adds that, while during extraordinary inspections, the labour inspector only addresses the content of the complaint lodged by the worker or their representative, in regular inspections the inspector has greater freedom in the questions they may ask, provided they stay within their labour-related area of competence. The Committee recalls that, under *Article 12(1)(c)(i)* of the Convention, labour inspectors shall be empowered to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions. ***The Committee therefore urges the Government to take the necessary measures to amend section 49 of the Labour Inspection Act to ensure the conformity of national legislation with the provisions of Article 12(1)(c)(i) of the Convention.***

*Article 18. Adequate penalties for violations of the legal provisions enforceable by labour inspectors.* Further to its previous comments, the Committee notes the information provided by the Government according to which, in 2019, penalties were imposed on 207 companies for a total of 39,359,143 lempiras (equivalent to US\$1,629,599), and in 2020, penalties were imposed on 75 companies for a total of 344,220 lempiras (equivalent to US\$14,251). The Committee notes that the Government does not refer to the number of violations detected relative to the penalties imposed, or to the nature of the penalties imposed. ***The Committee requests the Government to provide detailed information, disaggregated by year, indicating the number of labour law violations identified, the nature of such violations (wages, working time, occupational safety and health, child labour, and others), as well as the number of penalties imposed and the amount of fines paid.***

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

## Hungary

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1994)**

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. Additional functions entrusted to labour inspectors.* The Committee previously noted that combating illegal employment was a priority for labour inspection, and that the labour inspection services were regularly associated in joint inspections to eradicate illegal migration, among others, in cooperation with the police and the custom authorities. In this respect, the Committee notes the Government's reference to the Labour Inspection Act, which entrusts labour inspectors, among other things, with the control of the work and residence permits of foreign workers, and the notification to the immigration police of any decision concerning the infringement of the provisions on the employment of foreign workers (sections 3(1)(i) and 7/A(7) of the Labour Inspection Act).

The Committee once again notes that the Government has not provided the information requested on the role of labour inspectors in granting foreign workers in an irregular situation their due rights resulting from their employment relationship. The Committee recalls that, pursuant to *Article 3(1) and (2) of Convention No. 81 and Article 6 of Convention No. 129*, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. In this respect it stated in its 2006 General Survey, *Labour inspection*, paragraph 78, that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. In this respect, the Committee also recalls that in its 2017 General Survey on certain occupational safety and health instruments, it indicated that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country (paragraph 452) or that their complaint will not be kept confidential. ***The Committee requests the Government to take measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as provided for in Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It also once again requests the Government to indicate the manner in which the labour inspectorate discharges its primary duties in ensuring the enforcement of employers' obligations with regard to any statutory rights workers may have in an irregular situation for the period of their effective employment relationship. It urges the Government to provide information on the number of cases in which workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits. In addition, the Committee requests the Government to provide information on the manner in which it ensures that labour inspectors treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions.***

*Articles 10 and 16 of Convention No. 81 and Articles 15 and 21 of Convention No. 129. Number of labour inspectors and effectiveness of the labour inspection system.* The Committee previously noted a significant decrease in the number of labour inspectors from 696 to 401 between 2008 and 2013. In this respect, the Committee noted that the comments of the workers' representatives of the Tripartite National ILO Council (included in the Government's reports) had indicated that this decrease had compromised the efficiency of inspections as shown by the increase in the number of industrial accidents and violations detected in recent years. On the other hand, the Committee noted the Government's reply to these comments indicating that the increased number of violations detected was in fact a result of the enhanced efficiency of inspections due to the establishment of labour inspection priorities which were determined by annual labour inspection plans (focused on high risk sectors).

The Committee notes with **concern** from the statistics provided in the Government's report that the number of labour inspectors continued to decrease to 393 labour inspectors (as of May 2017), and that the number of occupational accidents increased between 2010 and 2016 from 19,948 per year to 23,027. The Committee recalls from its 2017 General Survey on certain occupational safety and health instruments, paragraph 441, that focusing inspections on the most hazardous workplaces must not diminish the overall resource commitment of the labour inspectorate. ***Noting the significant decline in the number of inspectors***

**since 2008, as well as the increase in the number of occupational accidents reported, the Committee requests the Government to take the necessary measures to ensure that the number of labour inspections are adequate to ensure the effective protection of workers. The Committee requests the Government to continue to provide statistical information on the number of labour inspectors, inspection visits, violations detected and penalties imposed. It also requests the Government to continue to provide information on the number of occupational accidents, and to provide an explanation for their increased number in recent years.**

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.**

## India

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 16 September 2020. The ITUC states that, as part of the response to the COVID-19 pandemic, a number of states (including Uttar Pradesh, Madhya Pradesh, Rajasthan and Gujarat) have made changes to their labour laws by way of amendments, ordinances or executive orders, bypassing tripartite consultations and parliamentary debates. The ITUC states that the changes, based on the extraordinary measures provisions of the Factories Act 1948, gravely undermine workers' rights and leave them without protection, in particular with regard to working hours, safety and health and wages. The ITUC also expresses concern about the provisions adopted in the state of Madhya Pradesh that exempt "non-hazardous factories" from routine inspections by the Labour Commissioner, and permit these factories to submit third-party certification regarding compliance instead. The ITUC states that this exemption is a violation of the Convention and will endanger the health and safety of workers. **The Committee requests the Government to provide its observations in this respect.**

In addition, the Committee notes that the Occupational Safety and Health (OSH) and Working Conditions Bill, previously noted by the Committee, was adopted in September 2020. The Committee proceeded with the examination of the application of the Convention on the basis of the new legislation adopted (see *Articles 12 and 17* below), as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations made by the Council of Indian Employers (CIE), received on 30 August 2019, and the observations made by the International Trade Union Confederation (ITUC), received on 1 September 2019, as well as the Government's reply in relation to the observations made by the ITUC.

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

The Committee notes the discussion in the Conference Committee on the Application of Standards (CAS) of the International Labour Conference, at its 108th Session (June 2019), on the application of the Convention, and the conclusions adopted. The conclusions of the CAS called upon the Government to:

- (i) ensure that the draft legislation, in particular the Code on Wages, and the OSH and Working Conditions Act, is in compliance with the Convention;
- (ii) ensure that effective labour inspections are conducted in all workplaces, including the informal economy and in all Special Economic Zones (SEZs);
- (iii) promote collaboration between officials of the labour inspectorate and employers and workers, or their organizations, in particular when it comes to the implementation of inspection reports;
- (iv) increase the resources at the disposal of the central and state government inspectorates;
- (v) ensure that labour inspectors have full powers to undertake routine and unannounced visits and to initiate legal proceedings;
- (vi) pursue its efforts towards the establishment of registers of workplaces at the central and state levels;
- (vii) provide detailed information on the progress made with respect to measures taken to improve the data collection system, enabling the registration of data in all sectors;
- (viii) ensure that the operation of the self-certification scheme does not impede or interfere with the powers in functions of labour inspectors to carry out regular and unannounced visits in any way, as this is only a complementary tool;
- (ix) submit its annual report on labour

inspection to the ILO; and (x) provide information on the number of routine and unannounced visits, as well as on the dissuasive sanctions imposed against infractions to guarantee the enforcement of labour protections in practice. The CAS also invited the Government to accept a direct contacts mission and to elaborate a report in consultation with the most representative employers' and workers' organizations on progress made in the implementation of the Convention in law and practice. The Committee notes with **concern** the statement in the Government's report that it does not accept any direct contacts mission.

*Articles 2 and 4 of the Convention. Labour inspection in SEZs.* In its previous comments, the Committee noted the Government's earlier indication that few inspections had been carried out in SEZs, and that Development Commissioners continued to exercise inspection powers in some SEZs. The Committee notes the observations of the ITUC expressing concern that the power of labour inspectors are being exercised by Development Commissioners who have a responsibility to promote investment in SEZs. The Committee also notes the observations made by the CIE that some of the SEZs have jurisdictions in more than one state, and that due to this administrative difficulty, Development Commissioners have been appointed to oversee the functioning of the SEZs. The CIE adds that Development Commissioners have been given full powers to enforce the labour laws through labour inspectors deputed by the local governments.

The Committee notes the Government's indication, in response to the concerns expressed by the ITUC, that the deputed labour inspectors from the states work independently, are paid by the states and may conduct inspections on their proper initiative without prior intimation to the Development Commissioners. The Committee further notes the Government's indications, in reply to the Committee's request to ensure that effective labour inspections are conducted in all SEZs, that the number of inspections has increased substantially in the last three years. In this respect, the Committee notes with **interest** from the statistical information provided by the Government, an increase in the number of inspections undertaken in six of the seven SEZs from 2016–17 to 2018–19: from 0 to 62 in Falta Kolkata; from 26 to 30 in Vishakapatnam; from 46 to 105 in Mumbai; from 16 to 30 in Noida; from 368 to 2,806 in Kandla; and from 189 to 222 in Chennai. The number of inspections undertaken in the SEZ Cochin went from 22 to 18 over the same period. The Committee notes however, that the number of penalties imposed remained low, and in three out of the seven SEZs, no penalties were imposed during this period. **The Committee requests the Government, in line with the 2019 conclusions of the CAS, to ensure that effective labour inspections are conducted in all SEZs. Welcoming the information already provided, the Committee requests the Government to provide more detailed statistical information on the number of labour inspectors responsible for inspections in these zones, the number of inspection visits, the number and nature of offences reported, the number of penalties imposed, the amounts of fines imposed and collected, and information on criminal prosecutions, if any. It also requests the Government to continue to provide information on the number of enterprises and workers in each SEZ. The Committee further requests the Government to provide up-to-date information indicating in which SEZs labour inspection powers have been delegated to Development Commissioners, including the specific powers so delegated and how inspections are carried out in those SEZs.**

*Articles 4, 20 and 21. Availability of statistical information on the activities of the labour inspection services at the central and state levels. Availability of statistics in specific sectors.* The Committee notes the Government's reference, in reply to the Committee's previous request for an annual labour inspection report, to the 2018–19 report published by the Ministry of Labour and Employment, which contains statistical information on inspection activities at the central level (including the number of labour inspections, the number of irregularities detected, the number of prosecutions and convictions, as well as the number of accidents in mines). Concerning the state level, the Committee notes the statistical information on labour inspection activities provided by the Government with its report (including on the number of labour inspections in 14 states, and the number of violations detected, prosecutions and penalties imposed in 15 states). Finally, the Committee welcomes the information available on the Shram Suvidha web portal at the Ministry of Labour and Employment concerning the information on registered workplaces in nine states and the information that discussions are ongoing with other states concerning the integration of information into the portal. The Committee also notes the observations made by the ITUC that the statistical data provided does not allow for an assessment of the effective operation of the labour inspection services. **The Committee urges the Government to pursue its efforts to ensure that the central authority (at the central level or the state levels), publishes and transmits to the ILO annual reports on labour inspection activities containing all the information required by Article 21. In line with the 2019 conclusions of the CAS, the Committee encourages the Government to pursue its efforts towards the establishment of registers of**

**workplaces at the central and state levels. In this regard, the Committee also once again requests the Government to provide detailed information on the progress made with respect to measures taken to improve the data collection system enabling the registration of data in all sectors.**

*Articles 10 and 11. Material means and human resources at the central and state levels.* The Committee notes with **interest** the Government's indication, in response to the Committee's request to increase the resources at the central and state government inspectorates, that more than 574 labour inspectors have been recruited at the state levels in the last two years, bringing the total number of labour inspectors to 3,721. The Government adds that at the central level, the number of labour inspectors is 4,702. The Committee also notes the information provided by the Government in relation to the central level and 19 states on the transport facilities or transport allowance provided, as well as on the available material resources.

The Committee notes the statement of the CIE that the use of technology, information and communications technology in particular, has contributed to promoting compliance. The Committee also notes the observations made by the ITUC that the human and material resources of the labour inspectorate are inadequate. It notes the Government's reply that inspectors at the central government level and in most states are provided vehicles for conducting inspections. ***In line with the 2019 conclusions of the CAS, the Committee requests the Government to continue to take measures to increase the resources at the disposal of the central and state government inspectorates, and to provide information on the concrete measures taken in that respect. It also requests the Government to continue to provide information on the number of labour inspectors, material resources and transport facilities and/or budget for travel allowances of the labour inspection services at the central level and for each state, and to provide statistical information on the workplaces liable to inspection at the central level and state levels.***

*Articles 12 and 17. Free initiative of labour inspectors to enter workplaces without prior notice, and discretion to initiate legal proceedings without previous warning.* The Committee previously requested the Government to ensure that, in the ongoing legislative reform, any legislation developed be in conformity with the Convention. The Committee notes the Government's indication, in response to this request, that the Code on Wages was adopted in August 2019. The Committee notes that pursuant to section 51(5)(b) of the Code on Wages, labour inspectors entitled "inspectors-cum-facilitators" may inspect establishments "subject to the instructions or guidelines issued by the appropriate Government from time to time". It further notes that the Code on Wages provides that inspectors-cum-facilitators shall, before the initiation of prosecution for an offence, give employers an opportunity to comply with the provisions of the Code within a certain time limit through a written direction (section 54(3)).

In addition, the Committee notes the adoption of the OSH and Working Conditions Code on 28 September 2020. The Code provides that, subject to rules made, inspector-cum-facilitators may enter any place which is used, or they have reason to believe is used, as a work place and inspect and examine the establishment and any premises, plant, machinery, article, or any other relevant material (section 35(1) and (2)). The Committee notes that while the Code also gives inspectors-cum-facilitators and other appropriately authorized officers the power to enter workplaces at any time during normal working hours or at any other time deemed necessary, it requires them to give notice in writing to the employer prior to undertaking a survey (section 20(1)); and with respect to inspections in mines (section 41), to provide at least three days before conducting inspections (for the purpose of surveying, levelling or measuring any mine or any output therefrom), except in emergency situations pursuant to a written order from the Chief Inspector-cum-Facilitator. The Committee further notes that section 110 provides that an inspector-cum-facilitator shall not initiate prosecution proceedings against an employer for any offence in Chapter XII of the Code (on offences and penalties), and shall give an opportunity to comply with relevant provisions of the Code within a period of thirty days from the date of notice giving opportunity, and, if the employer complies with such provisions within the period, no such proceeding shall be initiated against the employer. Section 110 further provides that the period of notice does not apply in the case of an accident or if it concerns a violation of the same nature repeated within a period of three years from the date on which the first violation was committed. In addition, the Committee notes the statistics provided by the Government concerning the number of convictions and penalties imposed at the central level and for 11 states for the period of 2016-19.

The Committee recalls that under *Article 12(1)(a)* of the Convention, labour inspectors shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, and it further recalls *Article 17* of the Convention provides that, with certain exceptions, persons

who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning, and that it must be left to the discretion of labour inspectors to give a warning or advice instead of instituting or recommending proceedings. **The Committee requests the Government to take measures to ensure that labour inspectors are empowered, in law and practice and in line with Article 12(1)(a) and (b) of the Convention, to make visits without previous notice. In this respect, noting that the Code on Wages provides for inspections subject to the instructions or guidelines issued by the appropriate Government, the Committee urges the Government to ensure that the instructions issued fully empower labour inspectors in accordance with Article 12(1)(a) and (b) of the Convention. The Committee also requests the Government to provide further information on the meaning of the term "survey" in section 20 of the OSH and Working Conditions Code, and to indicate whether labour inspectors are required to provide notice of all inspections in writing under the Code. It also urges the Government to take the necessary measures to ensure that labour inspectors are able to initiate legal proceedings without previous warning, where required, in conformity with Article 17 of the Convention. In this respect, it requests the Government to provide further information on the meaning of the term "inspectors-cum-facilitators," including the functions and powers of officials performing this role. Noting the statistics already provided, the Committee requests the Government to provide information on the number and nature of offences reported, the number of penalties imposed, the amounts of fines imposed and collected, and information on criminal prosecutions, if any.**

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

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

## Jordan

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1969)

*Articles 1 and 2 of the Convention. Supervision of working conditions and protection of workers in special economic zones (SEZs).* The Committee previously noted that various deficits had been identified in a joint migration and labour inspection audit of the Aqaba Special Economic Zone Authority (ASEZA), and that technical assistance was being implemented in Jordan to improve coordination between labour inspectors inside and outside of the Aqaba SEZ. **In the absence of up-to-date information from the Government on this issue, the Committee once again requests the Government to provide detailed information on labour inspection activities undertaken in the SEZs. It requests the Government to include information on the relationship between the ASEZA and the Ministry of Labour, as well as on the number of inspectors assigned to the SEZs, the number of inspections carried out, the number and nature of violations detected, and the sanctions imposed for all such violations.**

*Article 3(1)(a) and (2).* Duties entrusted to labour inspectors in relation to conciliation and the enforcement of immigration law. Following its previous comments on the enforcement of immigration law by labour inspectors, the Committee notes that, according to 2019 statistics provided in the Government's report regarding inspections, 6,989 decisions of repatriation were issued against migrant workers, and in 1,331 cases, the repatriation of a worker was cancelled by paying a fine. The Committee further notes that the inspectorate detected 3,407 infringements related to section 12 of the Labour Code, addressed to work permits for non-Jordanian workers. The 2019 statistics indicate 250 employer infractions for child labour; there is no data on employer infractions of wage provisions. In addition, the Committee notes the Government's indication that the functions of labour inspectors include conciliation and settlement in the case of labour disputes.

The Committee recalls that, as indicated in its 2006 General Survey, *Labour inspection*, paragraph 78, the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. It also recalls that, pursuant to *Article 3(2)* of the Convention, any further duties entrusted to

labour inspectors, including enforcement of immigration law and conciliation of labour disputes, shall not be such as to interfere with the effective discharge of labour inspectors' primary duties or prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. ***The Committee urges the Government to take the necessary measures to ensure that any additional duties entrusted to labour inspectors do not interfere with the effective discharge of their primary duties. Furthermore, in the absence of such information, the Committee once again requests the Government to indicate the actions undertaken by the labour inspectorate in the enforcement of employers' obligations towards migrant workers, such as the payment of wages and other benefits, including for workers in an irregular situation and workers liable to deportation or who have already been deported.***

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)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the International Trade Union Confederation (ITUC) on Conventions Nos 81 and 129, received on 1 September 2021.

*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.* The Committee notes with **deep concern** that the Presidential Decree No. 229 "On Introduction of a Moratorium on Inspections and Preventive Monitoring and Oversight with Visits in the Republic of Kazakhstan" of 26 December 2019, introduces a three year moratorium on labour inspection, which applies to private and state-owned enterprises belonging to the categories of small and microenterprises, starting from 1 January 2020. According to the Decree, the only exceptions allowing for inspections shall be 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, in addition to 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 Organisations". According to the observations submitted by the ITUC: (i) this moratorium is also valid for unscheduled inspections performed by the State Labour Inspectorate following complaints of employees about various labour violations by employers; (ii) between January and September 2020, the provisions on exceptions provided in the Decree were used by state inspectors only three times (in Kostanay Region, East Kazakhstan Region and in the city of Nur-Sultan); and (iii) according to information from the Ministry of Labour and Social Protection, as many as 16,330 complaints were submitted to the State Labour Inspectorate in the first 8 months of 2020. The Committee further notes that section 140(6) of the Entrepreneur Code of the Republic of Kazakhstan of 2015 (No. 375-V ZRK) provides for the possibility of suspending inspections of private business entities for a specific period after a decision by the Government, in coordination with the Administration of the President of the Republic. 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 the Conventions. ***Recalling that a moratorium placed on labour inspection is a serious violation of the Conventions, the Committee urges the Government to act***

***promptly 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.***

The Committee previously noted that there appeared to be extensive legal and practical restrictions in relation to scheduled inspections concerning inspectors' access to workplaces and the frequency of inspection visits, resulting in a reduced effectiveness and scope of inspections.

The Committee notes that the Government does not provide in its report information in relation to its previous request on whether Order No. 55-p of 16 February 2011 repeals Order No. 12 of 1 March 2004, and whether the restrictions introduced by the latter Order, especially the prior registration of inspections at the Public Prosecutor's Office, have been lifted.

In addition, the Committee notes with **concern** that the Labour Code and the Entrepreneur Code of 2015 contain various limitations on labour inspectors' powers, including with regard to: (i) the ability of labour inspectors to enter freely any workplace liable to inspection (section 12 of the Entrepreneur Code); (ii) the ability of labour inspectors to undertake inspection visits at any hour of the day or night (sections 197(5) of the Labour Code and 147(2) of the Entrepreneur Code); (iii) the ability of labour inspectors to undertake inspection visits without previous notice (section 147(1) of the Entrepreneur Code); (iv) the free initiative of labour inspectors (section 197(2)(2) of the Labour Code and section 144(10) of the Entrepreneur Code); and (v) the scope of inspections, particularly in terms of the issues that can be examined in the course of inspections (section 151 of the Entrepreneur Code).

***The Committee urges the Government to take the necessary legislative measures to ensure that labour inspectors are empowered to make visits to workplaces without previous notice at any hour of the day or night, 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. In addition, the Committee requests once again the Government to provide information on whether Order No. 55-p of 16 February 2011 repeals Order No. 12 of 1 March 2004, and whether the restrictions introduced by the latter Order, especially the prior registration of inspections at the Public Prosecutor's Office, have been lifted.***

2. *Frequency of labour inspections.* The Committee previously noted with concern that the number of inspections undertaken had decreased, owing to the discontinuation of inspections of small and medium-sized enterprises starting from 2 April 2014 until 1 January 2015, pursuant to the Presidential Decree on Cardinal Measures to Improve the Conditions for Entrepreneurship in Kazakhstan (Decree No. 757).

The Committee notes the Government's indication that: (i) the risk management system is currently the main tool for determining the frequency of inspections; (ii) the joint Decree of the Ministry of Health and Social Development (No. 1022 of 25 December 2015) and the Ministry for the National Economy (No. 801 of 28 December 2015) established the risk assessment and checklist criteria for inspecting compliance with national labour legislation; and (iii) the risk management system has made it possible to regulate the controls carried out by state labour inspection bodies, to reduce the administrative pressure on employers in the context of their due diligence, and to improve the quality of the work performed by state labour inspectors. According to the ITUC: (i) the risk management system determines the frequency of scheduled inspections depending on the risk category assigned to the employer; (ii) in these conditions, no frequency of inspections is established for low-risk employers, meaning that the employers classified under such risk category are not covered by any scheduled monitoring activities; (iii) the procedure for the assessment of the risk category assigned to the employer depends, among other criteria, on the number of employees, with higher risk categories being assigned to enterprises with a greater numbers of employees; (iv) there is a decreasing probability of inspections of small and medium-sized businesses that carry a significant risk of abuses by

employers; and (v) during scheduled inspections, an inspector is limited to the number of questions included in the checklists.

The Committee notes with **concern** that the Labour Code, as well as the Entrepreneur Code of 2015, which uses risk assessment criteria for classifying inspections and their frequency, contain various limitations on the frequency and duration of labour inspections (sections 140(8), 141, 148 and 151(6) of the Entrepreneur Code and section 197(6) of the Labour Code). **Referring to its general observation of 2019 on the labour inspection Conventions, the Committee urges the Government to take the necessary measures, including the revision of the Entrepreneur Code and the Labour 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 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 the undertaking of inspections in practice, indicating the number of scheduled and unscheduled inspections, as well as the total number of workplaces liable to inspection. With regard to inspections conducted without prior notice, the Committee requests the Government to indicate the number of such inspections, whether they are conducted on-site or 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.**

Articles 13, 17 and 18 of Convention No. 81 and Articles 18, 22 and 24 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. Further to its previous request, the Committee notes that the Government does not provide information on the penalties imposed for violating labour legislation and for obstructing labour inspectors in the performance of their duties. In this regard, the Committee notes with **concern**, that section 12 of the Entrepreneur Code of 2015 provides that enterprises may deny the inspection by officials of state control and supervision bodies in cases where they fail to comply with the requirements for inspections established by the Code.

The Committee notes that various legal provisions, such as sections 136 and 153 of the Entrepreneur Code of 2015, appear to limit the powers of labour inspectors to take steps with a view to remedying defects observed in plant, layout or working methods and to order measures with immediate executory force in the event of imminent danger to the health or safety of the workers.

The Committee further notes the Government's indication, in reply to its previous request, that in order to prevent violations of labour law, section 197 of the Labour Code provides for a new form of monitoring of preventive visits to enterprises, following which the state labour inspector issues the employer with an improvement notice only, with no imposition of administrative penalties.

The Committee recalls 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 requests the Government to take the necessary measures, including the revision of the Entrepreneur Code and the Labour Code, to ensure that labour inspectors are able to initiate legal proceedings without previous warning, where required, in conformity with Article 17 of Convention No. 81 and Article 22 of Convention No. 129. The Committee further requests the Government to take the necessary measures to empower labour inspectors to take steps with a view to remedying defects observed in plant layout or working methods, or to order measures with immediate executory force in the event of imminent danger to the health or safety of the workers. In addition, the Committee once again requests the Government to indicate the penalties for violations of the legal provisions enforceable by labour inspectors, and for obstructing labour inspectors in the performance of their duties, to provide a copy of the relevant provisions, and to**

**indicate how often such penalties have been assessed, as well as the amounts of sanctions imposed and collected.**

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, an annual report on the activities of the labour inspection services has never been received by the Office. However, the Committee notes that the Government provides statistics on the number of inspectors, the number of inspections carried out, the number of industrial workplaces inspected, the number of industrial accidents, the number of accidents investigated, and the number of violations detected and penalties imposed. The Committee notes that the statistics sent by the Government on the activities of the labour inspectorate do not identify the specific data relating to the agricultural sector, so as to allow the Committee to assess the level of application of Convention No. 129. **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 the subjects listed under Article 21 of Convention No. 81, including in particular Article 21(a), (c) and (g). It also requests the Government to take the necessary measures to ensure that the annual reports contain information specific to the agricultural sector, as required by 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 2022.]**

## Lebanon

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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.

*Labour law reform.* The Committee notes the information provided by the ILO Decent Work Technical Support Team and the Regional Office for Arab States that a tripartite meeting took place in 2019 with the support of the ILO and that a new labour law reform is under way. **The Committee requests the Government to take into account the matters raised below and in a request addressed directly to the Government in the context of this new reform process, in order to ensure the full conformity of a new Labour Code with the Convention, and to provide information on any progress made in this regard.**

*Article 3(1) and (2) of the Convention. Primary functions and additional duties of labour inspectors.*  
1. *Supervision of union matters.* The Committee previously noted that, pursuant to section 2(c) of Decree No. 3273 of 26 June 2000, the labour inspectorate has the power to monitor vocational organizations and confederations at all levels in order to check whether the latter, in their operations, are exceeding the limits prescribed by law and by their rules of procedure and statutes. It recalls that for many years it had requested the Government to take steps to limit labour inspectors' intervention in internal trade union affairs. The Committee notes the Government's reply in its report that the role of labour inspectors is limited to accessing union records and to cases where a union submits its final account or a union council member files a complaint. The Government indicates that there are currently no complaints in this respect with the Department of Labour Relations and Trade Unions. The Committee further notes the statistics provided by the Government indicating that, in 2015, the labour inspectorate supervised 207 trade union elections and received 13 applications for authorization to establish unions.

In this respect, the Committee recalls that, according to *Article 3(1)* of the Convention, the primary functions of the labour inspection system shall be to monitor and secure the conditions of work and the protection of workers while engaged in their work, and that in accordance with *Article 3(2)*, any further duties

which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. Further, the Committee expressed reservations in its 2006 General Survey, *Labour inspection*, paragraph 80, regarding excessive use of close supervision by labour inspectors of the activities of trade unions and employers' organizations, to the extent that it takes the form of acts of interference in these organizations' legitimate activities. **The Committee urges the Government to take the necessary steps, in the context of the ongoing labour law reform, to ensure that the functions assigned to labour inspectors do not interfere with their main objective, which is to provide for the protection of workers in accordance with Article 3(1) of Convention No. 81. In this respect, it urges the Government to ensure that any supervision of trade union activities is carried out only in relation to the protection of the rights of trade unions and their members, and does not take the form of acts of interference in their legitimate activities and internal affairs.**

2. *Work permits for migrant workers.* The Committee notes the statistics provided by the Government indicating that, in 2015, a significant amount of the labour inspectorate's activities focused on the issuance (60,814) and renewal (148,860) of work permits, as well as inspections related to work permits (253). **The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors to issue and monitor work permits do not interfere with the main objective of labour inspectors to secure the enforcement of legal provisions relating to conditions of work and the protection of workers, as required under Article 3(1) of the Convention. It requests the Government to provide information on the time and resources spent on labour inspection activities in these work areas, compared to activities aiming at securing the enforcement of legal provisions relating to conditions of work and the protection of workers.**

*Article 12(1) and (2). Right of inspectors to enter freely any workplace liable to inspection.* In its previous comments, the Committee requested the Government to amend the Memorandum No. 68/2 of 2009 which requires prior authorization in writing for all unscheduled inspection visits. It notes that, according to section 6 of Decree No. 3273 of 2000 on Labour Inspection, labour inspectors shall have the authority to enter freely and without prior notice all enterprises under their supervision during hours of work at the enterprise and all parts thereof; and in conducting an inspection visit they shall apprise the employer of their presence on the premises, unless they consider such information detrimental to the execution of their functions. However, the Committee also notes the Government's indication that written authorization is provided in order for an inspection to be carried out, and that inspections are carried out as part of an inspector's annual or monthly programme. In this regard, the Committee recalls that *Article 12* of the Convention provides that labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. It recalls that the requirement to obtain prior permission to undertake an inspection in all cases constitutes a restriction on the free initiative of inspectors to undertake an inspection, including where they have reason to believe that an undertaking is in violation of the legal provisions. **The Committee once again requests the Government to take measures to amend Memorandum No. 68/2 of 2009 to ensure that labour inspectors provided with proper credentials are empowered to enter freely any workplace liable to inspection, in accordance with Article 12(1) of the Convention, and to provide copies of any texts or documents showing progress in this regard.**

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

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

## Madagascar

**Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)**

**Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)**

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes that the Government's report due in 2021 has not been received.

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), communicated with the Government's report in 2017. It also notes the observations of the Autonomous Trade Union of Labour Inspectors (SAIT), received on 9 March 2021.

*Articles 6, 10 and 11 of Convention No. 81 and Articles 8, 14 and 15 of Convention No. 129. Status and conditions of service of labour inspectors and controllers. Resources at the disposal of the labour inspectorate.* Further to its previous comments, the Committee notes the information previously provided by the Government on the difficulties faced in fully meeting the needs of labour inspection, especially in view of the regular socio-economic crises, the size of the territory in which inspection has to operate and the dilapidated state of the roads. The Government also indicates that, following the general strike led by SAIT in March 2015 and pending the adoption of the labour inspection staff regulations, a memorandum of understanding between the Ministry of Finance and Budgets and the chairperson of SAIT was signed, providing for the grant of an allowance for labour inspectors. In this regard, the Committee notes with **concern** the observations of SAIT, according to which this allowance has never been paid and the labour inspection staff regulations have still not been adopted, resulting in a general strike of labour inspectors from 12 November 2020. SAIT also highlights the need to establish a labour inspection system with adequate human and material resources at its disposal, including appropriately equipped work premises, transport facilities and reimbursement of occupational travel costs. **Recalling that Article 6 of Convention No. 81 and Article 8 of Convention No. 129 provide that inspection staff shall be composed of public officials whose status and conditions of service assure them stability of employment and make them independent of changes of government and of improper external influences, the Committee urges the Government to take the necessary measures in this regard, which includes adopting staff regulations specifically for labour inspectors and controllers. The Committee also requests the Government to take the necessary steps to increase resources at the disposal of labour inspectors and to provide information on the specific measures taken in this respect. The Committee further requests the Government to provide information on the number of labour inspectors, resources and means of transport, and/or budgets available to cover travel costs for the labour inspection services.**

*Article 7 of Convention No. 81 and Article 9 of Convention No. 129. Training for labour inspectors.* Further to its previous comments, the Committee notes the information sent previously by the Government on initial training for labour inspectors given at the National School of Administration of Madagascar (ENAM) and on the need for reform of the system to enable specialization in other recent branches of activity, particularly in agriculture. SEKRIMA refers to the Government's indication of the need to include a specialization in agriculture in the training programme for labour inspectors and hopes that this will constitute a starting point for improving conditions of work for agricultural workers. **The Committee requests the Government to continue providing information on the training given to new labour inspectors, particularly the efforts made to provide labour inspectors with specialized training in agriculture. The Committee also requests the Government to provide information on further training for labour inspectors, indicating the duration of the training, the number of participants and the subjects covered.**

*Articles 19, 20 and 21 of Convention No. 81 and Articles 25, 26 and 27 of Convention No. 129. Submission of periodic reports to the central inspection authority. Preparation, publication and transmission of the annual inspection report.* **The Committee requests the Government to take all necessary measures to ensure the preparation and publication of an annual report on the work of the labour inspection services, in accordance with Article 20 of Convention No. 81 and Article 26 of Convention No. 129, and to take the necessary measures to ensure that these reports contain information on all the subjects listed in Article 21 of Convention No. 81 and Article 27 of Convention No. 129. The Committee also requests the Government to provide information on the submission to the central inspection authority of periodical reports on the results of the activities of labour inspectors, in accordance with Article 19 of Convention No. 81 and Article 25 of Convention No. 129.**

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

## Malaysia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

*Articles 3(2) and 5(a) of the Convention. Duties entrusted to labour inspectors and cooperation with other government services.* The Committee previously noted that, since the 2010 amendments to the Anti-Trafficking People and Smuggling of Migrants Act of 2007, labour officers have assumed enforcement functions in this area. The Committee notes the information in the Government's report that the enforcement role of labour inspectors in the Anti-Trafficking People and Smuggling of Migrants Act is limited to identifying elements of forced labour and trafficking in persons through inspection and other operation activities. The Government also indicates that it provides legal protection to all documented and undocumented foreign workers. ***The Committee requests the Government to indicate the measures taken to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors, which is to provide for the protection of workers in accordance with Article 3(1) of the Convention. It also requests the Government to provide detailed information on actions undertaken by labour inspectors when elements of forced labour or trafficking are detected, on the number of such cases and on their outcome after they are submitted to the competent authorities. The Committee further requests that the Government continue to provide information on actions undertaken by the labour inspectorate in the enforcement of employers' obligations towards migrant workers, including those in an irregular situation, such as the payment of wages, social security and other benefits.***

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

## Mauritania

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

*Articles 3, 6, 8, 10, 11 and 16 of the Convention. Duties, status and conditions of service of labour inspectors. Financial and material resources at the disposal of the labour inspection services and number of inspectors for the effective discharge of inspection duties. Composition by gender.* The Committee previously noted that Order No. 0743 of 23 August 2017 establishing the structure and territorial competences of regional labour inspectorates separates the structures dealing with the enforcement of legislation in the social field from those responsible for resolving labour disputes. It also noted that, according to an audit of labour administration and inspection needs carried out by the ILO in 2016 (the 2016 audit), there is a real pay gap between inspection personnel and certain other government inspection services. The Committee also noted the need to reinforce the material and human resources of the inspection services and requested the Government to provide information on the measures taken in this regard. Moreover, the Committee notes that, according to the 2017 observations of the General Confederation of Workers of Mauritania (CGTM), it is necessary to ensure that the specific conditions of service of labour inspectors provide sufficient guarantees to prevent undue interference in the discharge of their duties. The Committee notes that, according to the information in the Government's report, the number of inspectors and controllers solely responsible for the main duties is 40, composed of 23 inspectors and 17 controllers. The Government adds that 30 labour inspectors and 30 controllers are undergoing training at the National School of Administration, Journalism and Magistrates. The Government further indicates that the restructuring of regional labour inspection services has resulted in more labour inspectors and controllers having access to positions of responsibility, with the respective compensation, with a view to ensuring stability of employment. The Government is also envisaging the adoption of measures, if resources so permit, to reinforce the transport facilities necessary for the discharge of their duties, particularly for the regional labour inspection services

furthest from urban centres, and to cover the maintenance and repair costs of existing vehicles so as to improve conditions. **The Committee requests the Government to continue taking the necessary measures to guarantee labour inspectors and controllers conditions of service, including adequate remuneration, to ensure their employment stability and career prospects. It also requests the Government to continue providing information on the number of labour inspectors and controllers and their composition by gender, as well as on the measures taken or envisaged for the reinforcement of the financial and material resources available to the labour inspection services, including personal protection equipment and transport facilities.**

*Articles 19, 20 and 21. Preparation, publication and communication to the ILO of an annual inspection report.* The Committee previously noted the absence of an annual inspection report and the need to reinforce the capacities of the Ministry for the collection and compilation of statistical and administrative data. In response to this request, the Government reiterates that it will take the necessary measures in this regard. **Noting the continued absence of an annual inspection report, the Committee urges the Government to take the necessary measures to develop a system for the collection and compilation of data so that local inspection offices can draw up periodic reports, which can then be used by the central inspection authority to draw up an annual report, in accordance with the Convention.**

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

## Mauritius

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1969)

*Article 12(1)(b) and (2) of the Convention. Powers of entry of inspectors into premises which they may have reasonable cause to believe to be liable to inspection.* In its previous comments, the Committee noted that, pursuant to section 4 of the Occupational Safety and Health Act (Employees' Lodging Accommodation) Regulations 2011, an authorized officer may enter, with the consent of the head of any undertaking, any building used as lodging accommodation, in order to undertake an inspection or investigation as may be necessary. The Committee notes that, contrary to the information previously provided, the Government indicates that the existing provisions requiring prior notification to carry out inspection in employees' lodging accommodation are being maintained, as the accommodation is a dwelling place provided to an employee and entering such a place without consent may cause prejudice to the privacy of lodgers. In this regard, the Committee recalls that, pursuant to *Article 12(1)(b) and (2)* of the Convention, labour inspectors provided with proper credentials shall be empowered to enter by day any premises which they may have reasonable cause to believe to be liable to inspection. Thus, they should be authorized to abstain from notifying their presence to the employer or his/her representative if they consider that such a notification may be prejudicial to the performance of their duties. **The Committee requests the Government to take the necessary measures to amend the Occupational Safety and Health Act (Employees' Lodging Accommodation) Regulations to achieve full conformity with Article 12 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.

## Mexico

### Labour Administration Convention, 1978 (No. 150) (ratification: 1982)

The Committee notes the observations of the National Union of Workers of the Federal Roads and Bridges Access and Related Services (SNTCPF), received in 2016.

*Article 4 of the Convention. Organization and operation of the labour administration system. Coordination of its functions and responsibilities.* The Committee notes that, in reply to its request for information on the measures adopted to improve coordination between the state secretariats involved in inspections, the Government indicates in its report that: (i) the Secretariat of Labour and Social

Welfare (STPS) maintains communication and coordination between the secretariats of the various federal entities for the purpose of collaborating within their competences in respect of inspection; and (ii) the Directorate General of the Federal Labour Inspectorate of the STPS continues to be responsible, under its 2019 statute, for setting general rules governing the conclusion of coordination and cooperation agreements in respect of labour inspection with the authorities of other federal entities and with other public and private bodies.

The Committee recalls that, following the serious accidents that have taken place in the past in the mining sector, in its previous comment it requested information on all progress made in establishing a unified directory of all enterprises in the sector, an initiative that would help reinforce inspection visits. In this connection, the Committee notes that the SNTCPF indicates in its observations that the Government does not have an adequate and efficient directory of mining enterprises that includes subcontracted enterprises, noting that registration in the directory is not compulsory and that it habitually contains incorrect information. ***The Committee once again requests the Government to provide information on developments in the establishment, functioning and scope of the directory of mining enterprises.***

The Committee also notes the Government's indication that, under a reform of the Federal Labour Act (LFT) adopted in 2021, various provisions on subcontracting of labour were amended to limit the practice solely to specialized activities, with a view to protecting workers' rights and to prevent contracting enterprises from evading fiscal and labour obligations. Following the reform, section 15 of the LFT establishes that enterprises wishing to perform the above-mentioned activities shall register in a public directory of specialized service or works providers, under the responsibility of the STPS. The new section 1004-C of the LFT, included as part of the reform, provides for sanctions (fines) for natural or legal persons providing subcontracting services without registering in the directory, as well as for those benefiting from the provision of services. ***The Committee requests the Government to provide detailed information on the impact of the operation of the directory of specialized service or works providers on the functioning of the labour administration system, including on the activities of the labour inspectorate that are part of that system and the amount of any sanctions issued against persons subcontracting services without registering in the directory. The Committee also requests the Government to inform it of whether there is any link between the directory of specialized service or works providers and the directory of mining enterprises referred to in the preceding paragraph.***

*Article 10. Training for the staff of the labour administration system. Material means necessary for the effective performance of their duties.* In its earlier comments, the Committee requested the Government to: (1) continue to provide information on the training offered to labour inspectors, particularly on occupational safety and health (OSH) in mines and the certification provided to them; and (2) describe the means of transport and personal protective equipment available to inspection staff for the performance of their duties. In this regard, the Committee notes the information provided by the Government: (i) on the training given during 2018 in the field of OSH (including the number of training courses completed and the number of participants, with their job titles), and on the certification issued to public servants in the STPS (including in OSH in coal mines); and (ii) that emphasis is being placed on appropriate measures to ensure that the resources allocated to the STPS are used and distributed such as to guarantee the provision of more and better benefits and working tools to inspectors.

The Committee notes that the SNTCPF alleges inadequate working conditions for staff in the sub-delegation of the STPS in Coahuila State, which serves a highly critical coal-producing region. The SNTCPF states that the number of personnel and the vehicles assigned to them are insufficient, that the work spaces are inadequate, and that the inspectors lack the necessary safety equipment (self-rescue equipment) to go down the mines and therefore, for all the above reasons, the budget allocated to the sub-delegation in question should be increased. ***While taking note of the training courses for inspectors carried out in 2018, the Committee requests the Government to continue taking measures to provide***

***inspectors with continuous training in the areas required by their activities. The Committee requests the Government to provide information on the specific resources at the disposal of the said personnel for the exercise of their functions, with particular reference to the sub-delegation of the STPS in Coahuila State, which is part of the labour administration system.***

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

## Montenegro

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2006)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2006)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Additional functions entrusted to labour inspectors.* The Committee previously commented on the results of inspection activities of labour inspectors regarding migrant workers, including joint controls between labour inspectors and the Division for Foreigners, Visas and Combating Illegal Migration of the Police. The Committee notes that, according to the Government's report, 132 joint controls were undertaken in 2020 with the Border Police (down from 342 in 2019), and that, while a focus of inspection is to prevent persons from working in irregular situations, labour inspectors also monitor the protection of migrant workers' labour rights, including on occupational safety and health (OSH). The Committee also notes the Government's statement that labour rights of migrant workers are protected like those of Montenegrin citizens whenever possible, and except where their residence in Montenegro is terminated. The 2020 Annual Report of the Directorate for Inspection Affairs indicates, in this regard, that hiring foreigners without a previously obtained residence and work permit is one of the most common irregularities identified in the field of labour relations and employment, that joint controls have resulted in the termination of residence for a large number of migrant workers caught in an irregular work situation, who could not be regularized, and that the labour inspectorate could only sanction their employers in such occasions. The Committee notes that, according to the same Annual Report, 483 workers in irregular situations were detected in 2020, out of which 144 (29 migrant workers and 115 Montenegrin citizens) were regularized after measures taken by the labour inspectorate. The Committee once again recalls its indication in the 2006 General Survey, *Labour inspection*, paragraph 78, that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. The Committee also recalls its indication in the same paragraph of the 2006 General Survey that efforts to control the use of migrant workers in an irregular situation require mobilizing considerable resources which inspectorates can only provide to the detriment of their primary duties. ***Noting the Government's indication regarding joint controls and difficulties in enforcing certain migrant workers' labour rights, the Committee requests the Government to take specific measures to ensure that labour inspectors' participation in joint controls does not interfere with the effective discharge of their primary duties under Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. The Committee requests the Government to provide further information on how it ensures that the functions of verifying the legality of employment, assigned to labour inspectors, do not interfere with their main objective of protecting workers, in accordance with those Articles. It requests the Government to continue to provide information on the actions undertaken by labour inspectors in this area, including the outcomes of joint controls.***

*Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Conditions of service of labour inspectors.* The Committee previously requested the Government to provide information on circumstances under which labour inspectors may not be reappointed following expiration of term, and on measures to improve their conditions of service. The Committee notes the Government's statement that, pursuant to the Law on Civil Servants and State Employees (Nos 2/18, 34/19 and 8/21), the Chief Inspector and inspectors are appointed for a term of five years, following which they are subject to re-examination of knowledge, competencies and abilities. The Government indicates in this regard that there have been no cases of labour inspectors failing and not being reappointed to the same position, but that this does not make the employment of such officials stable. The Committee recalls that, as it has expressed in its 2006 General Survey, *Labour inspection*, paragraph 201, the status and conditions of service of labour inspection staff under *Article 6* of Convention No. 81 and *Article 8* of Convention No. 129 must assure the staff of stability of employment and independence from improper external influences. The Committee further recalls that, as expressed in its 2006 General Survey, *Labour inspection*, paragraph 203, public servant status for inspection staff is the status best suited to guaranteeing them the independence and stability necessary to the performance of their duties, and that, as public servants, labour inspectors are generally appointed on a permanent basis and can only be dismissed for serious professional misconduct. On measures to improve the conditions of service of labour inspectors, the Committee takes due note of the Government's indication regarding a Governmental Decision last amended in 2021, providing for salary supplements to labour inspectors in the amount of up to 30 per cent of their basic salary. **Accordingly, the Committee requests the Government to provide information on the independence, continuity and stability of service of labour inspectors in comparison to public servants exercising similar functions with other government services, such as tax inspectors and the police. The Committee also requests the Government to continue to provide information on measures taken or envisaged to ensure that conditions of service of labour inspectors are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.**

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

## Mozambique

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)

*Article 3(2) of the Convention. Additional functions entrusted to labour inspectors. 1. Role of labour inspectors in monitoring the working conditions of migrant workers found in an irregular situation.* Following its previous comments, the Committee notes that the Government has once again not provided information on the measures taken or envisaged to guarantee that labour inspectors ensure that employers fulfil their obligations to foreign workers in an irregular situation, as well as on measures to ensure that the functions assigned to labour inspectors regarding the verification of the contractual or residence status of foreign workers do not interfere with the main objective of labour inspectors. In this regard, the Committee notes with **concern** that, according to the "General Guidelines for Inspections 2017" communicated by the Government with its report, labour inspectors shall: (i) verify the existence of cases of foreign workers, with temporary residence, who remain in the national territory after the period of validity of the contract by virtue of which they entered Mozambique; and (ii) in the case of termination of the employment contract for any reason, verify whether the employer has communicated this termination to the entity that oversees the working area and the migration services of the province where the citizen has been working, through a separate document, within 15 days from the termination. The Committee further notes that: (i) section 4(3)(c) of Decree No.19/2015 approving the Organic Statute of the General Labour Inspectorate, provides that labour inspectors shall control the obligations regarding the employment of foreign workers; (ii) section 26 of Decree No. 37/2016 approving the Regulation of Mechanisms and Procedures for Employment of Citizens of Foreign

Nationality provides that the General Labour Inspectorate is responsible for supervising compliance with the provisions of this Regulation; (iii) section 27 of Decree No. 37/2016, stipulates that failure to comply with the provisions on the employment of foreign labour shall be punished by suspension and a fine equal to five to ten monthly salaries earned by the foreign worker in respect of whom the offence has been committed; and (iv) section 28 of Decree No. 37/2016, provides that, whenever the General Labour Inspectorate or its provincial delegation becomes aware of any fact that could be ground for revoking the act that allowed the employment of the foreign worker, it shall prepare a file containing, in summary, the evidence necessary for taking a decision. The Committee finally notes, from the statistical information provided by the Government in its report, that 513 foreign workers in an irregular situation were detected in 2020, whose employment relationship was subsequently suspended. **The Committee requests once again the Government to take the necessary measures, in law and in practice, 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. The Committee also requests the Government to indicate the manner in which labour inspectors ensure the enforcement of employers' obligations with regard to the statutory rights of migrant workers in an irregular situation (such as payment of outstanding wages, social security benefits or the conclusion of an employment contract).**

2. *Role of labour inspections relating to the exercise of trade union rights.* The Committee previously noted that, pursuant to section 4(5) (a) and (b) of Decree No. 45/2009, the functions of the General Labour Inspectorate include that of registering trade unions, and verifying the legality of their by-laws. The Committee recalls, as emphasized in its 2006 General Survey, *Labour inspection*, paragraph 80, that labour inspectors should only exercise such supervision in exceptional cases, such as offences or violations of the law denounced by a significant number of members of trade unions and employers' organizations. **Noting the absence of a reply from the Government in this respect, the Committee once again requests the Government to take the necessary measures to ensure that labour inspectors are relieved from any tasks which might be perceived as interfering in the activity of trade unions' and employers' organizations and therefore be prejudicial to the authority and impartiality necessary to inspectors in their relations with employers and workers.**

3. *Role of labour inspectors in conciliating and mediating labour disputes.* The Committee previously noted that: (i) pursuant to section 4(5)(c) and (d) of Decree No. 45/2009, the functions of the General Labour Inspectorate include the provision of technical assistance concerning the process of collective bargaining and intervening in industrial conflicts; and (ii) requests to labour inspectors for conciliation and mediation have decreased following the entry into operation of the Mediation and Arbitration Centres for Labour Disputes at the provincial level. The Committee notes that the Government does not indicate whether it foresees, in view of the establishment of the Mediation and Arbitration Centres, to relieve labour inspectors from the function of mediation and conciliation. **The Committee requests once again the Government to take the necessary measures, in law and in practice, to ensure that, in line with Article 3(2) of the Convention, additional duties assigned to labour inspectors, other than their primary duties, do not interfere with the effective discharge of the latter. It also requests the Government to provide information on any progress made in this regard.**

*Articles 10, 11 and 16. Human resources and material means, including transport facilities. Coverage of workplaces by labour inspections.* The Committee previously noted that: (i) the number of labour inspectors is very low in relation to the number of workplaces subject to labour inspection and the incidence of labour conflicts; (ii) difficulties in the application of the Convention relate to the availability of transport facilities and the coverage of workplaces by labour inspections in remote areas; and (iii) expenses incurred by labour inspectors when using their own vehicles are not reimbursed. The Committee notes that the Government does not provide information in this regard. It notes, however, from the statistical information provided by the Government, that labour inspectors visited 8,723 establishments (covering 131,663 workers) in 2020 compared to 10,106 establishments (covering

158,690 workers) in 2017 and 6,872 establishments (covering 183,467 workers) in 2013. **The Committee once again requests the Government to describe the current situation of the labour inspection services in terms of the human resources and material means available, including transport facilities to enable labour inspectors to carry out inspection visits. Recalling once again that under Article 11(2) of the Convention, the competent authority shall make the necessary arrangements to reimburse to labour inspectors any travelling and incidental expenses which may be necessary for the performance of their duties, the Committee requests the Government to take measures to this effect in the very near future and to provide information on the progress made in this respect.**

*Articles 20 and 21. Publication and communication of an annual report on labour inspection.* In its previous comment, the Committee took note of the 2013 annual report of the General Labour Inspectorate. While noting the statistical information provided by the Government on inspection visits and violations and penalties imposed, the Committee notes that the annual report on the activities of the labour inspectorate has not been communicated. **The Committee therefore requests the Government to take the necessary measures to ensure that annual labour inspection reports are prepared, published and transmitted to the ILO, in accordance with Article 20 of the Convention, and to ensure that such reports contain information on all the subjects listed under Article 21 of the Convention.**

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

## Nigeria

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

*Articles 20 and 21 of the Convention. Annual labour inspection report published by the central authority.* The Committee notes that no annual labour inspection report has been received for many years, and that the Government does not provide any information in this regard in its report. **The Committee expresses the firm hope that the Government will ensure that annual reports on labour inspection are published and communicated regularly to the ILO within the time limits set out in Article 20 of the Convention, and that they contain the information required by Article 21(a)–(g), in the near future. It encourages the Government to take the necessary measures in this respect. The Committee also 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.

## North Macedonia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1991)

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

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

*Article 3(1)(a) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Labour inspection activities with regard to foreign workers and the protection of foreign workers in an irregular situation.* The Committee notes the Government's indication, in reply to its previous comments, that labour inspectors carry out the supervision of the implementation of the Law on Employment of Foreign Nationals (LEFN) during regular inspections in the areas of labour relations. The Committee notes that, pursuant to section 18(2) of the Law, the monitoring of its implementation shall be carried out by the State Labour Inspectorate (SLI) and pursuant to section 18(3), labour inspections related to work permits and illegal employment or

work of foreign nationals may be carried out ex officio or at the request of the Employment Service Agency (ESA). The SLI is then obliged to submit reports every six months regarding the instituted procedures and imposed misdemeanour sanctions to the ESA pursuant to section 18(4) of the LEFN. Fines can be imposed not only on an employer or a facilitator of illegal work, but also on a foreign national if she or he does not present the work permit when requested by the SLI (section 27). The Committee recalls that, pursuant to *Article 3* of Convention No. 81 and *Article 6* of Convention No. 129, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. Further, in its 2006 General Survey, *Labour inspection*, paragraph 78, the Committee indicated that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. Referring to paragraph 452 of the 2017 General Survey on certain occupational safety and health instruments, the Committee recalls that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country. ***The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors, which is to ensure the protection of workers in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It requests the Government to provide information on action undertaken by the inspectorate to ensure the enforcement of the rights of foreign workers found to be in an irregular situation. It further asks the Government to provide information on the number of cases in which foreign workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits.***

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

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

## Republic of Moldova

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1996)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1997)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the National Confederation of Trade Unions of Moldova (CNSM), received on 20 August 2021.

*Article 4 of Convention No. 81 and Article 7 of Convention No. 129. Supervision and control by a central authority. Occupational safety and health (OSH).* The Committee previously noted that Law No. 131 of 2012 on State Control of Entrepreneurial Activities withdrew supervisory duties in the area of OSH from the State Labour Inspectorate (SLI) and transferred it to ten other sectoral agencies. The observations of the CNSM indicated that the dispersion of inspection duties diminished the efficiency of state control, especially in the field of OSH. The Committee notes the Government's indication in its report that the normative framework for regulating the activity of the SLI was consolidated by Law No. 191 of 2020, which amended a number of labour legislations, including the Law on the SLI, the Law on State Control of Entrepreneurial Activities, the Labour Code and the Law on OSH. The Committee notes with **satisfaction** that, consequently, on 1 January 2021, the supervision in the field of OSH, including the investigation of occupational accidents, was transferred back from the ten sectoral agencies to the SLI.

*Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12(1), 23 and 24 of Convention No. 129. Cooperation with the justice system and adequate penalties for violations of the legal provisions enforceable by labour inspectors.* The Committee previously noted the Government's information concerning the number of infringement reports submitted to the Court from 2016 to 2018. The Committee also noted

the observations of the CNSM that, despite the fact that the Government report contained information on the number of infringements reported, there was no information on their outcome following their referral to the Court. The Committee notes the statistical information included in the annual reports and monthly reports of the SLI published on its website, according to which 229 and 151 minutes of contravention were submitted to the Court in 2019 and in 2020, respectively. From January to August 2021, 88 minutes of contravention were submitted to the Court and the Court issued 23 decisions sanctioning the employers with a fine and 7 decisions terminating the case. The other 58 cases are still under examination. The Committee also notes the reference to the 2020 annual report in the CNSM's observation, indicating that, in the field of OSH, 151 reports of infringements were filed, imposing fines of 1,706,700 Moldovan lei (approximately US\$98,724). The CNSM states that, however, there is no information on the actual amount of fines collected following the detection of infringements. **The Committee requests the Government to continue to provide information on the number of infringement reports submitted to the Court and their specific outcome, indicating any fine or other penalty applied and the amounts collected. The Committee requests the Government to indicate the statistics for infringements and penalties in the field of labour relations and OSH.**

*Article 5(b) of Convention No. 81 and Article 13 of Convention No. 129. Collaboration of the labour inspection services with employers and workers or their representatives.* The Committee previously noted the observations of the CNSM in which the union raised, in the context of the National Commission for Collective Consultations and Negotiations, the issue of monitoring in the field of OSH, and the need to eliminate the contradictions between national legislation and the provisions of Conventions Nos 81 and 129. The Committee notes the indication in the CNSM's observations that the proposals made by the CNSM in the process of adoption of Law No. 191 of 2020, regarding non-compliance with the provisions of the Convention, were not taken into account. **The Committee once again requests the Government to provide information on the measures taken to promote effective dialogue with employers' and workers' organizations concerning labour inspection matters. It also requests the Government to provide information on the consultations undertaken in this respect in the National Commission for Collective Consultations and Negotiations, as well as the measures taken following such consultations.**

*Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129. Human resources and material means for labour inspection.* The Committee previously noted a significant decrease in both the budget allocated for the SLI and the number of inspectors from 2017 to 2018. The Committee notes that, according to the annual inspection reports, in 2019, there were 61 employees at the SLI, including 19 at the central apparatus and 42 in territorial offices, with 37 OSH inspectors within the ten sectoral agencies. The number of inspectors remained substantially unchanged in 2020. As of March 2021, after the transfer of the OSH competences to the SLI, there were 109 employees working for the SLI, with 28 in the central apparatus and 81 in territorial offices. The Committee also notes that in the 2020 annual labour inspection report, the Government observes a shortage of staff with professional skills in the field. **Noting the transfer of supervisory competence on OSH to the SLI in 2021, the Committee requests the Government to indicate whether the labour inspectors previously working for the sectoral agencies have now been transferred to the SLI. It also requests the Government to provide information on the number of inspectors under the SLI performing OSH inspections, and those performing inspections in the field of labour relations. Noting the absence of information on the budget allocated to the SLI, the Committee also requests the Government to provide detailed information in this regard.**

*Article 12 of Convention No. 81 and Article 16 of Convention No. 129. Unannounced inspection visits.* The Committee previously noted that section 19 of the Law on State Control of Entrepreneurial Activities provides for restrictive conditions for unscheduled inspections. The CNSM reiterates in its observations that this provision has in fact made unannounced inspections impossible in practice. It also indicates that there is no information on the results of the unscheduled inspections in the annual inspection reports. The Committee notes with **regret** that section 19 of the Law on State Control of Entrepreneurial

Activities has not been revised in the context of the 2020 amendments to labour legislations. It also notes the statistical information in this regard in the annual and monthly inspection reports, according to which, in 2019, the SLI carried out 1,963 inspection controls, of which 1,399 were planned and 564 were unscheduled. There were also 1,116 controls carried out in OSH by sectoral agencies, of which 1,005 were planned inspections and 111 unplanned visits. In 2020, the SLI carried out 1,701 inspection controls, of which 1,172 were planned and 529 unscheduled. There were also 815 OSH inspections performed by sectoral agencies, with 728 planned and 87 unscheduled. From January to August 2021, the SLI carried out 1,610 controls in both labour relations and OSH areas, with 1,245 planned and 365 unscheduled. The Committee also notes, however, that the labour inspection reports do not include broken down information on the statistics of violations detected and sanctions imposed for planned and unplanned visits, respectively. **Noting a downward trend of unscheduled inspections, the Committee once again requests the Government to take the necessary measures to ensure that labour inspectors are empowered in line with Article 12(1)(a) and (b) of Convention No. 81 and Article 16(1)(a) and (b) of Convention No. 129, to make visits without previous notice. It requests the Government to continue providing information on the number of announced and unannounced inspections carried out by the SLI, and to indicate in detail the number of violations detected and the specific sanctions imposed through both announced and unannounced inspections.**

Articles 15(c) and 16 of Convention No. 81 and Articles 20(c) and 21 of Convention No. 129. Confidentiality concerning the fact that an inspection visit was made in consequence of the receipt of a complaint. In its previous comment, the Committee requested the Government to indicate the measures taken in order to ensure confidentiality of the fact of the complaints and the identity of the complainants, in cases of unannounced inspections resulting from a complaint, in accordance with section 19 of the Law on State Control of Entrepreneurial Activities. The Committee notes the Government's indication that section 9 of Law No. 140/2001 on the State Labour Inspectorate obliges labour inspectors to maintain the confidentiality of the source of any complaint alleging breach of the provisions of legislation and other regulations in the field of work and OSH. In addition, labour inspectors have the duty not to disclose to the employer that controls have been carried out following a complaint. The Committee also notes that, according to the Government, a motivation note shall be prepared in case of inspections without prior notice. The Government indicates that this motivation note shall include information on the need for intervention, by setting out in detail the circumstances and information underlying the conclusions and actions of the control body, possible violations suspected on the basis of information and evidence held until the initiation of control measures, and a reasonable assessment of danger and possible consequences in case of non-intervention of the control body. The Committee also notes that, according to the Government's indication, the entity to be inspected is informed about the motivation note. **The Committee requests the Government to indicate the measures adopted in order to ensure that no intimation is given to the employer or their representative, in the motivation note or otherwise, that a visit of inspection was made in consequence of the receipt of a complaint, in accordance with Article 15(c) of Convention No. 81 and Article 20(c) of Convention No. 129. In addition, noting the absence of information on this matter, the Committee requests the Government once again to provide information on the number of unannounced inspections that resulted from a complaint, the number that resulted from an accident, and the number that were not the result of a complaint or an accident.**

Article 16 of Convention No. 81 and Article 21 of Convention No. 129. Undertaking of inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. The Committee previously noted that a number of provisions of the Law on State Control of Entrepreneurial Activities limits the circumstances in which an inspection can be undertaken. This refers in particular to the conditions set out in section 3 (inspection can be carried out only if other means are exhausted), section 4 (inspectors shall request to check documentation first before inspection visits), section 14 (control bodies are not entitled to perform a control of the same entity more than once in a

calendar year, with the exception of unannounced inspections) and section 19 (conditions for unscheduled inspections).

The Committee notes with **regret** that the above-mentioned provisions have not been revised in the context of the amendments to labour legislations in 2020, in order to make them less restrictive. Moreover, the Committee notes with **deep concern** that, according to the 2019 and 2020 annual inspection reports, the number of inspections carried out by the SLI has been decreasing, with 1,963 in 2019 and 1,701 in 2020. Similarly, the number of workers covered by inspection controls has also decreased, with 103,794 in 2019 and 81,897 in 2020. Moreover, a large number of inspection controls were merely requests for documentation (1,112 in 2019 and 1,044 in 2020), with only 851 on-site inspection visits performed in 2019 and 657 in 2020. **The Committee once again urges the Government to take the necessary measures to ensure that the national legislation is amended in the near future to allow for the undertaking of labour inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in conformity with Article 16 of Convention No. 81 and Article 21 of Convention No. 129. The Committee also requests the Government to provide further information on the impact of the transfer of the competences on OSH to the SLI, including information on the number, type and results of inspection controls carried out, in the fields of both labour relations and OSH.**

*Article 17 of Convention No. 81 and Article 22 of Convention No. 129. Prompt legal or administrative proceedings.* The Committee previously noted that section 4(10) of the Law on State Control of Entrepreneurial Activities provides that inspections during the first three years of a business operation shall be of a consultative nature. Section 5(4) provides that, in such cases, in the event of minor violations, the sanctions provided for in the Administrative Offences Law or other laws may not be applied, and section 5(5) provides that “restrictive measures” may not be applied in the event of severe violations.

Noting that these provisions are still in force, the Committee notes with **deep concern** the absence of a reply to its three previous requests on this matter. The Committee is bound to recall once again that *Article 17* of Convention No. 81 and *Article 22* of Convention No. 129 provide that, with certain exceptions (which are not directed at new operations), persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning, and that it must be left to the discretion of labour inspectors to give a warning or advice instead of instituting or recommending proceedings. **The Committee once again urges the Government to take prompt measures to ensure that labour inspectors are able to initiate or recommend immediate legal proceedings for both severe and minor violations during the first three years of a business's operation, and to provide information on steps taken in this regard. It urges the Government to provide information on the meaning of “restrictive measures” that are prohibited from being imposed under the Law on State Control of Entrepreneurial Activities, on the number and nature of severe and minor violations detected by inspectors in the course of inspections in enterprises in the first three years of operation, on the sanctions proposed by inspectors for severe violations, and on the penalties ultimately applied.**

### Issues specifically concerning labour inspection in agriculture

*Articles 9(3) and 21 of Convention No. 129. Sufficient number of inspections in agriculture and adequate training for labour inspectors in agriculture.* The Committee previously noted that no OSH inspections were carried out in agriculture in 2018 by the National Agency for Food Safety (ANSA), which was the competent authority in this regard. It also noted that there was a decrease in the number of inspections by the SLI on non-OSH issues in agriculture from 2017 (458) to 2018 (363). The Committee notes that, according to the 2019 and 2020 annual inspection reports, the number of inspections on labour relations issues in agriculture continued to decrease, with 300 in 2019 and 245 controls in 2020.

Regarding compliance with OSH provisions, the ANSA carried out 315 inspections in 2019 and 215 in 2020. **The Committee urges the Government to take the necessary measures to ensure that agricultural undertakings are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, and to provide information on the number of inspections undertaken in agriculture by the SLI. The Committee once again requests the Government to provide information on the training provided to labour inspectors that relates specifically to their duties in the agricultural sector, particularly in the context of the transfer of competence from the ANSA to the SLI in 2021, including the number and duration of training programmes organized, the subjects covered in those programmes and the number of inspectors who participated in those programmes.**

## San Marino

### Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)

*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.**

## Sierra Leone

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1961)

*Labour law reform.* In its previous comments, the Committee noted that the Government sought ILO technical advice on a draft of the Labour Act in the context of the labour law reform. The Committee notes that in 2018, the Office provided its comments to the draft Labour Act, which is intended to consolidate and revise various pieces of legislation, including the Regulation of Wages and Industrial Relations Act (1971). In its report, the Government indicates that the draft legislation is now available but does not indicate the progress made in its adoption. **Noting that the labour law reform has been pending for many years, the Committee requests the Government to indicate the progress made towards the adoption of the new Labour Act.**

*Articles 6 and 7 of the Convention. Recruitment and training of labour inspectors and independence of labour inspectors.* In its previous comments, the Committee noted that no training opportunities were provided to labour inspectors in terms of technical or specialized areas. In its reply, the Government indicates that in 2015, the Ministry of Labour and Social Security with support from the ILO conducted training for Labour Inspectors, Labour Officers and Factory Inspectors on general labour administration. In its previous comment, the Committee also noted that, with respect to recruitment of labour inspection staff, one of the factors considered in recruitment is political affiliation. The Committee requested the Government to take the necessary measures to ensure that labour inspectors are recruited with sole regard to their qualifications for the performance of their duties. The Committee **regrets** that the Government does not address this request in its report and once again recalls that, pursuant to *Article 6* of the Convention, labour inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of improper external influences. The Committee also recalls that, pursuant to *Article 7*, they shall be recruited with sole regard to their qualifications for the performance of their duties. **Therefore, 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. Taking due note of the limited resources available, the Committee requests the Government to provide information on the content, frequency and duration of the training given to inspectors, as well as the number of participants.**

*Article 12(1)(a). Unannounced visits and free entry into workplaces liable to inspection.* In its previous comments, the Committee noted that under *Article 12* of the Convention, labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice any workplace liable to inspection. It requested the Government to take the necessary measures, including in the context of the ongoing labour law reform process, to ensure that labour inspectors are empowered, in law and in practice, to enter freely and without previous notice any workplace liable to inspection. In its reply, the Government indicates that the Regulation of Wages and Industrial Relations Act, 1971, and the Factories Act, 1974 make adequate provisions for labour inspectors to enter freely and without previous notice to any workplace liable to inspection. It also indicates that similar provisions have been included in relevant draft labour legislation. **The Committee takes note of this information and requests the Government to provide a copy of the new legislation, once adopted.**

*Article 18. Adequate penalties.* In its previous comments, the Committee noted that the fines established in the Factories Act, 1974 are quite low, and requested the Government to take the necessary measures to ensure the establishment of adequate penalties for the legal provisions enforceable by labour inspectors. The Government acknowledges that the existing penalties are indeed inadequate, but indicates that new penalties have been incorporated in the draft labour legislation. **The Committee hopes that the new legislation will ensure the establishment of adequate penalties for**

***breaches of the legal provisions enforceable by labour inspectors and requests the Government to provide a copy, once the new legislation is adopted.***

## Tajikistan

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2009)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the 2021 conclusions of the Committee on the Application of Standards (Conference Committee) on the application of Convention No. 81 by Tajikistan, which urged the Government to:

- take all necessary measures to ensure that no moratorium or other restrictions of this nature on labour inspections be placed in the future;
- provide information on the developments regarding labour inspections, including on the number of inspection visits undertaken by the labour inspectors, disaggregated by type of inspections and by sectors;
- take all necessary legislative measures to ensure that labour inspectors are empowered to make visits without previous notice, and that they are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions and to guarantee the powers of the state inspectorate in line with the Convention;
- revive the functioning of the Council for the Coordination of the Activities of Inspection Bodies so as to ensure the effectiveness and the efficiency of both labour inspectorates;
- implement outcome 2.2 of the Decent Work Country Programme 2020–24, in order to increase the effectiveness of the labour inspection;
- publish reports on the work of the inspection services and transmit those reports to the ILO in line with Articles 19 and 20 of the Convention; and
- involve the social partners in implementing those recommendations.

In addition, the Conference Committee invited the Government to accept an ILO technical advisory mission within the framework of the ongoing technical assistance in the country.

In this regard, the Committee welcomes the communication from the Ministry of Labour, Migration and Employment in September 2021, indicating its readiness to receive, in the first quarter of 2022, the ILO technical advisory mission called for by the Conference Committee. ***The Committee expects that all outstanding issues will be addressed in the framework of the mission.***

*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.* The Committee previously requested the Government to clarify the relationship between the State Inspection Service for Labour, Migration and Employment (SILME) and the trade union inspectorate established by the Federation of Independent Trade Unions. It also requested information on the modalities in place to ensure effective cooperation between both inspectorates, and on the relationship between those inspectorates and the Council for the Coordination of the Activities of Inspection Bodies. In this context, the Committee notes that, according to the Government's report, the SILME is under the supervision and control of the Prosecutor General's Office of the Republic of Tajikistan, and that it has official cooperation channels established with prosecution agencies, executive government authorities, local government authorities and financial

bodies. The Committee also notes from the information provided by the Government that the Council for the Coordination of the Activities of Inspection Bodies appears to play both a coordinating role between the SILME and the trade union inspectorate, and a role akin to supervision over the SILME. For instance, pursuant to section 6 of the Law on Inspections of Economic Entities No. 1269 (Law No. 1269), as last amended in 2020, the remit of this Council includes reviewing annual inspection body reports, with an annual assessment of the effectiveness and efficiency of inspections, and ensuring that inspection bodies comply with inspection rules. The Committee further notes that, according to sections 29 and 37 of Law No. 1269 and to information provided by the Government, the SILME is required to report to multiple bodies, including the Council for the Coordination of the Activities of Inspection Bodies, and the Prosecutor General's Office. Regarding the trade union inspectorate, the Committee notes the Government's indication that the rights and obligations of trade union inspectorates are defined in the Labour Code, the Trade Unions Act and the Regulations on the Trade Union Labour Inspectorate, approved by a decision of the General Council Executive Committee of the Federation of Independent Trade Unions. The Government indicates that representatives of the Federation of Independent Trade Unions and the trade union inspectorate participate actively in initiatives of the Ministry of Labour, Migration and Employment and of the SILME relating to improved cooperation between labour inspectorates, and that these bodies regularly exchange information, including through roundtable events, seminars and conferences. The Government also refers to the role of the Council for the Coordination of the Activities of Inspection Bodies to increase the effectiveness of cooperation between both inspectorates, and indicates that the Council has met annually to coordinate the activities of the inspectorates. In this regard, the Committee notes with *interest* the Government's indication that measures adopted in June 2021 have allowed the Council to resume its work. ***The Committee requests the Government to provide further 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 and the role of the Prosecutor General's Office. It also requests the Government to provide further information on the manner in which the trade union inspectorate, which operates under the direction of the executive boards of national and regional trade union committees, defines its priorities of action in practice, including examples of how the trade union inspectorate coordinates its activities with those of the SILME and examples of how it operates independently of the SILME.***

*Articles 6, 10 and 11. Status and conditions of service of labour inspectors. Number of labour inspectors and material means at their disposal.* The Committee previously requested information on the status and conditions of service of state labour inspectors, on the sources of funding for the trade union labour inspectorate, as well as on the numbers of labour inspectors in both inspectorates, and the material means at their disposal. Regarding the SILME, the Committee takes due note of the Government's indication that labour inspectors are civil servants, whose status and conditions of service are guaranteed under the Civil Service Act, which provides them with stability of employment. The Government maintains that, in accordance with this Act, wages, wage adjustments and annual pay rises of not less than 15–20 per cent for labour inspectors are determined by presidential decree, and that effective social protection measures are guaranteed under national legislation. The Committee also notes that, according to the Government, staff turnover at the SILME is one of the lowest among state bodies. In this respect, the Committee notes that there are 60 labour inspectors in the SILME as of July 2021 (with 28 in the central office and 32 in regional offices), and that the SILME also has 33 support staff. In addition, the Committee notes the detailed information provided by the Government on the material means at the disposal of the SILME, in terms of IT and other equipment, internet access and transportation. Nevertheless, the Committee observes that, pursuant to section 37(1) of Law No. 1269, the performance of an inspection body official conducting an inspection shall be assessed based on criteria which includes feedback from the inspected economic entity regarding the inspection body official.

With regard to the trade union inspectorate, the Committee notes that pursuant to sections 1.7 and 1.8 of the Regulations on the Trade Union Inspectorate, chief inspectors are dismissed and appointed by the board of trade union bodies, and the funding of the inspectorate is provided from trade union funds and other sources not prohibited by legislation. In this respect, the Committee notes the observations of the ITUC, which refer to the decrease in the number of trade union labour inspectors in 2021 to 24 (from 28 in 2020, and 36 in 2018), and which note that information on the sources of funding for trade union inspection services is still very limited. **The Committee requests the Government to provide its comments in respect of the observations of the ITUC. It also requests the Government to indicate how the independence of labour inspectors is ensured in practice, in respect of the requirement that the performance of an inspection body official be assessed based on criteria including feedback from economic entities. In addition, the Committee requests the Government to take measures to improve the situation with respect to the funding for and the number of trade union labour inspectors, and to provide further information on the material means at their disposal in practice.**

*Articles 12 and 16. Powers of labour inspectors.* 1. *Moratorium on inspections.* Following its previous comments on this matter, the Committee takes due note of the Government's indication that the moratorium on inspection has expired on 1 January 2021. The Committee notes that, according to the Government, the labour inspectorate now works according to its normal schedule, and labour inspectors decide on the frequency of inspection visits, based on the information available on the status of enterprises' compliance with labour regulations. The Committee also notes in this regard that the annual report on the work of the labour inspectorate covering the period 2020–21 (Annual Report on Labour Inspection 2020–21) provides detailed statistics on the number of inspection visits carried out by the SILME in the reporting period, disaggregated by sector. **Taking due note of these developments, the Committee expects that no moratorium of this nature will be placed on labour inspection in the future. It requests the Government to continue to provide statistics on the number of inspection visits undertaken by the SILME, disaggregated by type of inspections (scheduled, unscheduled, additional, or follow-up) and by sectors.**

2. *Other restrictions on the powers of labour inspectors.* The Committee previously noted with concern the restrictions in Law No. 1269 on the power of inspectors, 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). The Committee notes with **concern** that the restrictions under Law No. 1269 appear to be still in force. However, according to the Government, these restrictions do not apply to trade union labour inspectors. The Government also indicates that labour inspectors in the SILME can make inspection visits without previous notice in exceptional cases, when there is information on serious violations of standards that threaten workers' lives and health, or when responding to submitted complaints, claims or enquiries, and provided that the Council for the Coordination of the Activities of Inspection Bodies is notified. The ITUC observations underline in this regard that the requirements of *Articles 12 and 16* of the Convention should apply to all labour inspectors, and that it is therefore necessary to restore the powers of state labour inspectors fully, to ensure compliance with the Convention. In this respect, the Committee notes the Government's statement that the SILME has communicated the position of its leadership to the Council for the Coordination of the Activities of Inspection Bodies regarding strict compliance with the requirements of the Convention. The Committee also welcomes the Government's indication that a protocol-resolution of the Council has assigned to the Ministry of Justice, the Committee for State Property Investment and Management, and other relevant governmental agencies, the task to consider this matter and submit the necessary proposals to harmonize the relevant legislation. In addition, the Government refers to the existence of a due diligence checklist for inspections, compiled by SILME specialists, which formalizes the wide-ranging powers of labour inspectors to conduct unscheduled, surprise, targeted and verification inspections.

**With reference to its general observation of 2019 on the labour inspection Conventions, the Committee urges the Government to pursue its efforts and continue to take all the necessary measures to bring its national legislation into full conformity with Articles 12 and 16 of the Convention. It requests the Government to continue 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 requests the Government to 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 by trade union labour inspectors.**

*Article 13. Preventive measures in the event of a danger to the safety and health of workers.* The Committee previously requested information on the application in practice of *Article 13* of the Convention and of inspectors' temporary suspension powers under section 30 of Law No. 1269 related to occupational safety and health (OSH). In this regard, the Committee notes that the Government does not provide information regarding the application of section 30 of Law No. 1269, but refers to the application of section 3(7) of the Regulations of the SILME, approved by Government Decision No. 299 of 3 May 2014, as amended in 2020 (SILME Regulations). Section 3(7) of the SILME Regulations provides that the SILME has the authority to: (i) suspend the activities of organizations, production sites and individual entrepreneurs in accordance with national laws, when activities jeopardize employees' lives and health and until OSH infringements are addressed; and (ii) prohibit the use of non-compliant work clothes and footwear, and personal protective equipment. The Committee notes the Government's indication that, in 2020 and the first semester of 2021, labour inspectors of the SILME have halted the activities of enterprises, production sites and sole trader industrial plants in 95 instances, until the violations had been remedied and the inspectors' regulatory requirements had been implemented. The Annual Report on Labour Inspection 2020–21 also contains statistics on the reports issued by the SILME containing instructions to remedy infringements of standards on protection of workers, in connection with plans for the construction of new industrial facilities, for the renovation of industrial facilities, and for the installation of machinery, mechanisms and other industrial equipment. The Committee notes the Government's indication that trade union labour inspectors have the right to impose a suspension of work in the event of a threat to workers' lives. Pursuant to Part II of the Regulations on the Trade Union Inspectorate, the trade union labour inspectors also have the right to issue orders for employers to eliminate detected violations of labour protection requirements, execution of which is obligatory. **The Committee requests the Government to provide statistics regarding the application in practice of trade union labour inspectors' powers to suspend work in the event of a threat to workers' lives, and to issue orders for employers to eliminate detected violations of labour protection requirements.**

*Articles 20 and 21. Obligation to publish and communicate an annual report on the work of the labour inspectorate.* The Committee notes with **interest** that the Government has communicated the Annual Report on Labour Inspection 2020–21, which includes detailed information on the subjects covered by *Article 21(a), (b), and (d)–(g)* of the Convention. The Committee observes that this annual report does not appear to contain statistics of workplaces liable to inspection and the number of workers employed therein (*Article 21(c)*). **The Committee requests the Government to take the necessary measures to ensure that annual reports on the work of the labour inspectorate continue to be published and transmitted to the ILO in accordance with Article 20 of the Convention in the future, and that they contain all the information covered by Article 21(a)–(g).**

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

## Uganda

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 4 of the Convention. Supervision and control by a central authority.* In its previous comments, the Committee had requested the Government to pursue its efforts in placing again the labour inspection system under the supervision and control of a central authority, following its decentralization in 1995. In this respect, the Committee recalls the reiterated discussion of the case by the Committee on the Application of Standards (CAS) of the International Labour Conference (in 2001, 2003 and 2008) and the conclusions of the CAS emphasizing the need for the inspection system to be under the responsibility of a central authority. The Committee notes the Government's indication in its report that the Ministry of Gender, Labour and Social Development (MGLSD) plays a supervisory role, although the system of labour inspection is decentralized. The Government indicates that the MGLSD has started a process to amend the legislation and to place the inspection system under a central authority. **The Committee urges the Government to pursue its efforts to place the labour inspection system under a central authority with a view to ensuring coherence in the functioning of the labour inspection system and to provide information on the steps taken in that regard, including a copy of any legislation adopted.**

*Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits.* In its previous comments, the Committee had requested the Government to pursue its efforts to ensure that human and financial resources are allocated to labour inspection. The Committee notes that the Government indicates that the MGLSD has continued to ensure that human and material resources are allocated to labour inspection and that additional vehicles have been provided to the Department of Labour. However, the Committee notes the Government's indication that inadequate funding continues to represent a challenge. In addition, the Committee notes the 2016 report on the audit undertaken by the auditor-general of the Department of Occupational Safety and Health (OSH) of the MGLSD on OSH enforcement activities. The report finds that: (a) out of an estimated 1 million workplaces in the country, only 476 were inspected between 2013 and 2015 (212 in 2012–13, 125 in 2013–14, and 139 in 2014–15, based on departmental annual performance reports); (b) the MGLSD procured analytical and clinical laboratory equipment, but the OSH Department has not fully trained inspectors on the use of the equipment; and (c) enforcement of the OSH legislation has not been effective due to limited personnel and logistics. With respect to personnel issues, the Committee notes that the report indicates that out of 48 approved staff positions, only 22 are currently filled. **The Committee notes with concern the limited human and material resources allocated to labour inspection and urges the Government to take steps to ensure that there are a sufficient number of labour inspectors provided with adequate resources, including through the filling of vacant positions, in conformity with Articles 10 and 11 of the Convention, in order to ensure that workplaces are inspected as often as is necessary for the effective application of the relevant legal provisions, as required by Article 16 of the Convention.**

*Articles 20 and 21. Publication and communication of an annual report on labour inspection.* In its previous comments, the Committee had noted the Government's commitment to publish and submit to the ILO an annual inspection report on the work of the labour inspection services, pursuant to section 20 of the Employment Act 2006. The Committee notes the Government's indication that a draft annual report has been compiled. However, it notes with **concern** that no report has been published or submitted to the ILO. **The Committee once again requests the Government to take the necessary measures to ensure that annual reports on labour inspection are published and communicated regularly to the ILO within the time limits set out in Article 20 and that they contain the information required by Article 21(a)–(g).**

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

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

## Ukraine

### Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

### Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2004)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Confederation of Free Trade Unions of Ukraine (KVPU), received on 25 August 2021. It also notes the observations of the Joint Representative Body of the Representative all-Ukraine Trade Union Associations at the national level, communicated with the Government's report, and the response of the Government thereto.

*Articles 4, 6 and 7 of Convention No. 81 and Articles 7, 8 and 9 of Convention No. 129. Organization of the labour inspection system under the supervision and control of a central authority. Partial decentralization of labour inspection functions.* The Committee previously noted that local authorities assumed labour inspection functions, in addition to the State Labour Service (SLS), and urged the Government to indicate the measures taken to place the inspection functions of the local authorities under the supervision and control of the SLS. In this regard, the Committee takes due note that, according to the Government's report, legislative amendments introduced in 2021, including to section 34 of the Local Government Act, exclude local government authorities from monitoring compliance with labour legislation and issuing fines for labour law violations. The Government indicates that accordingly, labour inspection is now carried out exclusively by the SLS. Nevertheless, the Committee observes that section 17 of the Local Government Act, as amended, refers to the ability of local self-government bodies in the exercise of powers to control compliance with labour and employment legislation, to carry out inspections that do not belong to measures of state supervision, at certain enterprises, institutions and organizations. **The Committee requests the Government to indicate the nature and scope of the power of inspection envisaged under section 17 of the Local Government Act, and to provide information, including examples, of how this power of inspection is implemented in practice.**

*Articles 10, 11 and 16 of Convention No. 81 and Articles 14, 15 and 21 of Convention No. 129. Material means and human resources to achieve an adequate coverage of workplaces by labour inspection.* The Committee previously noted an increase in the number of labour inspectors from 615 in 2018 to 710 in 2019, for 1,003 existing posts, and urged the Government to pursue its efforts to fill the vacant posts. In this regard, the Committee notes the Government's statement, that as at July 2021, 1,125 labour inspectors work for the SLS. Regarding its previous request for the Government to take measures to provide sufficient material resources for the SLS, the Committee notes the Government's indication that labour inspectors are provided with office equipment and have their expenses covered, in accordance with the allocation of budgetary funds. **The Committee requests the Government to provide further 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. It also requests the Government to continue to indicate the number of labour inspectors employed by the SLS and the number of available posts at the SLS.**

*Articles 12(1), 16, 17 and 18 of Convention No. 81 and Articles 16(1), 21, 22 and 24 of Convention No. 129. Restrictions and limitations on labour inspection. 1. Moratorium on labour inspection.* The Committee previously noted the expiry of the moratorium on state supervision on 1 January 2019 and expressed the firm hope that no further restrictions of this nature would be placed on labour inspection in the future. In this respect, the Committee notes that, according to the Joint Representative Body of the Representative all-Ukraine Trade Union Associations at the national level, a moratorium has been imposed on planned inspections in businesses considered to be medium- or low-risk, in the context of

the COVID-19 pandemic. In response, the Government indicates that such restrictions were necessary to reduce the administrative pressure faced by those businesses, as a result of restrictions related to the COVID-19 pandemic. The Government also explains that there are no restrictions on unplanned monitoring measures, regardless of the category of risk of businesses. The Committee recalls that labour inspection is a vital public function, at the core of promoting and enforcing decent working conditions and respect for fundamental principles and rights at work, and it plays an important role in national responses to COVID-19, by monitoring compliance with protective measures aimed at reducing transmission of the virus among employees. **While recognizing the extraordinary nature of, and particular challenges linked to, the COVID-19 pandemic, the Committee requests the Government to ensure that the interference of any COVID-19-related measures with labour inspection activities is kept to the strict minimum necessary to respect public health measures. With reference to its General Observation of 2019 on labour inspection Conventions, the Committee requests the Government to remove any other moratoria on labour inspection. The Committee also requests the Government to provide detailed statistics on the number of inspection visits carried out by the SLS, disaggregated by type of inspection, region and sector.**

2. *Other restrictions.* The Committee has previously noted for several years important restrictions on the powers of labour inspectors, contained in Act No. 877-V of 2007 on Fundamental Principles of State Supervision and Monitoring of Economic Activity (Act No. 877-V), including restrictions with regard to: (i) the free initiative of labour inspectors to undertake inspections without previous notice; and (ii) the frequency of labour inspections. It noted with concern that Ministerial Decree No. 823 of 21 August 2019 on the Procedure for State Control of Compliance with Labour Legislation, as amended in 2019 and 2020 (Decree No. 823), provides for similar restrictions. In particular, section 1 of the amended Procedures approved by Decree No. 823 requires labour inspection to be carried out in accordance with Act No. 877-V, except for measures related to detecting informal employment. In this regard, the Committee strongly urged the Government to bring the labour inspection services and national legislation into conformity with the Conventions.

The Committee notes that, according to the Joint Representative Body of the Representative all-Ukraine Trade Union Associations at the national level, the District Administrative Court of the city of Kiev has found Decree No. 823 to be invalid in its Ruling No. 640/17424/19 dated 28 April 2021. The Committee notes with **deep concern** that previously observed restrictions in Act No. 877-V on the powers of labour inspectors remain in place. In this respect, the Committee notes the KVPU's observations, alleging that, despite multiple amendments, sections 4, 5 and 6 of Act No. 877-V continue to restrict 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. According to the KVPU, this leaves a significant number of problematic and important employee issues neglected and inadequately addressed. The KVPU also alleges that, despite the rising numbers of occupational accidents and cases of occupational diseases in 2020–21, requests from trade unions regarding identified violations are unanswered, delayed, or often met with refusal by the SLS, because trade union requests are not included in the exceptional grounds for unscheduled inspections under section 6 of 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 to ensure that workplaces are inspected as often and as thoroughly as necessary to ensure effective application of legal provisions, violate the Conventions. The Committee also recalls that, under *Article 18* of Conventions 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 for by national laws or regulations and effectively enforced. In this regard, the Committee takes due note of the Government's indication that the Ministry of Economy has developed a draft law to amend several legislative acts relating to the procedure for

labour inspection, and notes that the Government is receiving ILO technical assistance. The Government also indicates that a new draft law on fundamental principles of state monitoring was approved by the Cabinet of Ministers of Ukraine in June 2021 and submitted to Parliament. In addition, according to the Government, legislative amendments to the Labour Code have been adopted (previously, draft Law No. 1233 of 2019), reducing the size of fines provided for labour law violations in the Labour Code, and requiring labour inspectors to give warnings in cases of violations by certain legal persons and individual entrepreneurs using hired labour. The Committee observes that a number of draft laws, including draft Laws Nos 5371, 5054-1 and 5161-1, also propose changes to labour legislation which could have an impact on the application of Conventions Nos 81 and 129. ***The Committee requests the Government to provide its comments with respect to the observations of the KVPU. With reference to its general observation of 2019 on the labour inspection Conventions, the Committee 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 strongly urges the Government to ensure that any future legislative amendments and laws with an impact on labour inspection, including the draft law on the fundamental principles of state monitoring, are in full conformity with Articles 12, 16, 17 and 18 of Convention No. 81 and Articles 16, 21, 22 and 24 of Convention No. 129. It requests the Government to provide a copy of the amendments to Act No. 877-V and the new law on the fundamental principles of state monitoring, once adopted.***

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** (Myanmar); **Convention No. 81** (Bangladesh, Barbados, Djibouti, Germany, Grenada, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Iraq, Ireland, Israel, Jamaica, Jordan, Kazakhstan, Latvia, Lebanon, Liberia, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Montenegro, Mozambique, Netherlands: Aruba, Netherlands: Curaçao, Nigeria, North Macedonia, Norway, Sao Tome and Principe, Sierra Leone, Tajikistan, Uganda, Ukraine, United Republic of Tanzania: Tanganyika); **Convention No. 129** (Germany, Guatemala, Hungary, Iceland, Kazakhstan, Latvia, Luxembourg, Madagascar, Malawi, Montenegro, North Macedonia, Norway, Ukraine); **Convention No. 150** (Belize, Latvia, Lebanon, Lesotho, Liberia, Malawi, Mali, Mauritius, Mexico, Morocco, North Macedonia, Republic of Moldova, Ukraine); **Convention No. 160** (Kyrgyzstan, Latvia, Netherlands, Norway, Tajikistan).

## Employment policy and promotion

### Bosnia and Herzegovina

#### Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

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

The Committee notes the observations of the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBIH) and the International Trade Union Confederation (ITUC) received on 1 September 2017. **The Committee requests the Government to provide its comments in this respect.**

*Articles 1 and 2 of the Convention. Implementation of an active employment policy.* In their observations, the workers' organizations allege that the Government has failed to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. They stress that the employment situation in both Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) is dire, with extremely high rates of unemployment, citing a 28 per cent general unemployment rate and youth unemployment rates exceeding 60 per cent. The Committee notes the Government's indication that, pursuant to the Law on Employment Intermediation and Social Security of Unemployed Persons of the FBiH, the relevant authorities of the FBiH or Cantons are responsible for establishing measures to increase employment rates and improve the situation of employed persons. The FBiH adds that the work plan of the FBiH Employment Institute provides for the various forms of support for the promotion of employment, self-employment, preparation for entering the labour market; and professional development and training. These measures seek to integrate unemployed persons into the labour market, particularly in relation to persons belonging to hard-to-employ categories of unemployed persons. The Committee notes that section 23 of the Law gives priority to persons with disabilities in employment. With respect to the Brčko District of BiH, the Committee notes that the Law on Employment and Rights during Unemployment and the Labour Law of the Brčko District provide for professional training, preparation for employment and special protections for women, minors and persons who are not fit for work. In relation to the RS, the Committee notes that the RS Employment Strategy 2011–15 established a system for the registration of unemployed persons with the RS Employment Bureau (RSEB). The Committee notes the Government's indication that the RSEB implemented three projects providing support for employment in the RS from 2013 to 2015, through which a total of 4,522 persons were employed. In October 2016, the RS National Assembly adopted the RS Employment Strategy 2016–20, which seeks to increase employment and stimulate economic activity in RS through the implementation of thirteen operational goals and fifty specific measures. The Committee notes the Government's indication that, according to the records of the RSEB, implementation of these measures led to the employment of 34,593 persons in 2015. The Government adds that the measures set out in the RS Employment Action Plan for 2017 seek, inter alia, to structurally reform the role of the RSEB and focus its activity on employment intermediation. **The Committee requests the Government to provide detailed updated information, including statistical data disaggregated by sex, age and administrative entity, on the impact of the policies and measures implemented to promote full, productive and freely chosen employment, including the employment promotion activities carried out under the Employment Strategy of Republika Srpska 2016–20.**

*Employment trends.* The FBiH reports that there were a number of positive changes in the labour market in 2016. The RS indicates that a gradual stabilization of the labour market began in 2013, adding that numerous measures taken by the RS and other stakeholders addressed the increasing unemployment rate. The Committee notes that, according to data from the FBiH Statistics Institute, 457,974 workers were employed in the FBiH in 2016. It further notes that data from the Labour Force Survey indicates that the employment rate in the FBiH stood at 30.5 per cent in 2016, while the average unemployment rate was 25.6 per cent, a reduction of 3.31 per cent in comparison with the 2015 average. The Committee notes the high unemployment rate among young persons 15–24 years of age, which decreased from 64.9 per cent in 2015 to 55.1 per cent in 2016. The Committee further notes that, according to the ILOSTAT database, the general unemployment rate for young persons was 45.8 per cent in 2017. At the end of 2016, the largest percentage of those registered as unemployed in the FBiH (44.24 per cent) were in the 30–49 age group, followed by persons under the age of 30 (32.5 per cent) and persons over the age of 50 (25.26 per cent). In

2016, 133,037 persons were removed from the records of the Cantonal employment services, 115,379 persons were registered as unemployed and 92,263 persons were placed in employment. This represents an increase of 15,671 in comparison with 2015. According to the ILOSTAT database, in 2017, the general unemployment rate was 20.5 per cent, whereas the unemployment rate for men and for women was 18.9 per cent and 23.1 per cent, respectively. **The Committee requests the Government to continue to provide statistical data disaggregated by sex and age concerning the size and distribution of the labour force, including the size of the informal economy and employment trends in relation to employment, unemployment, and visible underemployment.**

*Undeclared work.* In their observations, the workers' organizations indicate that the informal economy is widespread, maintaining that the Government has not made serious efforts to tackle this issue effectively. They emphasize that nearly one-third of all persons who are employed are working in the informal economy, trapped there primarily due to poor access to the labour market, slow job creation in the formal economy and the lack of skills matching labour market demands. They add that workers in rural areas face a higher probability of remaining in informal employment in comparison with workers in other sectors. The Committee notes that, according to the RS Employment Strategy 2016–20, informality is predominately present in agriculture, making up about two-thirds of informal employment, with informal employment concentrated among the rural population. **The Committee therefore once again requests the Government to provide detailed updated information on the measures taken or envisaged to facilitate the transition of undeclared workers in the informal economy to employment in the formal economy, with special attention to the agricultural sector and rural communities.**

*Workers vulnerable to decent work deficits.* The FBiH indicates that a number of gender-sensitive programmes implemented by the FBiH Employment Institute focus on specific groups of workers vulnerable to decent work deficits: women; young persons; persons with disabilities; persons belonging to the Roma community; persons over the age of 40; and the long-term unemployed. The RS reports that 2,859 persons were employed through Social Safety Nets and the Employment Support Project. In addition, 543 persons were employed in 2015 through a project to support the employment of persons over the age of 45 and 135 persons were employed through an employment support project targeting the Roma minority from 2011 to 2015. It adds that the RS Employment Action Plan for 2017 sets out a number of measures aimed at increasing the employability of persons under the age of 30, persons over the age of 50 and persons belonging to the Roma community. In their observations, the workers' organizations allege that the 2015–18 Reform Agenda fails to address the interests of women, workers in the informal economy and workers with disabilities. In addition, the workers' organizations observe that women have low participation levels in political and public affairs, noting that the gender pay gap in BiH is larger than the EU average. **The Committee requests the Government to provide detailed updated information, including statistical data disaggregated by age and sex in the three administrative entities, on the nature and impact of measures taken to promote full, productive, freely chosen and sustainable employment for persons vulnerable to decent work deficits, including women, young persons, persons over the age of 50, informal workers, the long-term unemployed, persons with disabilities and members of the Roma community. Noting, moreover, the gender pay gap and the higher rates of unemployment for women, the Committee requests the Government to provide information on specific measures taken to promote employment for women at all levels and across all sectors, including in decision-making positions.**

*Employment of young persons.* The Committee notes that, according to the ILOSTAT database, the youth unemployment rate in the country stood at 45.8 per cent in 2017. The Committee notes that both FBiH and the RS took measures to promote the employment of young persons. In this regard, the RSEB implemented five projects from 2011 to 2014 to support young persons in gaining work experience, through which 3,650 persons were employed as trainees. Furthermore, the RS Employment Action Plan for 2017 contemplates the promotion of socially useful employment for youth, for which 50,000 Bosnian convertible marka (BAM) are allocated. In their observations, the workers' organizations express concerns in relation to the high rate of youth unemployment and the likelihood that they will remain in long-term unemployment and the mass exodus of young educated persons from the country seeking work elsewhere. **The Committee requests the Government to provide updated detailed information, including disaggregated statistical data on the impact of the measures taken by the three administrative entities of the country to promote full, productive, freely chosen and lasting employment for young workers.**

*Vocational education and training.* The Committee notes that the FBiH Employment Institute and the Cantonal employment services are responsible for implementing the Job Preparation Programme: from Training to Employment, which provides co-financing for the training of unemployed persons to enable them to acquire professional skills tailored to the needs of employers. In respect of the RS, the Committee notes the establishment of 11 job clubs and 6 Information, Counselling and Training Centres which provided job search assistance to more than 34,376 beneficiaries from 2011 to 2015, leading to the employment of 9,172 persons. Furthermore, the RS Employment Action Plan for 2017 contemplates the development, financing and delivery of training aimed at enhancing the employability of active jobseekers, for which BAM500,000 are allocated. **The Committee requests the Government to continue to provide information on the nature and impact of measures taken to improve vocational education and training and on their impact on the employability and competitiveness of the national labour force.**

*Article 3. Consultation with the social partners.* The Committee notes the Government's indication that the tripartite FBiH Economic and Social Council discusses all measures related to economic and social policy prior to their formal adoption and that the RS Employment Action Plan for 2017 was adopted after consultation with the social partners. In their observations, the workers' organizations allege that the social partners were not able to participate in the development and implementation of the 2015–18 Reform Agenda and that this lack of participation and transparency continued in relation to laws and policies adopted by regional governments in 2016. They further allege that the 2015 Labour Law undermines the strategic position of trade unions and collective agreements. **The Committee requests the Government to provide detailed information on the nature and extent of the involvement of the social partners in the development, implementation, monitoring and review of employment policy measures and programmes in the different administrative entities.**

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

## China

### Employment Policy Convention, 1964 (No. 122) (ratification: 1997)

With reference to its previous comments, the Committee recalls the observations made by the International Trade Union Confederation (ITUC) regarding the application of the Convention by the Government of China, received on 16 and 28 September 2020, and the additional observations made by the ITUC, received on 6 September 2021. The Committee also notes the Government's reply received on 20 November 2020, which arrived too late to be examined in 2020, as well as the additional information in relation to the observations, provided by the Government in its report on the application of the present Convention, received on 30 August 2021. The Committee further notes elements from the Government's report on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which are also relevant to the application of this Convention.

*Article 1(1) and (2)(a)–(c) of the Convention. Active policy to promote full, productive and freely chosen employment. Allegations of discrimination and forced labour in the context of the Convention.* The Committee refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). In the interest of coherence and transparency in its comments, considering both the allegations and the information in reply raise a close connection between employment policy, the free choice of employment of ethnic and religious minorities and their protection against discrimination in employment and occupation, the Committee presents the same synopsis of the information available in both comments.

In its observations of 2020 and 2021, the ITUC alleges that the Government of China has been engaging in a widespread and systematic programme involving the extensive use of forced labour of the Uyghur and other Turkic and/or Muslim minorities for agriculture and industrial activities throughout the Xinjiang Uyghur Autonomous Region (Xinjiang), in violation of the right to freely chosen employment set out in *Article 1(2)* of the Convention. The ITUC maintains that some 13 million members of the ethnic and religious minorities in Xinjiang are targeted on the basis of their ethnicity and religion

with a goal of social control and assimilation of their culture and identity. According to the ITUC, the Government refers to the programme in a context of “poverty alleviation”, “vocational training”, “re-education through labour” and “de-extremification”.

The ITUC submits that a key feature of the programme is the use of forced or compulsory labour in or around “internment” or “re-education” camps housing some 1.8 million Uyghur and other Turkic and/or Muslim peoples in the region, as well as in or around prisons and workplaces across Xinjiang and other parts of the country.

The ITUC indicates that, beginning in 2017, the Government has expanded its internment programme significantly, with some 39 internment camps having almost tripled in size. The ITUC submits that, in 2018, Government officials began referring to the camps as “vocational education and training centres” and that in March 2019, the Governor of the Xinjiang Uyghur Autonomous Region described them as “boarding schools that provide job skills to trainees who are voluntarily admitted and allowed to leave the camps”. The ITUC indicates that life in “re-education centres” or camps is characterized by extraordinary hardship, lack of freedom of movement, physical and psychological torture, compulsory vocational training and actual forced labour.

The ITUC also refers to “centralized training centres” that are no re-education camps but have similar security features (e.g. high fences, security watchtowers and barbed wire) and provide similar education programmes (legal regulations, Mandarin language courses, work discipline and military drills). The ITUC adds that the re-education camps are central to an indoctrination programme focused on separating and “cleansing” ethnic and religious minorities from their culture, beliefs, and religion. Reasons for internment may include persons having travelled abroad, applied for a passport, communicated with people abroad or prayed regularly.

The ITUC also alleges prison labour, mainly in cotton harvesting and the manufacture of textiles, apparel and footwear. It refers to research according to which, starting in 2017, the prison population of Uyghurs and other Muslim minorities increased dramatically, accounting for 21 per cent of all arrests in China in 2017. Charges typically included “terrorism”, “separatism” and “religious extremism”.

Finally, the ITUC alleges that at least 80,000 Uyghurs and other ethnic minorities workers were transferred from Xinjiang to factories in Eastern and Central China as part of a “labour transfer” scheme under the name “Xinjiang Aid”. This scheme would allow companies to: (1) open a satellite factory in Xinjiang or (2) hire Uyghur workers for their factories located outside this region. The ITUC alleges that the workers who are forced to leave the Uyghur Region are given no choice and, if they refuse, are threatened with detention or the detention of their family. Outside Xinjiang, these workers live and work in segregation, are required to attend Mandarin classes and are prevented from practicing their culture or religion. According to the ITUC, state security officials ensure continuous physical and virtual surveillance. Workers lack of freedom of movement, remaining confined to dormitories and required to use supervised transport to and from the factory. They are subject to impossible production expectations and long working hours. The ITUC adds that, where wages are paid, they are often subject to deductions that reduce the salary to almost nothing. ITUC further adds that, without these coercively arranged transfers, Uyghurs would not find jobs outside Xinjiang, as their physical appearance would trigger police investigations.

According to the ITUC’s allegations, to facilitate the implementation of these schemes, the Government offers incentives and tax exemptions to enterprises that train and employ detainees; subsidies are granted to encourage Chinese-owned companies to invest in and build factories near or within the internment camps; and compensation is provided to companies that facilitate the transfer and employment of Uyghur workers outside the Uyghur Region.

In its 2021 observations, the ITUC supplements these observations with information, including testimonies from the Xinjiang Victims Database, a publicly accessible database which as of 3 September

2021 had allegedly recorded the experience of some 35,236 ethnic minority members forcibly interned by the Government since 2017.

The Government states that the right to employment is an important part of the right to subsistence and development, which constitute basic human rights. The Government indicates that, under its leadership, Xinjiang has made great progress in safeguarding human rights and development. It adds that people of all ethnic groups voluntarily participate in employment of their own choice, and that the ITUC has ignored the progress made in economic development, poverty alleviation, improvement of people's livelihood and efforts to achieve decent work in Xinjiang.

With respect to the ITUC observations in relation to the use of forced labour, the Government emphasizes that these allegations are untrue and politically motivated.

The Government indicates that, pursuant to the Constitution, the State creates conditions for employment through various channels. The Employment Promotion Law (2007) stipulates that workers have the right to equal employment and to choose a job on their own initiative, without discrimination. Under the Vocational Education Law of 1996, citizens are entitled to receive vocational education and the State takes measures to develop vocational education in ethnic minority areas as well as remote and poor areas.

The Government indicates that residents of deeply poverty-stricken areas in southern Xinjiang have suffered insufficient employability, low employment rates, very limited incomes and long-term poverty. It states that eliminating poverty in Xinjiang has been a critical part of the national unified strategic plan to eradicate poverty by the end of 2020. The Government adds that it has eliminated absolute poverty, including in southern Xinjiang, thanks to government programmes such as the Programme for Revitalizing Border Areas and Enriching the People during the 13th Five-Year Plan Period (GUOBANFA No.50/2017) and the Three-Year Plan for Employment and Poverty Alleviation in Poverty-stricken Areas in the four prefectures of southern Xinjiang (2018–2020). The former programme had set development targets for nine provinces and autonomous regions, including Xinjiang, such as the lifting out of poverty of all rural poor and the continuous expansion of the scale of employment combining individual self-employment, market-regulated employment, government promotion of employment and entrepreneurship, and vocational training to increase the employability of workers. The latter programme laid the foundation for the XUAR government to provide dynamic, categorized and targeted assistance to people with employment difficulties and families where no one is employed, and create structured conditions for people to find jobs locally, to seek work in urban areas, or to start their own businesses.

The Committee also notes the Government's assertion in its white paper on employment and labour rights in Xinjiang (2020) that it is finding "new approaches to eradicating poverty". In its report, the Government indicates that its poverty eradication approach effectively prevents and strikes out at terrorism and extremism, and at the same time maintains social stability and improves people's lives, with its impoverished population and poverty incidence markedly reduced. The Government expresses the view that Xinjiang has put into practice the "relevant policy measures of the national government" to implement the Decent Work Country Programme for China (2016–2020), thus ensuring "that people from all ethnic groups work in a decent environment with freedom, equality, safety, and dignity". The Government further presents the view in its white paper on respecting and protecting the rights of all ethnic groups in Xinjiang that Xinjiang has provided "dynamic, categorized and targeted assistance to people with employment difficulties and zero-employment families so as to ensure that each family has at least one member in work". Workers' job preferences are fully respected, and "structured conditions" have been created for people to find jobs locally, to seek work in urban areas, or to start their own businesses. While promoting employment, Xinjiang guarantees "legitimate labour rights and interests in accordance with the law".

The Government reports that the task of relocating the poor for the purpose of poverty relief has been completed, and that the production and living conditions of poor people have been greatly improved: the poverty incidence rate in the four poverty-stricken prefectures of Xinjiang dropped from 29.1 per cent in 2014 to 0.21 per cent in 2019. Between 2014 and 2020, the total employed population in Xinjiang grew from 11.35 million to 13.56 million, representing an increase by 19.4 per cent. In the same period, an average of 2.8 million urban job opportunities were provided annually to the “surplus rural workforce”.

The Government is firm in its view that it fully respects the employment wishes and training needs of Xinjiang workers, including ethnic minorities. The Xinjiang Government regularly conducts surveys of labourers’ willingness to find employment and keep abreast of their needs in terms of employment location, job positions, remuneration, working conditions, living environment, development prospects and training needs. These surveys demonstrate that more urban and rural “surplus” workers hope to go to cities in northern Xinjiang or other more developed provinces and cities in other parts of the country, which offer higher wages, better working conditions and a better living environment. Ethnic minorities count on the government to provide more employment information and other public employment services to their members. The fact that ethnic minority workers go out to work is entirely voluntary, autonomous and free. According to the Government, the Three-Year Plan for southern Xinjiang explicitly refers to the “willingness for employment” and states that the wishes of individuals “who are unwilling to work due to health and other reasons” shall be fully respected, and that they will never be forced to register for training.

The Government stresses that language training for ethnic minority workers in Xinjiang is necessary to increase their language ability, and enhance their employability, and does not deprive them of the right to use their own language.

The Government also replies to the ITUC allegations that the Uyghur and other ethnic minorities in Xinjiang are not paid the applicable local minimum wage, indicating that the Labour Law of the People’s Republic of China stipulates that the minimum wage system applies across the country, although minimum wage standards may vary across administrative regions. As of 1 April 2021, the minimum wage in Xinjiang is divided into four grades: 1,900 yuan, 1,700 yuan, 1,620 yuan and 1,540 yuan. The Government considers reports that the wages of some migrant workers in Xinjiang are as low as US\$114 (approximately 729 yuan) per month to be groundless, stating that the overwhelming majority of this information is taken from individual interviews and lacks clear sources of data or statistical information. In addition, the Government points out that the reports do not fully clarify whether the workers concerned are working less than the statutory working hours, in which case they would be paid less. The Government states that by going out to work, the actual income of many people is much higher than the minimum wage of Xinjiang.

The Government also reports that the local government of Xinjiang has put in place labour inspection systems for protecting the rights and interests of workers and addressing their reports and complaints concerning wage arrears, failure to sign labour contracts and other infringements. The Government indicates that it will take steps to further strengthen the supervision and inspection of employer compliance with minimum wage provisions, call on employers to respect the minimum wage standards and address violations.

The Government provides detailed information on its laws, regulations and policies regarding freedom of religion; equality among the 56 ethnic groups in China and for consolidating and developing unity between and within these groups.

The Government also replies to the ITUC allegations that the restrictions on the free choice of employment are aimed at alienating ethnic and religious minorities from their religion, culture and beliefs. It reports that China adopts policies securing freedom of religious belief; manages religious affairs in accordance with the law; adheres to the principle of independence from foreign countries and

self-management; and actively guides religions to adapt to the socialist society so that religious believers may love their country and compatriots, safeguard national unity, ethnic solidarity, be subordinate to and serve the overall interests of the nation and the Chinese people. The Law of the People's Republic of China on the Administration of Activities of Overseas Non-Governmental Organizations within China prohibits overseas NGOs from illegally engaging in or sponsoring religious activities. China's Criminal Law, National Security Law, and Counter-Terrorism Law provide for the protection of citizens' freedom of religious belief. The Counter-Terrorism Law of the People's Republic of China states that China opposes all extremism that seeks to instigate hatred, incite discrimination and advocate violence by distorting religious doctrines or through other means, and forbids any discriminatory behaviour on the grounds of region, ethnicity and religion. The Regulations on Religious Affairs prohibit any organization or individual from advocating, supporting or sponsoring religious extremism, or using religion to undermine ethnic unity, divide the country, or engage in terrorist activities. According to the Government, China takes measures against the propagation and spread of religious extremism, and at the same time, carefully avoids linking violent terrorism and religious extremism with any particular ethnic group or religion.

The Committee takes due note of the ITUC allegations, the response and additional information provided by the Government and the various employment and vocational training policies as articulated in various recent "white papers" referred to by the Government in its report and other legal and policy documents referred to by United Nations human rights experts.

The Committee recalls that the Convention's objective of promoting full employment does not require ratifying States to guarantee work for all who are available for and seeking work, nor does it imply that everyone must be in employment at all times (2020 General Survey on promoting employment and decent work in a changing landscape, paragraph 54). The Convention does, however, require ratifying States to promote freedom to choose one's employment and occupation, as well as equal access to opportunities for training and general education to prepare for jobs, without discrimination on the basis of race, colour, national origin, religion or other grounds of discrimination covered under Convention No. 111 or other international labour standards such as the Vocational Rehabilitation and Employment (Disabled Persons) Convention, (No. 159).

In this context, the Committee notes that training facilities that house the Uyghur population and other Turkic and Muslim minorities separate them from the mainstream educational and vocational training, vocational guidance and placement services available to all other groups in the region throughout the country at large. Such separation may lead to active labour market policies in China being designed and implemented in a manner that generates coercion in the choice of employment and has a discriminatory effect on ethnic and religious minorities. Photographs of the facilities, equipped with guard towers and tall surrounding walls topped with barbed wire further reinforce the observation of segregation. The Committee has observed before that some workers from ethnic minorities face challenges in seeking to engage in the occupation of their choice because of indirect discrimination. For example, 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 (general observation on Convention No. 111, 2019). The Committee addresses other aspects of the particular system for vocational training and education aimed at the de-radicalization of ethnic and religious minorities in its comment on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

The Committee recalls that, while the Convention requires ratifying States to declare and pursue as a major goal an active policy designed to promote full, productive and freely chosen employment with the objective of stimulating economic growth and development and meeting manpower requirements, employment policy must also promote free choice of employment by enabling each

worker to train for employment which can subsequently be freely chosen, in accordance with *Article 1(2)(c)* of the Convention.

*Article 1(2)(c)* provides that the national employment policy shall aim to ensure that “there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he or she is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin”. In its 2020 General Survey on promoting employment and decent work in a changing landscape, paragraphs 68–69, the Committee noted that “the objective of freely chosen employment consists of two elements. First, no person shall be compelled or forced to undertake work that has not been freely chosen or accepted or prevented from leaving work if he or she so wishes”. Second, all persons should have the opportunity to acquire qualifications and to use their skills and endowments free from any discrimination. Moreover, the Committee recalls that the prevention and prohibition of compulsory labour is a condition sine qua non of freedom of choice of employment (2020 General Survey, paragraph 70).

The Committee notes the Government’s statement that the ITUC observations are based on individual statements and are unsubstantiated; however, it notes that the ITUC observations also append additional sources containing statistical data; references to first-hand testimonies, testimonies of eyewitnesses, family and relatives; research papers; and photographs of vocational training and education centres.

The Committee also notes that, on 29 March 2021, a number of United Nations human rights experts (including Special Rapporteurs and thematic working groups mandated by the UN Human Rights Council) expressed serious concern with regard to the alleged detention and forced labour of Uyghur and other Turkic and/or Muslim minorities in Xinjiang. The UN experts indicate that Uyghur workers have been held in “re-education” facilities, with many also forcibly transferred to work in factories in Xinjiang. They further indicate that Uyghur workers have allegedly been forcibly employed in low-skilled, labour-intensive industries, such as agribusiness, textile and garment, automotive and technological sectors.

The Committee recognizes and welcomes the strong commitment of the Government to the eradication of poverty. However, it is the Committee’s firm view that poverty eradication and the realization of the right to work to that end encompasses not only job placement and job retention but also the conditions under which the Government executes such placement and retention. The Convention does not only require the Government to pursue full employment but also to ensure that its employment policies do not entail any direct or indirect discriminatory effect in relation to recruitment, conditions of work, opportunities for training and advancement, termination, or any other employment-related conditions, including discrimination in choice of occupation.

The Committee is of the view that at the heart of the sustainable reduction of poverty lies the active enhancement of individual and collective capabilities, autonomy and agency that find their expression in the full recognition of the identity of ethnic minorities and their capability to freely and without any threat or fear choose rural or urban livelihoods and employment. The obligation under the Convention is not to guarantee job placement and retention for all individuals by any means available but to create the framework conditions for decent job creation and sustainable enterprises.

The Committee takes due note of the view expressed in the Government’s report that “some forces recklessly sensationalize the so-called “forced labour” issue in Xinjiang on various occasions”, adding that this is “nothing but a downright lie, a dirty trick with ulterior motives”. The Committee is bound to observe, however, that the employment situation of Uyghurs and other Muslim minorities in China provides numerous indications of coercive measures many of which arise from regulatory and policy documents.

The Government’s references to significant numbers of “surplus rural labour” being “relocated” to industrial and agricultural employment sites located inside and outside Xinjiang under “structured

conditions” of “labour management” in combination with a vocational training policy targeting de-radicalization of ethnic and religious minorities and at least in part carried out in high-security and high-surveillance settings raise serious concerns as to the ability of ethnic and religious minorities to exercise freely chosen employment without discrimination. Various indicators suggest the presence of a “labour transfer policy” using measures severely restricting the free choice of employment. These include government-led mobilization of rural households with local townships organizing transfers in accordance with labour export quotas; the relocation or transfer of workers under security escort; on-site management and retention of workers under strict surveillance; the threat of internment in vocational education and training centres if workers do not accept “government administration”; and the inability of placed workers to freely change employers.

***The Committee urges the Government to provide detailed updated information on the measures taken or envisaged to ensure that its national employment policy effectively promotes both productive and freely chosen employment, including free choice of occupation, and effectively prevents all forms of forced or compulsory labour. In addition, the Committee requests the Government to take immediate measures to ensure that the vocational training and education programmes that form part of its poverty alleviation activities focused in the Uyghur Autonomous Region are mainstreamed and delivered in publicly accessible institutions, so that all segments of the population may benefit from these services on an equal basis, with a view to enhancing their access to full, productive and freely chosen employment and decent work. Recalling that, under the Employment Promotion Law (2007) and the Vocational Education law (1996), workers have “the right to equal employment and to choose a job of their own initiative” and to access vocational education and training, respectively, the Committee asks the Government to provide detailed information on the manner in which this right is effectively ensured, particularly for those belonging to the Uyghur minority and other Turkic and/or Muslim minorities. The Government is also requested to provide detailed information, including disaggregated statistical data, on the nature of the different vocational education and training courses offered, the types of courses in which Uyghur minorities have participated, and the numbers of participants in each course, as well as the impact of the education and training on their access to freely chosen and sustainable employment.***

*Article 3 of the Convention. Consultation. The Committee requests the Government to indicate the manner in which representatives of workers and employers organizations were consulted with respect to the design, development, implementation, monitoring and review of the active labour market measures being taken in the Uyghur Autonomous Region. In addition, and given the focus of the active labour market measures on the Uyghur and other Turkic/Muslim minorities, the Committee requests the Government to indicate the manner in which the representatives of these groups have been consulted, as required under Article 3.*

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

## Comoros

### Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

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

The Committee notes the observations made by the Workers Confederation of Comoros (CTC), received on 1 August 2017. ***It requests the Government to provide its comments on the matter.***

*Article 1 of the Convention. Implementation of an active employment policy. Youth employment.* In its previous comments, the Committee requested the Government to indicate in its next report whether the Act issuing the national employment policy had been adopted and to indicate whether specific difficulties had been encountered in achieving the objectives set out in the national Poverty Reduction and Growth Strategy Paper (PRGSP). The Committee notes with ***interest*** that the national employment policy act (PNE) was

adopted through the promulgation on 3 July 2014 of Decree No. 14-11/PR enacting Framework Act No. 14-020/AU of 21 May 2014 issuing the national employment policy. The Government indicates that this Act aims to provide a common and coherent vision of the strategic approaches for taking national action on employment, by increasing opportunities for low-income population groups to access decent work and a stable and sustainable income. The Government adds that in November 2014, with ILO support, it developed and adopted the Emergency Plan for Youth Employment (PUREJ), which is part of the process to implement the PNE. The PUREJ involves the adoption of programmes to promote youth employment which result from priority measures identified in the strategic framework of the PNE and integrated in the Strategy for Accelerated Growth and Sustainable Development (SCA2D). The Government adds that the overall objective of the PUREJ is to ensure strong employment growth in the short and medium term. In this context, the PUREJ focuses mainly on the promotion of youth employment in job-creating sectors for a period of two years, in order to contribute to the diversification of the economy, the production of goods and services and the building of social peace. The Government points out that the objective was to create 5,000 new decent and productive jobs for young persons and women by the end of 2016, through the development of skills in line with the needs of priority sectors of the Comorian economy and support for the promotion of employment and vocational integration. The Committee notes that in May 2015 the Government signed, together with the constituents and the ILO, the second-generation Decent Work Country Programme (DWCP), of which the main priority is to ensure the promotion and governance of employment. The Committee notes the observations of the CTC which indicate that the implementation of the PNE is not effective. It points out that the vocational training component, which is being conducted through a project with the European Union, is the only one being applied. In this regard, the provisions and mechanisms of the PNE have not been implemented and the text has not been disseminated to the public. The CTC also reports the dismissal of over 5,000 young persons without compensation. ***The Committee once again requests the Government to indicate whether specific difficulties have been encountered in achieving the objectives set out in the PRGSP. It requests the Government to provide more detailed information on the measures taken with a view to achieving the employment priorities established in the framework of the DWCP 2015–19, and on the impact of measures and programmes such as the PUREJ, which are aimed at increasing access to decent work for young persons. In this regard, the Committee requests the Government to indicate the number of young persons who have benefited from these programmes.***

*Article 2. Collection and use of employment data. The Committee once again requests the Government to provide detailed information on the progress made with the collection of data on the labour market, and on the manner in which this data is taken into consideration during the formulation and implementation of the employment policy. It reminds the Government that it may avail itself of ILO technical assistance if it so wishes.*

*Article 3. Participation of the social partners. The Committee once again requests the Government to include full information on the consultations envisaged in Article 3 of the Convention, which requires the participation of all of the persons affected, and particularly employers' and workers' representatives, in the formulation and implementation of employment policies. The Committee hopes that the Government will make every effort to take the necessary measures without delay.*

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

## Djibouti

### Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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. 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)

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

*Articles 2(4) and (5) and 3 of the Convention. Prohibitions and exclusions. Legal status and conditions governing the operation of private employment agencies.* In its report received in November 2018, the Government indicates that overseas employment of Ethiopians has been prohibited since 2013, pending the establishment of an appropriate legal framework and governance structure for the protection of Ethiopian workers migrating abroad. The Government reports that, with respect to the revision of the Employment Exchange Services Proclamation No. 632/2009, a new proclamation was adopted in 2016: the Overseas Employment Proclamation No. 923/2016. The Committee notes that the 2016 Proclamation explicitly provides that it replaces the 2009 Proclamation. The Government adds that Proclamation No. 923/2016 has not yet been implemented and its corresponding directive is being developed. The Committee notes the Government's indication that, with the adoption of the 2016 Proclamation, preparations are under way to lift the ban on Ethiopian overseas employment. **The Committee requests the Government to communicate detailed updated information on the legal status of private employment agencies pending and following the lifting of the ban, as well as on the manner in which their conditions of operation are governed, as required by Article 3 of the Convention. The Committee further requests the Government to provide**

**information on the implementation of the Overseas Employment Proclamation No. 923/2016 in practice, as well as information on other frameworks governing the operation of private employment agencies in a domestic as well as cross-border context. Additionally, the Government is requested to provide copies of the directive corresponding to the 2016 Proclamation once it is available, and to indicate which employers' and workers' organizations were consulted prior to the adoption of that Proclamation.**

*Article 7. Fees and costs.* The Committee recalls its 2016 direct request regarding the Employment Exchange Services Proclamation No. 632/2009, which set out the types of fees and costs to be borne by employers and workers. The Committee notes the Government's indication that the newly adopted Overseas Employment Proclamation No. 923/2016, which revised the Employment Exchange Services Proclamation No. 632/2009, will not affect in any way the application of the Convention, including the exceptions permitted under *Article 7(2)*. The Committee notes that section 10(2) of the 2016 Proclamation provides, as did the 2009 Proclamation, that workers are responsible for covering: passport issuance fees; costs associated with the authentication of the contract of employment received from overseas and the certificate of clearance from crime; medical examination fees; vaccination fees; birth certificate issuance fees; and expenses related to the certificate of occupational competence. In respect of the medical examination provided for under section 9 of the 2016 Proclamation, the Committee draws the Government's attention to Paragraphs 3(h) and (i) and 25 of the HIV and AIDS Recommendation, 2010 (No. 200). In particular, Paragraph 25 provides that HIV testing or other forms of screening for HIV should not be required of workers, including migrant workers, jobseekers and job applicants. **The Committee reiterates its request that the Government provide information on the reasons authorizing the exception, in the interest of the workers concerned, as contemplated in Article 7(2) of the Convention, to the principle that agencies should not charge fees or costs to workers, which would permit charging for the items set out under section 10(2) of the Overseas Employment Proclamation No. 923/2016, as well as information on the corresponding measures of protection. In addition, it requests the Government to indicate which employers' and workers' organizations were consulted in the interests of the migrant workers concerned.**

*Article 8(1) and (2). Protection and prevention of abuses of migrant workers placed in another country. Bilateral labour agreements.* In response to the Committee's previous request, the Government indicates that no cases of abusive recruiters have been reported since its imposition of the ban on overseas employment in 2013. The Committee notes, however, that the Government provides no information regarding investigations launched against abusive recruiters in accordance with section 598 of the Criminal Code concerning Ethiopian workers placed abroad prior to the imposition of the ban. With respect to bilateral labour agreements (BLAs), the Committee notes the Government's indication that negotiations between Ethiopia and migrant-receiving countries are still ongoing and that the Government can provide information on the outcome of the negotiations once the BLAs with the countries concerned are concluded. **The Committee requests the Government to indicate the measures taken to ensure adequate procedures and mechanisms to investigate and sanction cases of abuse once the ban on overseas employment is lifted, including the sanctions envisaged. In addition, the Committee requests the Government to provide updated information on progress made in the conclusion and application of bilateral labour agreements concluded with countries receiving migrant workers from Ethiopia, with the aim of preventing abuses and fraudulent practices in the recruitment, placement and employment of Ethiopian migrant workers abroad. It further requests the Government to provide copies of such agreements.**

*Articles 9, 10 and 14. Child labour. Complaint procedures and supervision.* The Government indicates that, following the imposition of the ban on overseas employment, no cases of Ethiopian minors recruited in a cross-border context have been reported. **The Committee requests the Government to indicate the measures taken or envisaged to ensure that child labour is not used or supplied by private employment agencies.**

*Articles 11 and 12. Adequate protection and allocation of responsibilities.* The Government indicates that Proclamation No. 923/2016 adequately ensures the protection of migrant workers in accordance with the above-mentioned Articles. It adds that the impact of the measures taken can only be observed following the implementation of the 2016 Proclamation, indicating that the model employment contract is also under revision. **In the absence of specific information regarding the manner in which effect is given to Articles 11 and 12 of the Convention in either a domestic or cross-border context, the Committee once again requests the Government to provide updated detailed information on the nature and impact of measures taken to ensure protection for all workers in relation to each of the areas covered under Article 11, as well as the**

**manner in which responsibilities are allocated between private employment agencies and user enterprises as required under Article 12 of the Convention. The Committee also once again requests the Government to provide a copy of the revised model employment contract and updated information on its effective use.**

*Article 13. Cooperation between the public employment service and private employment agencies.* The Government indicates that information on cooperation between the public employment service and private employment agencies will become available once private employment agencies enter into full operation. **The Committee requests the Government to provide detailed updated information in its next report on the manner in which effect is given to Article 13 of the Convention. In particular, it reiterates its request that the Government provide extracts of the reports submitted by private employment agencies to the Ministry of Labour and Social Welfare and specify the information that is made publicly available.**

*Articles 10 and 14.* **The Committee reiterates its request that the Government provide updated information on the type and number of complaints received and the manner in which they were resolved, the number of workers covered by the Convention, the number and nature of infringements reported, as well as the remedies, including penalties, provided for and effectively applied in the event of violations of the Convention.**

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

## India

### Employment Policy Convention, 1964 (No. 122) (ratification: 1998)

*Socio-economic impact of the COVID-19 pandemic. Response and recovery measures.* The Committee notes the devastating effects the pandemic has had on health, lives and livelihoods in India. In this context, the Committee recalls the broad guidance provided by international labour standards. It draws the Government's attention to the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), which is a useful guide for the formulation and implementation, in consultation with the most representative organizations of employers and workers, of inclusive measures to promote full, productive and freely chosen employment opportunities and decent work as an effective response to the deep-rooted socio-economic effects of the crisis. **The Committee invites the Government to provide updated information on the impact of the pandemic on the implementation of the employment policies and programmes adopted with a view to guaranteeing the objectives of the Convention, especially in relation to the most vulnerable population groups. It requests the Government to provide updated information on the impact of the COVID-19 pandemic on the labour market, statistical information, disaggregated by age, sex and occupational sector, on the size and distribution of the labour force, rates of employment, unemployment and under employment and the size of the informal economy.**

*Articles 1 and 3 of the Convention. Formulation and implementation of a National Employment Policy. Consultation with the social partners.* In its previous comments, the Committee requested information on the development of the National Employment Policy (NEP) in consultation with the social partners, as well as disaggregated data on the impact of increased budgetary allocations on employment creation. The Government reports that the drafting process for the National Employment Policy, initiated in 2013, is still under way, in consultation with stakeholders. The Government adds that discussions have been held with key stakeholders in respect of the draft NEP, as well as with the ILO Office. It indicates that a revised draft NEP is being prepared and will be shared with stakeholders before being finalized. With respect to consultations with the tripartite partners, including consultations within the Indian Labour Conference, the Government indicates that the latter is the highest-level tripartite consultative committee to advise the Government on labour-related issues. The Indian Labour Conference has held 46 sessions since its establishment in 1942, with the most recent session having taken place in 2015. The Government indicates that, during its 45th session in 2013, following consultations among the representatives of workers' and employers' organizations and Central and

State governments, the Committee on Measures to Improve Employment and Employability recommended that the National Employment Policy be finalized as a matter of priority. **Noting that no session of the Indian Labour Conference has been held since 2015, the Committee hopes that the National Employment Policy will be adopted in the near future and reiterates its request that the Government provide a copy once it is adopted. The Committee also requests the Government to provide concrete, updated information on the nature, content and outcome of consultations held with representatives of employers' and workers' organizations concerning the formulation, updating and implementation of the National Employment Policy, as well as other active employment policies and programmes at the central and state level. The Committee further requests the Government to provide detailed updated information on the manner in which the perspectives of persons affected by the employment-related measures implemented are taken into account in the development and implementation of active employment policy measures.**

*Labour market trends.* The Committee previously requested the Government to provide updated disaggregated statistical data on trends in labour force participation, employment, unemployment and underemployment, as well as information on the national labour market information system and the production of timely employment data to help design more effective employment policies.

The Committee notes the information provided by the Government in respect of the annual Periodic Labour Force Surveys (PLFS) carried out by the National Sample Survey Office. It notes the detailed labour market statistics information provided by the Government in the PLFS reports on the situation and trends of labour force participation, employment and unemployment, in both the formal and informal economies, disaggregated by age, sex, skills, disadvantaged group, state and economic sector. In particular, the Committee notes that the 2018–19 PLFS report shows that the labour participation rate increased slightly from 36.9 per cent in 2017–18 to 37.7 per cent in 2018–19, while the unemployment rate decreased from 6.1 per cent to 5.8 per cent during the same period. **The Committee requests the Government to continue to provide updated detailed information on the situation and trends of labour force participation, employment, unemployment and underemployment. The Government is further requested to indicate the manner in which the information compiled from the PLFS reports is utilized in the design and implementation of employment policies at national and provincial level.**

*Article 2. Implementation of employment programmes and employment services.* The Committee notes with **interest** the information provided by the Government regarding the implementation of various programmes as well as their impact during the reporting period, targeting young persons and workers in the informal sector. The Government reports that during the reporting period (2017–19), the Prime Minister's Employment Generation Programme (PMEGP) generated 309,043 jobs. Moreover, the National Urban Livelihoods Mission (NULM) provided assistance to 295,406 beneficiaries to establish micro enterprises. In addition, the Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU–GKY), which is part of the National Rural Livelihoods Mission and focuses on the employment of rural youth between the ages of 15 and 35 from poor families, placed a total of 271,316 participants in employment. **The Committee requests the Government to continue to provide detailed updated information on the impact of the employment programmes being implemented throughout the country, in both urban and rural areas, including statistical information, disaggregated by sex and age, on the number of jobs generated and the number of beneficiaries placed.**

*Specific groups.* The Government reports on the implementation of the National Career Service (NCS) project, which provides a variety of employment related services to groups in vulnerable situations, such as career counselling, vocational guidance, as well as information on skills development courses, apprenticeships, internships and other opportunities. As of July 2019, more than 10.3 million jobseekers were registered in the NCS Portal. There are 25 NCS centres for the Scheduled Castes and Scheduled Tribes (ST/SC) operating in the different states and union territories. These centres provide persons belonging to the ST/SC with services to enhance their employability through coaching,

counselling and training programmes, including one year of computer training and of computer hardware maintenance training for interested ST/SC candidates. The Committee notes that there are 21 NCS centres that provide services to persons with disabilities, including informal skills training. In addition, a stipend is available from the NCS centres to encourage persons with disabilities to participate in training and reduce their commuting and other expenses. However, the Committee notes that, according to the concluding observations on the initial report of India by the Committee on the Rights of Persons with Disabilities (CRPD) in October 2019, only 37 per cent of persons with disabilities have access to employment, and the employment quota of 4 per cent of persons with disabilities is not sufficiently implemented (CRPD/C/IND/CO/1, paragraph 56(a) and (c)). **The Committee requests the Government to continue to provide information on the nature and impact of services provided by NCS centres and other measures taken to promote sustainable employment and decent work for disadvantaged groups, including the number of persons placed in employment through such services and the type of employment in which they are placed.**

*Employment of women.* The Committee notes the information provided by the Government on legislative reform and policy initiatives undertaken to increase the participation of women in the labour market. The Maternity Benefit (Amendment) Act adopted in 2017 extended paid maternity leave from 12 weeks to 26 weeks and provides for mandatory crèche facilities in establishments with 50 or more employees. The 2019 Code on Wages prohibits gender discrimination in matters related to wages and recruitment of employees for the same work or work of a similar nature. Moreover, to enhance the employability of women, trainings are provided through a network of Women Industrial Training Institutes, National Vocational Training Institutes and Regional Vocational Training Institutes. As of July 2019, 3.1 million female jobseekers were registered in the NCS portal, with one NCS centre exclusively providing services to women with disabilities. In addition, a number of measures are being undertaken to promote women's entrepreneurship, such as the provision of collateral-free concessional loans, the formation of cooperatives through self-help groups and the creation of online marketing platform. However, the Committee notes that a significant gap persists in labour participation rates between men (50.3 per cent) and women (15.0 per cent), as reflected in the 2018–19 PLFS report. Moreover, about four times more women work as helpers in household businesses (30.9 per cent) compared with men (7.6 per cent). The Committee further notes that, in its 2019 concluding observations in relation to India, the Committee on the Rights of Persons with Disabilities (CRPD) expressed concern about the multiple and intersecting discrimination faced by women and girls with disabilities, particularly those with intellectual or psychosocial disabilities and those living in rural areas (doc. CRPD/C/IND/CO/1, October 2019, paragraph 14(a)). The CRPD observed with concern that only 1.8 per cent of women with disabilities have access to employment (doc. CRPD/C/IND/CO/1, paragraph 56(a) and (c)). **The Committee requests the Government to strengthen its efforts to increase the active participation of women in the labour market and their access to sustainable employment, particularly for those facing multiple and intersecting discrimination. It also requests the Government to provide information on any measures taken to raise awareness of the need for men and women to share family responsibilities, with a view to facilitating women's access to the labour market. In this respect, the Government is requested to provide updated comprehensive information, including disaggregated statistical data, on the nature and impact of measures taken to promote women's access to full, productive, freely chosen and lasting employment.**

*Formalization of informal workers.* The Committee notes the information provided by the Government concerning the Pradhan Mantri Rojgar Protsahan Yojana Programme (PMRPY), launched in August 2016. The PMRPY provides incentives to employers for job creation and seeks to bring a large number of informal workers to the formal workforce. The PMRPY targets workers earning up to Rs15,000 per month. Under this scheme, the Government pays the employers' full contribution of 12 per cent of new employees' salary to the Employees' Provident Fund and the Employee's Pension Fund for a period of three years. As of 31 March 2019 (the deadline for registration of beneficiaries),

162,268 establishments and 12,753,284 employees had received benefits under this scheme. The Committee also notes that, according to the 2018–19 PLFS report, regular wage workers account for 23.8 per cent of the total working population compared to 22.8 per cent in 2017–18. However, it observes that there are still large numbers of workers engaged in non-regular work, including 48.2 per cent as own account workers, 9.2 per cent as helpers in family businesses and 28.3 in casual labour. ***The Committee requests the Government to indicate whether the PMRPY has continued to operate after 31 March 2019 and, if so, to provide updated information on its activities and impact. It also requests the Government to continue to provide detailed updated information on other measures taken or envisaged in this context and their impact on reducing informal employment.***

*Employment programmes targeting rural areas.* The Committee previously requested the Government to provide information on the impact of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), in enhancing job growth and sustainable employment in rural areas. The Government indicates that the MGNREGA provides more than one hundred days of guaranteed wage employment every financial year to each rural household whose adult members volunteer to do unskilled manual work. MGNREGA thereby provides livelihood security through a fall-back option for rural households when no better employment opportunities are available. The Committee notes the Government's indication that the MGNREGA programme generated 2.34 billion total person-days in 2017–18 and 2.68 billion total person-days in 2018–19. The Committee also notes that, according to the 2018–19 PLFS report, only 13.4 per cent of workers in rural areas are engaged in regular employment, whereas 41.8 per cent are own account workers, 16.7 per cent are helpers in household businesses and 28.6 per cent are engaged in casual labour. ***The Committee requests the Government to continue to provide detailed updated information on the implementation of the MGNREGA and its impact. It also requests the Government to provide information on any measures taken or envisaged in order to provide full, productive and sustainable employment for rural households, including through vocational education and skills development as well as other employment services.***

## Madagascar

### Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

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 2022, 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. Implementation of an active employment policy.* In its previous comments, the Committee expressed the hope that the Government would soon be in a position to report progress in the formulation and implementation of an employment policy. In this regard, the Committee notes with ***interest*** the Government's indications that Act No. 2015-040 of 9 December 2015 determining the orientation of the National Employment and Vocational Training Policy (PNEFP) has been adopted and is the subject of an awareness-raising campaign. It adds that the National Plan of Action for Employment and Training (PANEF) has been replaced by the Operational Plan of Action (PAO), which contains the various policy priorities implemented by the PNEFP. The Government indicates that the objective of the PNEFP, together with the implementation of the General State Policy (PGE), the National Development Plan (PND) and the Sustainable Development Objective (ODD), is to eradicate unemployment and underemployment by 2020 through the creation of sufficient numbers of formal jobs to absorb jobseekers. The PNEFP also has the goal of establishing a relevant information system on the labour market and vocational training and of designing and introducing a harmonized system of certification and training. The Government adds that four employment fairs were organized in December 2015 and that 1,119 young school-leavers were trained and integrated into small-scale rural occupations within the context of a partnership with UNESCO. Also in relation to employment promotion, the Government reports two "Rapid Results" initiatives of the Ministry of Employment, Technical Education and Vocational Training (MEETFP), which it indicates have been fully

achieved. The first initiative focused on the matching of training and employment in 12 growth sectors. The second established a vocational training centre in the town of Andranofeno Sud with a view to employment generation. The centre provides training to around 100 students in six main areas: tourism, hotels and catering, agriculture and livestock, wood art and trades, automobile mechanics, construction and public works. The Government adds that 1,058 rural young school-leavers have been trained in 15 types of trades in several regions and that 59 persons with disabilities were trained by the National Training Centre for Persons with Disabilities (CNFPSSH) in the regions of Analanjirofo and Sava. The National Employment and Training Observatory has been transformed into the National Employment and Training Office. With regard to the upgrading of technical education and vocational training, the Government reports the rehabilitation in 2015 of five technical and vocational schools, 60 classrooms and the accreditation of 97 public and private technical establishments. The Government adds that four vocational training centres for women are now operational. **The Committee requests the Government to continue providing information on any developments relating to the implementation of the National Employment and Vocational Training Policy, as well as on its impact on the employment rate and the reduction of unemployment, and on the transition from the informal economy to the formal economy. The Committee once again requests the Government to provide information to enable it to examine the manner in which the main components of economic policy, in such areas as monetary, budgetary, trade or regional development policies, contribute “within the framework of a coordinated economic and social policy” to the achievement of the employment objectives set out in the Convention. The Committee also requests the Government to provide updated information on the measures adopted or envisaged to create lasting employment, reduce underemployment and combat poverty, particularly for specific categories of workers, such as women, young people, persons with disabilities, rural workers and workers in the informal economy. In this regard, it requests the Government to provide further information on the types of training provided by the CNFPSSH to persons with disabilities.**

*Coordination of education and training policy with employment policy.* The Committee notes with **interest** that, under the terms of section 2 of the PNEFP, its objective is the implementation of a policy for massive job creation and the promotion of vocational training. Section 10 of the PNEFP specifies that the policy includes in particular activities for employment creation, enterprise support, labour market mediation, the direct promotion of employment for young persons, women and vulnerable categories, the promotion of decent work and the extension of social security. In section 5, it establishes the right to training and qualifications irrespective of a person’s individual and social situation and educational level. The Committee further notes that section 46 calls for the creation of partnership between the State, territorial communities and technical and financial partners with a view to launching and financing employment promotion action for young persons, women and disadvantaged categories of workers. The Government indicates that the action taken for youth employment includes, on the one hand, the promotion of self-employment and traditional or informal enterprises and, on the other, support for integration into enterprises and traditional activities. The objectives of this action include support for young persons in their vocational projects and the reinforcement of financing capacities. The Ministry provides training to young persons with a view to promoting self-employment and the creation of small and medium-sized enterprises and industry. During the course of 2015 and the first half of 2016, training of this type was provided to 1,436 young persons from six regions. **The Committee requests the Government to continue providing information on the results of the action taken to ensure the coordination of vocational education and training policy with employment policy. It once again requests the Government to indicate the results achieved through the implementation of these programmes in terms of the access of qualified young persons to lasting employment. The Committee further requests the Government to indicate the impact of the measures taken to promote the creation of small and medium-sized enterprises.**

*Compilation and use of employment data.* The Government indicates that the Periodic Household Survey was commenced and then replaced by the global population census in light of the State’s priorities due to the significant increase in the population. However, it reports the preparation of a partnership project with the International Labour Office with a view to establishing a system of reliable databases on employment. The National Employment and Training Office will be responsible for the management of the system. The Government adds that in 2016 the MEETFP started to establish Regional Employment Services (SRIE) in Regional Departments, and that there are now SRIEs in nine Regional Departments and that they are responsible for managing the regional employment information system, which involves matching young jobseekers and enterprises. **The Committee requests the Government to provide information on the progress achieved by the project in the establishment of a system of reliable databases on employment. It**

**also requests the Government to provide further information on the impact of the SRIEs in relation to the compilation and use of employment data.**

*Article 3. Participation of the social partners in the formulation and implementation of policies.* The Government indicates that a National Agreement on Employment and Vocational Training was concluded with the social partners in October 2015 and with enterprise groups in the five priority areas in November 2015. The Government also reports the conclusion of two other agreements including the social partners, namely the agreement on the financing of the Technical Support Team for the PNEFP and the agreement on the fund for its implementation. **The Committee requests the Government to continue providing updated information on the consultations held with the representatives of the social partners on the subjects covered by the Convention. The Committee once again requests the Government to provide detailed information on the consultations held with the representatives of the most disadvantaged categories of the population, and particularly with the representatives of workers in rural areas and the informal economy.**

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

## Romania

### Employment Policy Convention, 1964 (No. 122) (ratification: 1973)

*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 programmes. 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.

## Uganda

### Employment Policy Convention, 1964 (No. 122) (ratification: 1967)

*Articles 1 and 2 of the Convention. Coordination of employment policy with poverty reduction.* The Committee previously requested information on the second National Development Plan 2015/16–2019/20 (NDPII), including on the results of programmes aimed at stimulating growth and economic development, raising living standards, responding to labour force needs and addressing both unemployment and underemployment. The Government's report does not contain information on the NDPII, instead it refers to continued challenges such as the gender pay gap, lower wages in rural areas than in urban areas, and comparatively low labour productivity. The Committee notes with **interest** the adoption of the third National Development Plan 2020/21–2024/25 (NDPIII), whose principal goal is "Increased Household Incomes and Improved Quality of Life of Ugandans". According to the NDPIII, the proportion of the labour force in paid employment increased between 2011/12–2016/17, and enrolment in business, technical and vocational education and training increased significantly. The NDPIII nevertheless indicates that labour underutilization remains a challenge, as a large number of Ugandans are underemployed. The Committee notes that, according to the ILOSTAT database, as of 2017, the overall unemployment rate in Uganda stood at 9.8 per cent (8.4 per cent for men and 11.7 per cent for women, respectively). The labour force participation rate was 49.1 per cent in the same year, with a higher participation rate for men than for women (56.9 and 41.8 per cent, respectively). The ILOSTAT database also indicates that the composite rate of labour underutilization for 2017 stood at 30.9 per cent. In this context, the Committee notes that the five strategic objectives of the NDPIII include strengthening the private sector's capacity to drive growth and create jobs, as well as enhancing the productivity and social well-being of the population. **Noting the continued challenges identified by the Government in its report, the Committee requests the Government to provide detailed updated information on the active labour market measures taken and the results achieved in the implementation of the NDPIII, in terms of stimulating growth and economic development, raising living standards, responding to labour force needs and addressing unemployment and underemployment. The Committee further requests the Government to provide up-to-date statistics on current trends regarding employment, unemployment and underemployment, disaggregated by sex, age, religion, economic sector and region.**

*Impact of COVID-19.* The Committee notes that, according to a 2020 report from the World Bank, fiscal year 2020 saw a real GDP growth of 2.9 per cent in Uganda, less than half of the 6.8 per cent recorded in fiscal year 2019, mainly due to the impact of the COVID-19 crisis. The World Bank further indicates that employment recovered following the easing of mobility restrictions, with an increase in the share of employment in agriculture, but that it had not returned to previous levels in urban areas. **The Committee requests the Government to provide further information on the nature and impact of response and recovery measures taken in the context of the COVID-19 pandemic with a view to promoting inclusive sustainable employment and decent work. The Committee requests the Government to provide information on the challenges encountered and the lessons learned in this context.**

*Promotion of youth employment.* The Committee previously requested information on the measures envisaged or adopted to reduce the unemployment rates of young people as well as the proportion of young people in informal employment. In this respect, the Committee notes that, as of June 2020, according to the NDPIII, the youth unemployment rate stood at 13.3 per cent, and that it seeks to reduce this rate to 9.7 per cent unemployment by the end of the five-year period. According to the NDPIII, there is a large youth population in Uganda (78 per cent); however, a mismatch exists between the skills required by the labour market and the knowledge taught by training institutions. The Committee notes the high proportion of young people in informal employment. The NDPIII indicates that most non-farming employment is in the informal sector (91 per cent), with young people occupying

94.7 per cent of these jobs. The NDPIII envisages various new projects related to youth employment for the period 2020/21–2024/25, including the Youth Livelihood Programme Phase 2 and the Micro, Small and Medium Enterprise Nurturing for Youth Employment Project. The Committee notes the adoption of the Technical and Vocational Education and Training (TVET) Policy in 2019, which aims to reform the TVET system. The TVET Policy establishes a number of objectives, including improving the quality of the TVET system and strengthening the role of employers and business communities in TVET delivery. The Committee notes that, to promote the economic relevance of TVET, the TVET Policy calls for establishing and linking the TVET Management Information System to the Labour Market Information System as well as to promote lifelong learning opportunities for TVET. ***The Committee encourages the Government to pursue its efforts to address the issues related to youth employment identified in the NDPIII, including the skills mismatch and measures to anticipate the future needs of the labour market in the provision of TVET. It requests the Government to provide detailed information on the nature of programmes and projects implemented to promote youth employment, including in the field of TVET and in the context of the NDPIII, and their impact on access for young people to sustainable employment and decent work. In this regard, the Committee requests the Government to provide up-to-date statistics on youth employment and unemployment rates, disaggregated by sex, age, urban versus rural areas and education level, where available.***

*Promotion of women's employment.* In its previous comments, the Committee requested information on measures to combat persistent occupational segregation on the basis of sex and to increase the participation rate of women in the formal labour market. The Committee notes that the Uganda Women Empowerment Programme supported 43,977 women beneficiaries through 3,448 projects in the fiscal year 2017–18. The Committee nevertheless observes that the information contained in the NDPIII, also indicates that many women do not have access to arable land, and suggests that gender inequalities persist in the country, including in employment and education. The Government also provides statistics from 2016 indicating that disparities exist in the share of women and men in employment, with men accounting for most of paid employment, while women constitute the majority of the self-employed population. The Committee notes that, in its concluding observations of 12 May 2016, the Committee on the Rights of Persons with Disabilities expressed concern that women with disabilities face multiple forms of discrimination, noting the lack of measures for the development, advancement and empowerment of women and girls with disabilities and expressing concern about the few opportunities open for employment for persons with disabilities (document CRPD/C/UGA/CO/1, paragraphs 10 and 52). ***As regards discrimination against women, including with respect to access to resources, the Committee refers the Government to its comments adopted in 2020 under the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). In addition, the Committee requests the Government to continue to take the necessary measures, including in the context of the NDPIII, to promote access for women to full, productive and freely chosen employment. The Committee requests the Government to provide information on the results achieved through such measures, including statistics on the participation rate of women, including women with disabilities, in the informal and formal labour market.***

*Informal economy.* The Committee notes that the Government refers to exclusions from social protection and other critical challenges existing in the informal sector, including gaps in social dialogue, widespread labour rights violations and decent work deficits. The Government nevertheless states that there is political commitment and will to overcome these challenges. In this regard, the Committee notes that the NDPIII includes a Private Sector Development Programme which has, as one of its key expected results, the reduction of the informal sector to 45 per cent in 2024/25. According to the NDPIII, the private sector in Uganda is dominated by about 1.1 million micro-, small and medium-sized enterprises (MSMEs), which altogether employ approximately 2.5 million people. Furthermore, most of the country's start-ups do not last more than two years, because of factors such as inadequate entrepreneurial ability and low-skilled labour. The Committee notes that, according to 2020 data from

the UN Capital Development Fund, the COVID-19 crisis is also likely to have an impact on informal workers, with an estimated 4.4 million informal sector workers losing their earning or seeing it fall below the poverty line. ***The Committee requests the Government to provide further information on the impact of COVID-19 on employment in the informal economy in Uganda, the active labour market measures taken to tackle the challenges identified, and the measures taken to extend access to justice, property rights, labour rights and business rights to informal economy workers and businesses. It also requests the Government to provide information on the nature and impact of employment programmes developed and implemented in the context of the NDPIII, including the Private Sector Development Programme.***

*Article 3. Participation of the social partners.* The Committee notes from section 1.4 of the NDPIII (approach and formulation process) that its strategic direction was informed by an extensive consultation process, based on background analytical work on past industrialization efforts and strategies, trends in key growth areas (agriculture, ICT, minerals, oil and gas), export and import performances, and sector priority papers, among others. The NDPIII also indicates that sector, regional, district and community level stakeholders were consulted in the formulation process, and that other stakeholders, including industrial and business owners, civil society, faith-based organizations and non-governmental organizations also participated in the process. ***The Committee requests the Government to provide further information on consultations held with employers' and workers' organizations in the formulation, implementation and monitoring of the NDPIII.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 88** (Belize, Central African Republic, Democratic Republic of the Congo, Djibouti, Ecuador, Ethiopia, Lebanon, Madagascar, Montenegro, Mozambique, Netherlands: Aruba, Republic of Moldova); **Convention No. 96** (Djibouti); **Convention No. 122** (Antigua and Barbuda, Barbados, Plurinational State of Bolivia, China, Georgia, Germany, Jamaica, Jordan, Latvia, Lebanon, Lithuania, Mauritania, Morocco, Nicaragua, Papua New Guinea, Republic of Moldova, Romania, Rwanda, Saint Vincent and the Grenadines); **Convention No. 159** (Ethiopia, Lebanon, Luxembourg, Madagascar, Malawi, Mauritius, Montenegro); **Convention No. 181** (Fiji, Lithuania, Mongolia).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 159** (Lithuania).

## Vocational guidance and training

### Direct requests

Requests regarding certain matters are being addressed directly to the following States:  
**Convention No. 140** (*Afghanistan, Belize, Guinea, Kenya*); **Convention No. 142** (*Afghanistan, Kenya, Lebanon, Niger*).

## Employment security

### Democratic Republic of the Congo

#### Termination of Employment Convention, 1982 (No. 158) (ratification: 1987)

*Observations by the Labour Confederation of Congo (CCT). Abusive dismissals.* In its previous comments, the Committee invited the Government to provide its own comments on the observations of the CCT, indicating whether the dismissal of around 40 employees of a private multinational enterprise governed by French law were based on valid reasons (*Article 4 of the Convention*) and whether the dismissed workers were entitled to severance allowances (*Article 12*). It also requested the Government to provide information on the measures adopted to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166). In its report, the Government indicates that section 78 of the Labour Code adopted in 2002 prohibits mass dismissals, and that the information held by the Government does not indicate that the dismissed workers did not receive severance allowances, as no complaint was noted. The Committee notes that, with regard to measures adopted to mitigate the effects of the dismissals, the Government indicates that the provisions of section 78 of the Labour Code guarantee priority hiring in the event of a resumption of activity. The Committee also notes that section 78 provides that mass dismissals on economic grounds are prohibited, "except for possible exceptions that will be determined by an order of the Minister responsible for labour and social security" and sets out the applicable procedure. **Noting that the Government provides information of a general nature concerning the above-mentioned dismissals, the Committee requests the Government to provide information on the procedure followed in the case reported by the CCT, including copies of inspection reports, where possible. It once again requests the Government to provide specific information indicating whether the dismissals were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also once again requests the Government to provide specific information on the measures adopted in this particular case to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).**

In its previous comments, the Committee also requested the Government to provide a report containing information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of *Articles 4, 5 and 7 of the Convention*. It also requested it to indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form). The Committee notes that the Government has provided inspection reports from 2014, 2015, 2016 and 2017 but that these reports do not contain information on the application of the above-mentioned Articles. **The Committee therefore once again requests the Government to provide information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. It also reiterates its request to the Government to indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form).**

*Article 7. Procedure prior to, or at the time of, termination.* In its previous comments, the Committee requested the Government to provide copies of collective agreements which provide for the possibility of a specific procedure to be followed prior to, or at the time of, termination, as required by the Convention, and to indicate the manner in which this provision of the Convention is given effect for workers not covered by collective agreements. The Government indicates that: (i) it ensures that collective agreements are in conformity with sections 63, 72, 73 and 75 of the Labour Code; and (ii) in addition to enterprise collective agreements, there is the national inter-occupational labour agreement,

of which it provides a copy. The Committee nevertheless notes that the copy of the latter agreement was already provided by the Government in its 2013 report and that, in this regard, it considered that the above-mentioned collective agreement did not appear to envisage the possibility of a specific procedure to be followed prior to, or at the time of, termination. The Government adds that enterprises that have not concluded collective agreements are required to adhere to the sectoral collective agreement and the procedure to be followed prior to, or at the time of, termination is provided by the implementing measures, such as Order No. 12/CAB.MIN/TPS/116/2005 of 26 October 2005, determining the terms of dismissal of workers. The Committee notes with **interest** that Act No. 16/010 of 15 July 2016, amending and supplementing Act No. 015-2002 issuing the Labour Code, with respect to section 62, provides that “when the employer envisages dismissal for grounds related to the worker’s aptitude or conduct, he or she is required, before any decision is taken, to allow the person concerned to defend himself or herself against the allegations made or to provide an explanation for the grounds put forward”. **The Committee requests the Government to provide up-to-date information on the application in practice of the Labour Code with regard to the possibility offered to workers to defend themselves against the allegations against them before any dismissal measures are imposed, as well as the application of the above Order. It also once again requests the Government to provide copies of the collective agreements which provide for the procedure to be followed prior to, or at the time of, termination.**

*Article 12. Severance allowance and other income protection.* In its previous comments, the Committee noted that national legislation does not provide for severance allowances or other forms of income protection for dismissed workers. The Committee therefore reiterated its request to the Government to indicate the manner in which effect is given to *Article 12* of the Convention. The Committee notes the Government’s indication that in order to prevent workers from being adversely affected, tax deductions are limited to 10 per cent during the notice period. However, other categories are not taxed, except for non-statutory family benefits. **Noting, once again, the absence of specific information in the Government’s report in response to the Committee’s request, it urges the Government to provide detailed information indicating the manner in which effect is given to Article 12 of the Convention.**

*Articles 13 and 14. Terminations for economic or similar reasons.* In its previous report in 2013, the Government indicated that the Ministry of Employment, Labour and Social Welfare signed 15 orders authorizing collective terminations for economic or similar reasons, covering 701 workers in 2012–13. The Committee invited the Government to indicate whether the dismissed workers were entitled to severance allowances (*Article 12*) and to provide information on the measures taken to mitigate the effects of terminations for economic or similar reasons, as envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166). **Noting that the Government’s report does not contain information in this regard, the Committee once again requests the Government to provide the information requested.**

## 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 2022, 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.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** (*Central African Republic, Ethiopia, Malawi, Morocco, Namibia, Saint Lucia*).

## Wages

### Plurinational State of Bolivia

#### Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1977)

The Committee notes the observations of the Confederation of Private Employers of Bolivia (CEPB), received on 31 August 2021, and of the International Organisation of Employers (IOE), received on 1 September 2021. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021.

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes that, for the third consecutive year, the Conference Committee on the Application of Standards (Conference Committee) examined the application of the Convention by the Plurinational State of Bolivia. The Committee observes that the Conference Committee once again urged the Government to: (i) carry out full consultations with the social partners with regard to minimum wage setting; (ii) take into account the needs of workers and their families as well as economic factors when determining the level of the minimum wage as set out in *Article 3* of the Convention; and (iii) accept an ILO direct contacts mission before the next session of the International Labour Conference in 2022. The Conference Committee also requested the Government to avail itself, without delay, of ILO technical assistance to ensure compliance with the Convention in law and practice.

*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 its previous comments, the Committee observed that divergences persisted between the Government and the CEPB and the IOE regarding both the holding of full and good faith consultations with the representative organizations of employers and the criteria reportedly taken into consideration in determining the minimum wage. The Committee notes the Government's indication in its report that: (i) a series of mechanisms have been adopted for the direct participation of both employers and workers and meetings have been held with each of them in light of the principle of equality; (ii) these measures were not effective due to the positions adopted by the employers' representatives, which led to the Government taking the decisions concerned, taking into consideration the national situation and the economic conditions of employers and workers; (iii) the increase in the national minimum wage for each financial year is determined on the basis of prior macroeconomic analysis and taking into account inflation, the Gross Domestic Product (GDP) and other variables, which are presented and assessed in the various meetings held for that purpose, including those held by the Government with the Bolivian Central of Workers (COB), in which the claims of that organization are considered; in view of the circumstances resulting from the COVID-19 pandemic, Supreme Decree No. 4501 of 1 May 2021 provided for an increase of only 2 per cent in relation to the national minimum wage set in the 2019 financial year; and (iv) a direct contacts mission is not necessary as no difficulty is being experienced in the application of the Convention. Furthermore, the Committee notes the hope expressed by the IOE that the Plurinational State of Bolivia will make progress in the application of the Convention in accordance with the conclusions of the Conference Committee and in close consultation with the CEPB. The Committee further notes the CEPB's indication that: (i) with the adoption of Supreme Decree No. 4501 of 1 May 2021, the centralization of dialogue continued solely with workers' representatives and all prior consultation with employers' representatives was omitted; (ii) their participation was prevented in the establishment, operation and modification of the machinery for the fixing of the national minimum wage and they were not able to put forward criteria in this regard; and (iii) objective technical parameters adapted to the real situation were absolutely not taken into consideration, in particular taking into account the difficult situation experienced due to the pandemic

and its impact on economic trends and performance and on employers. Finally, the Committee notes the indication by the ITUC that: (i) while highlighting the efforts made by the Government to improve the life of workers, the Government should continue to organize consultations on the fixing of minimum wages in accordance with the Convention, enabling representative organizations to hold in-depth discussions on the machinery for fixing minimum wages, which does not mean codetermination of the minimum wage; and (ii) the increases in the minimum wage have taken fully into account economic factors. The Committee once again observes that contradictions and divergences persist between the Government and the CEPB concerning the holding of full and good faith consultations with the representative organizations of employers and on the criteria taken into account in determining the minimum wage. In this context, the Committee once again notes with **regret** the Government's refusal to accept a direct contacts mission to the country with a view to finding a solution to the difficulties raised in the application of the Convention and to have recourse to ILO technical assistance in this respect. The Committee considers that the direct contacts mission could contribute to finding solutions to the divergences indicated and assist in the full application of the Convention. **The Committee firmly expects that the Government will review its position and that a mission can take place before the 110th Session of the International Labour Conference, as the Conference Committee has been requesting since 2018.**

***[The Government is asked to reply in full to the present comments in 2022.]***

## Burundi

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 28 August 2021.

*Legislative developments.* The Committee notes the adoption of Act No. 11 of 24 November 2020 on the revision of Decree-Law No. 1/037 of 7 July 1993 on the revision of the Labour Code of Burundi. Concerning the minimum wage-fixing machinery, the Committee notes that sections 186 and 551 of the new text largely reproduce sections 74 and 249 of the former text and that the new text specifies that the rates must be adjusted every four years and revises the penalties set out for cases of payment of remuneration below the legal minimum wage.

*Article 3 of the Convention. Operation of the minimum wage-fixing machinery.* In its previous comments, noting the lack of tangible progress made in activating the minimum wage-fixing machinery provided for in the Labour Code, the Committee requested the Government to take all the necessary measures to reactivate without delay the minimum wage review process, and to provide information in this regard, particularly on any decrees adopted further to this review. It also requested the Government to provide information on the minimum wages applicable by category, as fixed by collective agreements in the various branches of activity or in enterprises. The Committee notes the Government's indication in its report that a tripartite committee has been established to determine the terms of reference for an impartial study to be conducted by experts leading to a proposal for the guaranteed inter-occupational minimum wage (SMIG) in the national socio-economic context. It also notes that the COSYBU in its observations recognizes the Government's willingness to fix the rate of the updated minimum wages but asks once again that it accelerate the review process of these rates. While noting this information, the Committee is bound to observe that the SMIG has still not been adjusted since 1988 and that no information on collective bargaining with regard to minimum wages applicable by category has been provided by the Government. ***In this context, the Committee once again urges the Government to take the necessary measures to carry out without delay an adjustment of the SMIG, in the light of the outcomes of the review initiated in the above-mentioned tripartite committee. The Committee also once again requests the Government to provide information on the minimum wages applicable to***

**various categories of workers, fixed by collective agreements in the various branches of activity or in enterprises.**

**[The Government is asked to reply in full to the present comments in 2022.]**

## Guinea-Bissau

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1977)

*Legislative developments.* The Committee notes the inclusion, in the Government's report, of a copy of the new Labour Code, adopted by the Peoples' National Assembly in July 2021. The Committee also notes that sections 153 and 154 of the copy of the new Labour Code provide, among other matters, that the minimum wage shall be payable to all workers, including rural workers, without distinction based on sex or any other grounds, in an amount fixed annually by the Government, after consultation with the social partners. The Government indicates that after its promulgation, the new Labour Code will revoke the General Labour Act No. 2/86. **The Committee requests the Government to provide a copy of the promulgated and published version of the new Labour Code.**

*Article 3 of the Convention. Operation of the minimum wage-fixing machinery.* In its previous comments, noting that the latest decree fixing the minimum wage had been adopted in 1988 (Decree No. 17/88 of 4 April 1988), the Committee requested the Government to adopt the necessary measures without delay to fix the minimum wage in application of sections 110 and 114 of the General Labour Act No. 2/86, and to provide information on any examination of the matter and on consultations held with the social partners. The Committee notes the Government's indication that Decree No. 17/88 has been subject to successive amendments. The Committee also notes the Government's indication that in 2012 and 2017 the minimum wage in the public service was readjusted by government ordinance. The Committee observes, with regard to the categories included in the application of Decree No. 17/88, which exclude the public service, that the Government makes no reference to ordinances recently fixing new minimum wage rates. The Committee further notes the Government's indication that no examination on the fixing of the national minimum wage rate has been undertaken to date, but that the Prime Minister's Ordinance of 9 June 2021 established a multidisciplinary commission, including trade union representatives, to conduct an analysis of the current level of inflation and to propose a national minimum wage. **The Committee strongly hopes that the Government will take the necessary measures, based on proposals from the above-mentioned commission, to fix an updated minimum wage as soon as possible, after consultation with the representative organizations of employers and workers, in application of the legislation in force. The Committee requests the Government to provide information in this regard.**

**[The Government is asked to reply in full to the present comments in 2022.]**

## Mauritania

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1961)

*Article 3 of the Convention. Minimum wage-fixing methods and consultation of the social partners.* The Committee previously noted the information provided by the Government, in particular on the role of the National Labour, Employment and Social Security Council (CNTESS) in the adjustment of minimum wage rates, and also on the social negotiations in progress with the social partners concerning an increase in the level of the guaranteed inter-occupational minimum wage (SMIG). The Committee also noted the observations received in 2017 from the Free Confederation of Mauritanian Workers (CLTM), according to which the level of the SMIG has not changed since 2011 despite the rise in consumer prices and the Government's commitment to adjust the SMIG every two years. The Committee notes that the Government indicates once again, in its report, that it monitors the work of the CNTESS on the adjustment of minimum wage rates but without providing any details of the progress or outcome of

this work. **The Committee once again requests the Government to take all necessary measures to ensure that the minimum wage rate review process gives rise to tangible results and to provide detailed information on this subject, including on the work of the CNTESS in this regard.**

## Nigeria

**Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1961)**

**Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)**

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.

### A. Minimum wage

*Article 1 of Convention No. 26. Scope of minimum wage protection.* In its previous comments, the Committee requested the Government to extend the scope of the National Minimum Wage Act to all workers in need of such protection, in the context of its next minimum wage revision. The Committee takes note that, in its report, the Government refers to the adoption of the National Minimum Wage Act 2019, which reduces the minimum size of the establishments to which the Act applies, from 50 to 25 persons (section 4). However, the Committee observes that the Act otherwise replicates the exclusions already foreseen in the previous National Minimum Wage Act. **With reference to its latest comment under the Equal Remuneration Convention, 1951 (No. 100), the Committee requests the Government to take the necessary measures to extend the minimum wage coverage to the categories of workers currently excluded, which are in need of such protection.**

*Article 4(1). System of supervision and sanctions.* The Committee previously requested the Government to provide comments on the observations of the Nigeria Labour Congress (NLC) alleging that governments at the state level are reluctant to implement the law on minimum wage. In this regard, the Committee notes the Government's indication that the authorities at the state level appear not to comprehend fully the principles of the national minimum wage, and that technical assistance from the Office would be necessary to sensitise them on the provisions of the Convention. **The Committee recalls that each Member which ratifies this Convention must take the necessary measures, by way of a system of supervision and sanctions, to ensure that the employers and workers concerned are informed of the minimum wage rates in force, and requests the Government to provide further information on how it ensures that the national minimum wage is applied at all levels.**

### B. Protection of wages

*Article 2 of Convention No. 95. Protection of wages of homeworkers and domestic workers.* In its previous comment, the Committee noted the Government's indication that the Labour Standards Bill, which should apply to homeworkers and domestic workers, had been withdrawn from the National Assembly and was being reviewed by the stakeholders. The Committee notes that in its report, the Government indicates that, once adopted, the Labour Standards Bill will apply to domestic workers, but it does not mention homeworkers nor does it provide any additional information on measures taken to protect the wages of these categories of workers currently excluded from the Labour Act. **The Committee requests the Government to take the necessary measures to guarantee the protection of wages of homeworkers and domestic workers, including through the adoption of the Labour Standards Bill, and to provide information in this regard.**

*Articles 6 and 12(1). Workers' freedom to dispose of their wages and regular payment of wages.* The Committee had previously requested the Government to revise section 35 of the Labour Act, which allows the Minister of Labour to authorize deferred payment of up to 50 per cent of workers' wages until

the completion of their contract. **While noting the Government's indication that the Federal Ministry of Labour and Employment has not acted upon section 35 of the Labour Act in recent years, the Committee once again requests the Government to take the necessary measures to bring section 35 of the Labour Act into conformity with the Convention and to provide information in this regard.**

*Article 7(2). Work stores.* In response to the Committee's request for information on measures to give effect to *Article 7(2)*, the Government only indicates that this matter is covered by the Labour Standards Bill, which has not yet been adopted. **The Committee requests the Government to take the necessary measures to ensure that, where access to stores or services other than those operated by the employer is not possible, goods are sold and services provided at fair and reasonable prices and for the benefit of the workers, in accordance with Article 7(2).**

*Article 12(1). Regular payment of wages.* The Committee previously noted the NLC's observations regarding issues of non-regular payment of wages in several states. In this regard, the Committee notes the Government's indication that wage arrears has become an issue of great concern for the social partners, and that it is planning to engage all relevant authorities to deliberate and find a lasting solution. **The Committee requests the Government to continue to take the necessary measures, such as reinforcing supervision and strengthening sanctions, to address this issue, and to provide information on the progress made in this respect.**

*Article 14. Information on wages before entering employment and wage statements.* Following its previous comments on measures taken to give effect to *Article 14*, the Committee notes the Government's indication that, in practice, workers receive payslips each month, in both the public and private sectors. **The Committee requests the Government to indicate the measures taken to ensure that workers are informed, in an appropriate and easily understandable manner before they enter employment and when any changes take place, of the conditions in respect of wages under which they are employed, in accordance with Article 14(a).**

## Republic of Moldova

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1996)

*Article 11 of the Convention. Wages as privileged debts in bankruptcy proceedings.* In its previous comments, the Committee noted the Government's indication that draft amendments to the Insolvency Act had been prepared providing that employees' wage claims would be given a secured priority status among privileged debts. It also noted that, according to the National Confederation of Trade Unions of Moldova (CNSM)'s observations, in the event of insolvency, payment of secured debts such as loans have priority over wage claims and that, consequently, the wages of hundreds or even thousands of employees remain unpaid for years. The Committee notes that the Government's report does not include any relevant information on the above-mentioned legislative amendments or on the issues raised by the CNSM regarding the application of *Article 11* of the Convention in practice. **In this context, the Committee requests once again the Government to provide its comments on the observations of the CNSM and to provide information on any measures taken or envisaged in law and practice to ensure that wage claims are privileged debts in insolvency proceedings. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.**

*Article 12(1). Regular payment of wages.* The Committee previously noted that the CNSM referred to statistical data showing important amounts of wage arrears for the period January–March 2017, with the largest debts registered in the railway transport, agriculture, trade, and construction sectors, mostly in enterprises with majority state capital. The Committee notes that the Government does not provide any relevant information in this regard. It also notes that, according to the statistics contained in the inspection reports: (i) in 2019, 56 inspection controls confirmed wage arrears of about 15 million Moldovan lei (MDL), concerning 1,106 workers; (ii) in 2020, 114 inspection controls confirmed wage arrears of about MDL 35 million, concerning 1,622 workers; and (iii) from January to August 2021,

258 inspection controls confirmed wage arrears of MDL 39.4 million, concerning 3,569 workers. ***In this context, the Committee requests the Government to take the necessary measures to ensure the regular payment of wages, as required by this Article of the Convention. It also requests the Government to provide information on any progress made in this respect, as well as relevant statistics on this issue, including the violations detected, remedies applied, and sanctions imposed.***

## Tajikistan

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1993)

*Article 7(2) of the Convention. Works stores.* The Committee notes that the Government's report does not contain information in response to its previous request on this issue. ***The Committee therefore requests the Government once again to provide information on the measures adopted with the object of ensuring that goods at work stores are sold, and services provided at fair and reasonable prices, or that stores established and services operated by the employer are not operated for the purpose of securing a profit, but for the benefit of the workers concerned, as required by this Article of the Convention.***

*Articles 12 and 15(b). Regular payment of wages. Control of compliance.* Further to its previous comments concerning wage arrears in the country, the Committee notes that the Government indicates that the total amount of arrears of wages as of 1 May 2020, including arrears from previous years, increased by 78.8 per cent compared to the same period in 2019. The Government further indicates that local government authorities have adopted decisions and that the leaders of provinces, towns and districts have adopted decrees to establish the "Executive Unit for the Elimination of Wage Arrears". Concerning enforcement activities, the Committee notes that the Government's report does not contain information in response to its previous request. ***Taking note with concern of the continued situation of wage arrears in the country and its dramatic increase in 2020, the Committee requests the Government to step up its efforts to address this issue and to provide information on the results of the measures adopted and envisaged in this regard. The Committee also requests once again the Government to provide information on the number of inspection visits undertaken to ensure compliance with the timely payment of wages by sector, the number of cases of non-compliance detected and the measures taken to settle all outstanding payments, including adequate penalties or other appropriate remedies.***

*Articles 14(b) and 15(d). Wage statements and record-keeping.* Further to its previous comments requesting the Government to indicate how effect is given to these provisions, the Committee notes that the Government's report is silent on this issue. ***The Committee therefore once again requests the Government to: (i) specify how it is ensured that workers are informed at the time of each payment of the particulars of their wages for the period concerned, for example by means of payslips (Article 14(b)), and (ii) indicate any legislative or administrative provisions regulating the form and manner in which payroll records must be kept, as well as the specific wage particulars to be shown in those records (Article 15(d)).***

*[The Government is asked to reply in full to the present comments in 2022.]*

## Uganda

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1963)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

*Legislative developments.* The Committee notes that, according to information provided by the ILO Country Office for the United Republic of Tanzania, Burundi, Kenya, Rwanda and Uganda, the Employment Act 2006 is currently being revised in consultation with social partners. **The Committee requests the Government to provide information on the developments in this regard, and to provide a copy of the amended Employment Act 2006, once adopted. The Committee also hopes that its comments on the Protection of Wages Convention, 1949 (No. 95) will be taken into account in the framework of the revision of the Act, and recalls that the Government can avail itself of the technical assistance of the ILO in this regard.**

#### A. Minimum wage

The Committee notes with **deep concern** that the Government's report has not been received. It expects that the next report will contain full information on the matters raised in its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, 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.

#### Repetition

*Article 3 of Convention No. 26. Operation of the minimum wage fixing machinery.* The Committee recalls that, following the discussion of this case before the Conference Committee on the Application of Standards in June 2014, it had requested the Government to provide information with regard to the announced reactivation of the Minimum Wages Advisory Board and the subsequent fixation of a new minimum wage in the country. The Committee notes that the Government indicates in its report that a Minimum Wages Advisory Board was appointed in 2015 and that it undertook a comprehensive study of the economy with a view to providing advice to the Government on the feasibility of fixing a minimum wage in the country and the form that the minimum wage should take. The Government also indicates that the report of the Board was under discussion in the Cabinet. Despite the progress made with the reactivation of the minimum wage fixing mechanism in 2015, the Committee notes with **concern** that the minimum wage, which was last set in 1984, has yet to be adjusted. **It therefore requests the Government to take the necessary measures to revise the level of the minimum wage without further delay. Recalling the importance of ensuring the close involvement of employers' and workers' organizations at all stages of this process, the Committee requests the Government to provide information on the composition of the Minimum Wages Advisory Board and on the consultations undertaken with the social partners in revising the level of the minimum wage.**

#### B. Protection of wages

The Committee notes with **deep concern** that the Government's report on Convention No. 95, due since 2017, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of Convention No. 95 on the basis of the information at its disposal.

Following its examination of the information at its disposal, the Committee notes that it is still missing important information on measures giving effect to *Articles 1, 4, 7(2), 8, 10, 12(1) and 14(a)* of Convention No. 95. The Committee is therefore bound to repeat its previous comments with regard to those *Articles*.

*Article 1 of Convention No. 95. Coverage of all parts of the remuneration.* The Committee notes that the definition of "wages" in section 2 of the Employment Act excludes "contributions made or to be made by the employer in respect of his or her employee's insurance, medical care, welfare, education, training, invalidity, retirement pension, post-service gratuity or severance allowance". The Committee recalls that the definition of wages for the purposes of the Convention is very broad and that it intends

to cover the benefits excluded under section 2 of the Employment Act. ***Since this Act is the main legislation implementing the Convention, the Committee requests the Government to indicate the measures taken to provide workers with the protection afforded in the Convention in relation to the elements of their remuneration which are excluded under section 2 of the Employment Act.***

*Article 4. Partial payment in kind.* The Committee notes that sections 41(3) and 97(2)(i) of the Employment Act address the issue of partial payment of wages in kind and provide that the Minister may adopt regulations on this matter. ***It requests the Government to indicate whether such regulations have been adopted.***

*Article 7(2). Works stores.* The Committee notes that section 41(4) of the Employment Act provides that an employee shall not be obliged to make use of any shops established by the employer for the use of his or her employees or services operated in connection with the undertaking. The Committee recalls that *Article 7(2)* requires that where access to other stores or services other than those operated by the employer is not possible, the competent authority shall take appropriate measures in order to ensure that goods and services are sold at a fair and reasonable price and in the interest of the workers. ***The Committee therefore requests the Government to indicate what measures are in place in order to ensure the application of this provision of the Convention.***

*Articles 8 and 10. Deductions from wages and attachment of wages.* The Committee notes that section 46(1) of the Employment Act provides a list of authorized deductions from wages and that section 46(3) provides that attachment of wages shall be limited to no more than two thirds of all remuneration due in respect of a specific pay period. The Committee therefore notes that, while there is an overall limit on attachment of wages, there is no such limit for deductions from wages. In this regard, the Committee recalls that, in addition to setting specific limits for each type of deduction, it is also important to establish an overall limit beyond which wages cannot be further reduced, in order to protect the income of workers in the case of multiple deductions. ***The Committee therefore requests the Government to take the necessary measures for the establishment of specific and overall limits to deductions from wages.***

*Article 12(1). Regular payment of wages.* With reference to its previous request concerning the issue of irregular payment of wages, the Committee notes that the Government merely repeats in its report the information previously provided. In relation to the lack of a functional Industrial Court, which had been noted in its previous comments, the Committee notes that information is available on the Court's website indicating that a number of awards have been adopted since 2015. It also notes that two judges and the registrar of the Court have participated in a training activity on international labour standards delivered by the International Training Centre of the ILO in Turin in June 2017. ***In this context, the Committee once again requests the Government to provide up-to-date information on the situation of wage arrears in the country, including data on the number of workers affected by non-payment or delayed payment of wages, the sectors concerned and the results of labour inspections on these issues, and to indicate whether the Industrial Court has been dealing with any such cases.***

*Article 14(a). Information on wages before entering employment.* The Committee notes that section 59 of the Employment Act provides that an employee shall receive from the employer information on wages not later than 12 weeks after the date on which employment commences. The Committee recalls that *Article 14(a)* requires effective measures to be taken in order to ensure that employees are informed of the conditions in respect of wages before they enter employment. ***The Committee therefore requests the Government to indicate which measures are in place in order to ensure full implementation of this Article of the Convention.***

***[The Government is asked to reply in full to the present comments in 2022.]***

## 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)

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 25 August 2021 and the observations of the Federation of Trade Unions of Ukraine (FPU), received on 2 September 2021, on the application of the Conventions. The Committee also notes the response of the Government to the 2020 observations of the KVPU and FPU on the application of Convention No. 95, received in 2020.

*Legislative developments.* Following its previous comments, the Committee observes an absence of information on the adoption of a new Labour Code but notes that the Government's reports refer 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. In this respect, the Committee welcomes the Government's indication that it is 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. The Committee also notes that, according to the KVPU, a number of recent legislative initiatives threaten to erode most workers' rights, including on wage matters. ***The Committee requests the Government to provide its comments in this respect. The Committee hopes 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.***

### A. Minimum wage

*Article 3 of Convention No. 131. Criteria for determining the level of the minimum wage.* In its previous comments, the Committee noted that in their 2019 observations, the ITUC and the KVPU indicated that the minimum wage does not adequately take into account the needs of workers and their families and the cost of living. It also noted that the KVPU added that: (i) the Government has not considered the trade unions' suggestion to introduce a system of indexation to ensure that the minimum wage would not lose its value due to the rising inflation during the year; and (ii) in setting the minimum wage, the Government does not consider the overall wage level in the country, leading to a significant gap between the minimum wage and the average wage. The Committee notes that the Government indicates in its report that national legislation provides for criteria to determine the minimum wage complying with the Convention, and includes the possibility to review the minimum wage based on inflation. The Committee also notes that the KVPU largely reiterates its previous observations. Similarly, the FPU indicates that: (i) in establishing the minimum subsistence level in the state budget, used to determine costs of living, only budgetary feasibility has been taken into consideration; (ii) the minimum wages should be higher, according to trade union calculations taking into account education, medical care, and housing costs, as well as the family component; and (iii) a

number of legislative proposals to change how the minimum subsistence level is calculated may lead to a fall in growth rates or a freezing of the minimum wage. **The Committee requests the Government to take 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.**

*Article 4(2). Full consultation with employers' and workers' organizations.* In its previous comments, the Committee noted that the KVPU indicated that: (i) the negotiations on the determination of the minimum wage were not conducted in accordance with the procedure established by the applicable General Agreement; and (ii) neither the Government nor the Parliament formally heard the position of the trade unions and that consequently the minimum wage resulted from a unilateral decision of the Government. The Committee notes that, in the framework of the joint working commission's meetings to prepare proposals to establish the minimum wage for 2022, the parties could not reach a consensual proposal to be submitted to the Government for consideration. The Committee further notes that the KVPU reiterates its previous observations. **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 next revision of the minimum wage.**

*Article 5. Enforcement.* The Committee previously noted that the KVPU, in its observations, indicated that proper inspections are not carried out, due to the moratorium on inspections, and due to the lack of an appropriate number of inspectors. In this respect, the Committee notes the Government's indication that both labour inspectors and specialists from the main departments for labour and social protection of the regional state administrations carry out monitoring of employers' compliance with minimum wage requirements. The Committee observes that the KVPU reiterates its previous observations concerning the lack of proper inspections and refers to the complicated procedure to authorize them. **The Committee requests the Government to take the appropriate measures, such as adequate inspection reinforced by other necessary measures, to ensure the effective application of all provisions relating to minimum wage. It also requests the Government to provide information on the measures taken in this respect. Regarding labour inspection, the Committee refers the Government to its comments adopted in 2021 on the application of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).**

## B. Protection of wages

*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, which is particularly prevalent in state-owned coal-mining enterprises, and it previously noted with concern the increasing amounts of wage arrears in that industry. In this regard, the Committee notes the Government's indication, in response to the KVPU and the FPU's 2020 observations, that the wage arrears situation is an urgent issue, and that measures were taken to settle wage arrears in certain coal extraction companies. The Committee also notes with **deep concern** that, according to the statistics provided by the Government, the amount of wage arrears in the country has still increased between 2020 and 2021. The KVPU also continues to refer to long-standing and systematic failure to settle wage arrears, as well as persistent social unrest among the workforce and multiple protests concerning non-payment of wages. 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 the delayed payment (see 2003 General Survey on the protection of wages, paragraph 368).

Regarding efficient control and supervision, the Committee notes the Government's indication, in response to the KVPU and FPU's 2020 observations, that labour inspectors monitored 451 businesses

with wage debts between January and September 2020. **With reference to its comments adopted under Conventions Nos 81 and 129, the Committee requests the Government to continue to take the necessary measures to ensure efficient control and supervision of the regular payment of wages in the country, and to provide information on the number of workers concerned, the extent of wage arrears, as well as the results of measures taken in this regard.**

Regarding the imposition of appropriate sanctions, the Committee notes that the Government reiterates that it is preparing draft amendments to the existing legislation with a view to strengthening the protection of workers' rights to timely payment of wages. The Committee also notes the KVPU's indication that some initiatives for legislative amendments may increase the accountability of managers, increase fines threefold, and remove a loophole from current legislation which allows managers to avoid criminal liability if they manage to pay the wages prior to incurring a fine. **The Committee requests the Government to pursue its efforts to strengthen the penalties in national legislation, including through the adoption of the above-mentioned legislative amendments, to ensure full application of the requirements of the Convention. It also requests the Government to indicate the impact of the measures taken, including the amount of penalties imposed on violators, as well as whether there has been a reduction in the number of workers suffering from arrears in the payment of their wages.**

Regarding means to redress the injury, the Committee notes the Government's indication that schedules have been approved in 452 enterprises for the payment of wage arrears, of which 40 per cent have been fully implemented. The Government further indicates that, since the beginning of 2021, as required by labour inspectors, 203 enterprises have paid wage arrears to 30,512 workers. The Government also refers to the work of temporary commissions on payment of wages, which includes the issuing of warnings to heads of enterprises regarding disciplinary punishments. The KVPU nevertheless reiterates that a large number of court rulings on the recovery of unpaid wages are not being implemented and that wage arrears are still increasing. In the view of the KVPU, the situation of wage arrears will worsen, following the entry into force of a Governmental decision, which transfers to coal-mining enterprises the responsibility of the Government to settle wage arrears for state miners. The FPU also refers to increasing levels of poverty, and alleges that the compensation mechanism provided for in the current legislation fails to compensate workers adequately for all losses in the event of wage arrears. **The Committee requests the Government to provide its comments in this respect, and to pursue its efforts to remedy the persisting wage arrears situation. In addition, noting the Government's reference to a coal sector reform, the Committee requests the Government to indicate the impact of such reforms on wage arrears in the coal industry and, in particular, on the possible impact on existing wage arrears of the transfer of Government responsibility for the settlement of wage arrears to the mining companies.**

*The practice of "envelope wages".* **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.* In previous comments, noting that section 2(4) of the Code of Bankruptcy Procedure excludes state-owned enterprises, the Committee requested the Government to indicate how workers' claims are protected in the case of state-owned enterprises. **In the absence of additional information on this issue, 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.**

Moreover, the Committee notes that the FPU indicates that the national legislation does not adequately guarantee recovery of wage arrears from bankrupt enterprises, where the debtor's assets

are insufficient after settlement with the charge holder. In addition, the Committee notes the observations of the KVPU indicating that, in practice, the state bodies in the field of labour and the judicial authorities do not provide support for the full protection of workers' privilege under *Article 5* of the Convention. **The Committee requests the Government to provide its comments in respect of these observations.**

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

## Bolivarian Republic of Venezuela

### Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1944)

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1982)

In order to provide a comprehensive view of the issues related to the application of ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

The Committee takes note of the observations of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) on the application of the Convention No. 26, received on 1 September 2021. The Committee also takes note of the joint observations regarding Convention No. 26 of the Federation of University Teachers' Associations of Venezuela (FAPUV), the Federation of Higher Education Workers in Venezuela (FETRAESUV), the National Federation of Administrative Professionals and Technicians of the Universities of Venezuela (FENASIPRUV), the National Federation of Labour Unions of Higher Education Workers in Venezuela (FENASOESV) and the Unfederated Unions of University Workers, received on 7 and 19 July 2021. The Committee also notes the joint observations of the Confederation of Workers of Venezuela (CTV), the Independent Trade Union Alliance Confederation of Workers (CTASI), the Federation of University Teachers' Associations of Venezuela (FAPUV) regarding Conventions Nos 26 and 95, received on 30 August 2021. The Committee further notes the observations of the following workers' organizations regarding the application of Conventions Nos 26 and/or 95: MOV7 The Voice of Alcasa, received on 5 April 2021, the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 1 September 2021 and the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), received on 8 September 2021.

### Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

*Article 3 of Convention No. 26. Participation of the social partners in minimum wage fixing.* In its previous comment the Committee took note of the conclusions contained in the report of the Commission of Inquiry regarding the allegations of approval without tripartite consultation of increases to the minimum wage, as well as the recommendations of that Commission.

The Committee notes the discussion held at the 343rd Session (November 2021) of the Governing Body on the consideration of all possible measures, including those foreseen in the ILO Constitution, required to ensure the Bolivarian Republic of Venezuela's compliance with the recommendations of the Commission of Inquiry, as well as the decision adopted in this regard. The Committee observes that the Governing Body will return to the assessment of progress made by the Government in ensuring compliance with the recommendations of the Commission of Inquiry at its 344th Session (March 2022) and will continue its consideration of all possible measures for this purpose.

With regard to its previous comments on this matter, the Committee also notes the Government's indication in its report that: (i) despite regularly addressing, two or more times a year, written communications to the various employers' and workers' organizations regarding consultations on the minimum wage, certain organizations refrain from participating in the process, while others seek to

turn the discussion towards changing the economic model rather than the minimum wage; (ii) in April and July 2021 consultations were held on fixing the minimum wage with the various employers' and workers' organizations: the July consultations were held sufficiently in advance, and pertinent information was brought to the table to allow the organizations consulted to carry out an analysis and formulate proposals; and (iii) following the holding, from 21 May to 23 June, of the large-scale meeting for national dialogue on the world of work (*Gran encuentro de diálogo nacional del mundo del trabajo*), technical round table meetings were organized, one of which concerned the methods and procedures set out in the Convention, and explored issues related to the economic and social indicators which must be part of the analysis when considering increasing wages. In this connection, the Committee again notes with **concern** that FEDECAMARAS and FETRAESUV, FENASIPRUV, FENASOESV, FAPUV, the CTV and the CTASI alike are in agreement that: (i) wage increases for 2021 were decided by the Government unilaterally; and (ii) the bipartite and tripartite technical round tables on methods of application of the Convention were not standing bodies providing for structured dialogue and did not operate according to the conditions recommended by the Commission of Inquiry for the holding of effective consultations (no minutes were taken of the different meetings; an agenda and work-programme were not adopted; an independent chair and secretariat were not appointed; recourse to ILO technical assistance was not taken). FEDECAMARAS adds that, following the unilaterally imposed wage increase of 1 May, although consultations were held in two meetings (July and August) between that organization and government representatives, the conditions required for effective consultations mentioned above were not respected on either occasion. The Committee again **deplores** the failure of the Government to fulfil its obligation to consult in respect of fixing the national minimum wage. **The Committee urges the Government to take the necessary measures without delay, including by taking into account the recommendations of the Commission of Inquiry, to ensure full compliance with the Convention. The Committee requests the Government to provide information in that regard.**

*Article 4 of Convention No. 95. Payment in kind. "Socialist cestaticket" (food voucher).* In its previous comments, the Committee requested the Government to engage in dialogue without delay at the national level, involving all the employers' and workers' organizations concerned, so as to examine possible solutions that are sustainable over time, including any necessary adjustment to the "socialist cestaticket" system, to ensure full conformity with this Article of the Convention. The Committee notes that the Government restricts itself to indicating that broad dialogue is being held with the various employers' and workers' organizations, without giving details of the solutions found to resolve this issue. The Committee also notes that the FAPUV, the CTV and the CTASI have provided figures showing that the "socialist cestaticket" continues to represent a high percentage of workers' remuneration and add that, in addition to that voucher, workers receive other vouchers which, taken together, exceed the amount of the minimum wage. The Committee **regrets** to note that no progress has been made in seeking sustainable solutions to this matter. **The Committee once again requests the Government to take the necessary measures without delay to engage in dialogue with the employers' and workers' organizations concerned to examine solutions that will allow full application of Article 4 of the Convention. The Committee requests the Government to provide information in this regard.**

*Article 5. Electronic payment of wages.* In its previous comment, the Committee noted the observations of the workers' organizations regarding the difficulties that generalized electronic payment of wages imposed on workers in certain areas of the country when seeking to obtain the amount corresponding to their wages in cash. The Committee notes the Government's indication that this situation has been resolved, however the FAPUV, the CTV and the CTASI reiterate that electronic payment of wages prevents workers, especially those in areas where there are no banking services or no electricity, from withdrawing cash from the banks or institutions to obtain the full amount of their wages. **The Committee requests the Government to take effective measures in consultation with the social partners to address this issue and to provide information in that regard.**

*Article 12. Delayed payment of wages.* The Committee notes the Government's indication, in reply to its request for information regarding several cases of delayed payment of wages, particularly in respect of National Assembly workers, that the wages of those workers have been paid. The Committee notes that the FAPUV, the CTV and the CTASI indicate that the Government, through the official electronic platform known as "sistema patria", delays greatly and/or only effects partial payment of the wages of university staff. **Recalling once again the importance of the payment of wages at regular intervals, the Committee requests the Government to provide its comments in that regard.**

**[The Government is asked to reply in full to the present comments in 2022.]**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 26** (Dominica, Lesotho, Madagascar, Mali, Sierra Leone, Zimbabwe); **Convention No. 95** (Dominica, Lebanon, Madagascar, Mali, Mauritius, Mexico, Netherlands: Aruba, Netherlands: Curaçao, Sierra Leone); **Convention No. 99** (Sierra Leone, Zimbabwe); **Convention No. 131** (Bulgaria, Ecuador, Lebanon, Mexico, Morocco, North Macedonia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 26** (Mauritius); **Convention No. 95** (Ecuador); **Convention No. 99** (Mauritius); **Convention No. 131** (Malaysia, Republic of Moldova).

## Working time

### Equatorial Guinea

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1985)

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1985)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1985)

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 commerce and offices), 14 (weekly rest in industry) and 30 (hours of rest in commerce and offices) together.

The Committee notes with **deep concern** that the Government's report, due since 2008, has not been received. In the light of its urgent appeals launched to the Government in 2019 and 2020, the Committee proceeds with the examination of the application of the Conventions on the basis of the information at its disposal.

*Legislative developments.* The Committee notes that, according to the information available on the Government's official website, in October 2021 the full Senate approved the final text of the draft General Labour Act. **The Committee requests the Government to provide information on the development of the situation in this regard and to provide a copy of the new General Labour Act, once adopted, as well as any relevant legislative or other information relating to the application of the Conventions.**

*[The Government is asked to reply in full to the present comments in 2022.]*

### Haiti

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1952)

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1952)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1952)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1958)

The Committee notes 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 working time, the Committee considers it appropriate to examine Conventions Nos 1, 14, 30 and 106 in a single comment.

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 29 August 2018, the Association of Haitian Industries (ADIH), received on 31 August 2018, and the International Trade Union Confederation (ITUC), received on 1 September 2018.

**Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)**

The Committee notes the discussion which took place in the Conference Committee on the Application of Standards (Conference Committee), including with regard to the impact of the 2017 Act to organizing and regulating work over a 24-period divided into three segments of eight hours (hereinafter: Act on working time) on the application of the ratified Conventions on working time. In its conclusions, the Conference Committee asked the Government to: (i) review in consultation with the most representative employers' and workers' organizations the conformity of the Labour Code and the Act on working time, with respect to the ratified ILO Conventions on working time; (ii) strengthen the labour inspectorate and other relevant

enforcement mechanisms to ensure that workers benefit from the protection afforded by the Conventions; (iii) report to the Committee of Experts on these measures; and (iv) avail itself of technical assistance to address these matters.

The Committee notes that, at the end of the discussion in the Conference Committee, the Government recalled that the Conventions that Haiti had ratified were part of its body of domestic law under article 276-2 of the Constitution of Haiti, and took precedence over national laws in the hierarchy of standards and could be invoked without reserve before the courts. Taking note of the observations of the Committee of Experts concerning the application of the Act on working time, the Government indicated that it was planning to hold tripartite consultations to identify and overcome the main difficulties encountered in the application of the Act, and to issue orders or regulations. The Government also indicated that it was aware of the delay in finalizing the process of reforming the Labour Code. Discussions had begun at the level of the Prime Minister's Office and would be continued within a tripartite framework, in the spirit of the San José Agreement of 21 March 2018 signed by the social partners, taking into account the Office's recommendations.

Furthermore, the Committee notes that the CTSP, in its observations, expresses regret at the lack of progress on working time issues since the discussion in the Conference Committee. However, the CTSP indicates that discussions on the reform of the Labour Code have resumed. The Committee also notes that the ADIH confirms that tripartite discussions on the reform of the Labour Code resumed in August 2018. According to the ADIH, the Act on working time should be repealed and the employers' and workers' organizations should be consulted on the application of the Conventions ratified in this field. The Committee further notes that the ITUC refers to the discussion of the case during the Conference Committee and indicates in particular that: (i) the Act on working time, which liberalizes the regulations on this subject, is giving rise to serious abuses; (ii) the Act was adopted without consultation and outside the process of negotiation of a new Labour Code; and (iii) the situation is aggravated by the lack of resources for labour inspection. The ITUC refers in particular to: (i) workers in the informal economy and in domestic work who are subjected to indecent working conditions in terms of both working time and leave entitlement; (ii) security personnel and subcontracted workers in the textile sector, where there is a regrettable lack of fixed working hours and a refusal by employers to pay overtime; and (iii) workers in export processing zones who are particularly subjected to abuses. ***The Committee requests the Government to send its comments on all the above observations.***

Lastly, the Committee notes the Government's communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee, it has requested ILO technical assistance to help it, inter alia, to submit the reports due, to strengthen the inspection services, to consolidate social dialogue with a view to pursuing social reforms, and to address the other matters raised by the Conference Committee. The Government also indicates that it hopes to receive this assistance before the next session of the International Labour Conference. ***The Committee hopes that this technical assistance will be made available without delay. The Committee requests the Government to provide detailed information on the results of the planned technical assistance, and also on the measures taken to ensure the effective application in law and practice of the ratified Conventions on working time.***

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

## Malaysia

### Sarawak

#### Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1964)

*Articles 2 and 5 of the Convention. Weekly rest entitlement. Uniformity of the weekly rest period. Compensatory rest.* In its previous comment, the Committee noted with concern the absence of progress towards full application of *Article 2* of the Convention, given that the restrictive definition of the term "employee" in the Sarawak Labour Ordinance, leaves certain categories of workers without the benefit of a weekly rest day of one whole day provided for in section 105B (1) of the Sarawak Labour Ordinance. It also noted the lack of progress in the application of *Article 5*, as section 105C of the Sarawak

Labour Ordinance only provides for monetary compensation but not for compensatory rest for workers performing work on their weekly rest day. The Committee notes with **concern** that on both issues the Government, in its report, limits itself to indicating that it will pursue a discussion with the State Government of Sarawak to ensure that weekly rest entitlement is applicable to all workers employed in any industrial undertaking and that compensatory rest is accorded to workers performing work on their weekly rest day. ***In this context, the Committee once again requests the Government to take the necessary measures in the near future to ensure that: (i) the whole of the staff employed in industrial undertakings would be entitled to weekly rest; (ii) the period of weekly rest would, wherever possible, be granted simultaneously to the whole of the staff of each undertaking; (iii) the weekly rest would, wherever possible, be fixed so as to coincide with the days already established by the traditions or customs of the country or district; and (iv) compensatory rest is granted to workers who have to work during their weekly rest day, irrespective of any monetary compensation. The Committee also requests the Government to provide information on any progress made in this respect. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.***

## Mozambique

### Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1977)

*Articles 1 and 2 of the Convention. Scope of application. Weekly rest period.* In previous comments, noting that under section 3(1)(c) and (d) and (2) of the Labour Act, work in mines and ports is governed by specific legislation and that the Labour Act applies to these workers in so far as it is compatible with their nature and characteristics, the Committee requested the Government to indicate the legislation relating to weekly rest applicable to these categories of workers. The Committee notes that, in its report, the Government indicates that Decree No. 13/2015 of 3 July 2015 approved the Mining Labour Regulations and Decree No. 46/2016 of 31 October 2016, approved the Dock Work Regulations. The Committee observes that while section 13 of the Mining Labour Regulations provides that the normal weekly rest of mine workers and oil must be of one day, the Dock Work Regulations does not seem to contain any provision on weekly rest for this category of workers.

Moreover, the Committee had previously noted that section 95(1) of the Labour Act which provides that the minimum weekly rest period is at least 20 consecutive hours, is not in conformity with *Article 2(1)* of the Convention requiring a period of weekly rest comprising at least 24 consecutive hours. ***Noting the Government's indication that the issue of the length of weekly rest is being considered in the framework of the Labour Act's revision process, the Committee requests the Government to take the necessary measures to: (i) bring the national legislation in line with the principle of 24 hours' weekly rest required by the Convention; and (ii) ensure that dock workers have the benefit, in law and in practice, of a 24 hour period of rest per week. It also requests the Government to provide information on any progress made in this regard, as well as copies of any new legislation recently adopted on this subject.***

## Republic of Moldova

### Forty-Hour Week Convention, 1935 (No. 47) (ratification: 1997)

*Article 1 of the Convention. The principle of the 40-hour week. Averaging of hours of work. Overtime.* In previous comments, the Committee noted that: (i) section 99 of the Labour Code allows the averaging of working hours over a reference period of up to one year; (ii) section 104(5) of the Labour Code provides that the maximum annual limit of overtime may be increased from 120 to 240 hours in exceptional cases with the written consent of the workers' representatives; and (iii) under section 3 of Government Decision No. 1223 of 2004, a 24-hour shift of medical personnel is permitted. Noting that these provisions may lead to excessively long working hours, the Committee requested the Government

to take all necessary action to ensure that national legislation on the principle of a 40-hour week is fully aligned with the requirements of the Convention. The Committee notes that section 3 of Government Decision No. 1223 of 2004 is repealed by Government Decision No. 294 of 2014.

On the issue of averaging, the Committee notes that no further information is provided in the Government's report regarding section 99 of the Labour Code. **Recalling that calculating hours of work as an average over a reference period of up to one year allows for too many exceptions to normal hours of work and can result in highly variable working hours over long periods, long working days and the absence of compensation (2018 General Survey on working time instruments, paragraph 68), the Committee requests the Government to review section 99 in this regard and to provide information on any progress made in this respect.**

On the issue of overtime, the Committee notes that the Government does not provide information on section 104(5) either. It also notes that while clear daily limits (12 hours) for overtime are set by section 105(3) of the Labour Code, no weekly limit seems to be established by the national legislation. **Recalling that these provisions authorize practices that would possibly lead to unreasonably long hours of work, in direct contradiction to the principle of progressive reduction of hours of work, the Committee requests the Government to take the measures necessary to ensure that the principle of a 40-hour week provided for by the Convention is fully applied both in law and in practice.**

## Tajikistan

### Forty-Hour Week Convention, 1935 (No. 47) (ratification: 1993)

*Article 1 of the Convention. Forty-hour week.* The Committee notes that section 78 of the 2016 Labour Code, which replicates section 71 of the 1997 Labour Code, foresees the averaging of hours of work over a reference period which may be as long as one year. **Recalling that calculating hours of work as an average over a reference period of up to one year allows for too many exceptions to normal hours of work and can result in highly variable working hours over long periods, long working days and the absence of compensation (2018 General Survey on working time instruments, paragraph 68), the Committee requests the Government to review section 78 of the Labour Code in this regard. It also requests the Government to provide information on the usual length of the reference period determined in collective agreements and internal staff regulations, as well as concrete examples of the variations observed in the number of hours worked on a weekly basis over the corresponding reference period, in cases where averaging is applied.**

*Double employment.* In previous comments, the Committee had requested the Government to provide specific information on any measures adopted or envisaged to limit the total working time of workers engaged in double employment. The Committee notes that according to section 74(2)(5) and 232 of the 2016 Labour Code, the length of the working day for the workers holding two or more jobs shall not exceed by more than four hours the regular working day of eight hours. The Committee also notes that this implies a working day limit of 12 hours for workers holding two or multiple jobs. **Noting that section 67 of the Labour Code provides that the normal working week shall not exceed 40 hours, the Committee requests the Government to indicate whether the weekly limit of 40 hours also applies to multiple jobholders.**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** (Lebanon, Luxembourg, Mozambique); **Convention No. 14** (Dominica, Lesotho, Madagascar, Mali, Mauritania, Mauritius, Mexico, Netherlands: Aruba, Netherlands: Curaçao, Netherlands: Sint Maarten, North Macedonia, Tajikistan); **Convention No. 30** (Lebanon, Luxembourg, Mexico, Morocco, Mozambique, Norway); **Convention No. 47** (Republic of Moldova, Tajikistan); **Convention No. 52** (Lebanon,

*Libya, Mali, Tajikistan*); **Convention No. 89** (*Lebanon, Libya, Mauritania*); **Convention No. 101** (*Netherlands: Sint Maarten, Sierra Leone, United Republic of Tanzania: Tanganyika*); **Convention No. 106** (*Lebanon, Mexico, Netherlands: Aruba, Netherlands: Curaçao, Netherlands: Sint Maarten, North Macedonia, Tajikistan*); **Convention No. 132** (*Madagascar, Montenegro, North Macedonia, Republic of Moldova*); **Convention No. 153** (*Mexico*); **Convention No. 171** (*Lao People's Democratic Republic, Madagascar, Montenegro, Uruguay*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 1** (*Bolivarian Republic of Venezuela*); **Convention No. 14** (*Luxembourg, Montenegro, Norway*); **Convention No. 52** (*Mauritania*); **Convention No. 101** (*Mauritania*); **Convention No. 106** (*Latvia, Montenegro*); **Convention No. 132** (*Latvia, Norway*); **Convention No. 171** (*Luxembourg*); **Convention No. 175** (*Mauritius*).

## Occupational safety and health

### Belize

#### Radiation Protection Convention, 1960 (No. 115) (ratification: 1983)

#### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1999)

The Committee notes with **deep concern** that the Government's reports, due since 2015, have not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Conventions on the basis of the information at its disposal.

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 115 (radiation protection) and 155 (OSH) together.

#### A. General provisions

##### *Occupational Safety and Health Convention, 1981 (No. 155)*

*Articles 4, 7 and 8 of the Convention. Formulation and review of the national OSH policy. Legislation.* The Committee previously noted the Government's reiterated reference to an OSH Bill developed in 2003. The Committee observes that a draft OSH Bill was introduced in 2014, but has not been adopted. In its previous comments, the Committee also noted that the National OSH Policy was approved in 2004, which set up both general and specific objectives, including the principle of prevention and the promotion and maintenance of OSH standards at all workplaces. However, the Committee notes that the 2004 Policy has not been reviewed or updated. **The Committee requests the Government to provide information on the status of the OSH Bill, and on any new legislation adopted which relates to the application of the Convention. The Committee also requests the Government to indicate the measures taken for the review and update of the 2004 National OSH Policy, including any consultation held with social partners. Furthermore, the Committee requests the Government to provide information on any measures taken or envisaged to review the situation of OSH and the working environment in the country, either overall or in respect of particular areas, with a view to identifying major problems and effective methods for dealing with them.**

*Article 5. Main spheres of action affecting OSH and the work environment.* The Committee notes that the 2004 National OSH Policy provides for training and education in the field of OSH and defines the role and responsibilities of different stakeholders in this regard, putting emphasis on communication and cooperation (in accordance with *Article 5(c)* and *(d)*). The Committee notes, however, that the 2004 National OSH Policy does not address other elements required by *Article 5* of the Convention, including the design, testing, choice, substitution, installation, arrangement, use and maintenance of the material elements of work (*Article 5(a)*) and the relationships between the material elements of work and the persons who carry out or supervise the work (*Article 5(b)*). **The Committee requests the Government to provide information on any measures taken or envisaged to give effect to *Article 5(a)* and *(b)* of the Convention.**

*Article 11(c) and (e). Notification of occupational accidents and diseases. Production and publication of annual statistics.* The Committee notes that the Social Security Board publishes annual statistical reports, including information on occupational injuries due to accidents. The Social Security's Statistical Report of 2019 contains information on the number, nature and causes of occupational injuries for 2015–19, and the sectors in which they occurred. **The Committee requests the Government to provide information on any applicable procedures regarding the notification by employers of occupational**

**accidents and diseases to the competent authority. It also requests the Government to indicate whether statistics on occupational diseases are collected and published, in addition to those on occupational accidents.**

*Article 11(f). Introduction of systems to examine chemical, physical and biological agents in respect of the risk to the health of workers.* The Committee previously noted that, in November 2010, the Government launched the Strategic Approach to International Chemicals Management (SAICM), entailing the implementation of a chemicals management system in two phases through a multi-sectoral approach. Phase II of this project was launched in June 2012, aiming at the development of a legal and institutional framework for the management of chemicals, including market surveillance measures. **The Committee requests the Government to provide information on any developments in chemical management, including legal and institutional initiatives taken in this regard. It also requests the Government to indicate whether there are any similar management frameworks regarding physical and biological agents.**

*Article 12. Obligations of persons who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use.* **The Committee requests the Government to provide information on any measures taken or envisaged, in law and in practice, to ensure the responsibilities of those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use with regard to the safety and security of concerned persons, as required by Article 12 of the Convention.**

*Article 17. Collaboration where two or more undertakings are engaged in activities simultaneously at one workplace.* **The Committee requests the Government to provide information on any measures taken to ensure collaboration in applying the requirements of the Convention, whenever two or more undertakings are engaged in activities simultaneously at one workplace.**

*Article 18. Emergencies and first aid.* The Committee notes that both the Factory Act (section 12(1)(c)) and the Labour Act (section 155(b)) provide for the development of regulations on the provision of first-aid equipment. **The Committee requests the Government to indicate whether there are any laws or regulations adopted (including under the Factory Act or the Labour Act) to provide for measures to be taken in case of emergencies and accidents, including adequate first-aid arrangements.**

*Article 21. Expenditure on OSH measures.* **The Committee requests the Government to provide information on any measures taken to ensure that OSH measures do not involve any expenditure for workers.**

## B. Protection against specific risks

### *Radiation Protection Convention, 1960 (No. 115)*

*Article 3(1) of the Convention. Protection measures.* The Committee notes that, according to section 94 of the Labour Act, the Minister of Labour may adopt regulations regarding any operation involving the exposure of workers to ionizing radiations, to: (i) prohibit the employment of, or modify or limit the hours of employment of all persons or any class of persons in connection with any such operations; or (ii) prohibit, limit or control the use of any material or process in connection with any such operation, and may impose duties on owners, employers, employed persons and other persons, as well occupiers. In addition, while reiterating its concern at the absence of a government report, the Committee notes with **interest** the adoption of the Radiation Safety and Security Act in October 2020, following technical assistance from the International Agency for Atomic Energy (IAEA). It notes that the Radiation Safety and Security Act establishes the Office of Radiation Safety and Security within the Ministry responsible for the environment (the Office). Pursuant to section 42 of this Act, this Office shall prescribe requirements for radiation protection to be met before any activity or practice can be licensed, including all steps that shall be taken by the licensee for the protection and safety of workers by keeping

doses below the relevant threshold. **The Committee requests the Government to indicate whether any regulations have been adopted by the Minister of Labour pursuant to section 94 of the Labour Act. It also requests the Government to provide detailed information on the requirements prescribed for licensees under section 42 of the Radiation Safety and Security Act, regarding the protection of workers against ionizing radiation.**

*Article 3(2). Data collection.* The Committee notes that, according to section 9(1)(l), (m) and (n) of the Radiation Safety and Security Act, the Office shall establish and maintain a national register of radiation sources, persons licenced to carry out activities or practices under the Act, as well as other registers as necessary. **The Committee requests the Government to provide information on the implementation in practice of these provisions, such as the information required for the purpose of the register and the method of data collection.**

*Articles 6 and 8. Determination and review of maximum permissible doses.* The Committee notes that, according to section 41(2) of the Radiation Safety and Security Act, the Office shall prescribe dose limits for persons that may not be exceeded in conducting activities or practices involving, among others, the production or use of radiation sources. Section 41(3) further provides that any dose limits prescribed shall take into account the recommendations of the IAEA and the International Commission on Radiation Protection. The Committee observes that there do not seem to be any dose limits prescribed by the Office following the adoption of the Radiation Safety and Security Act in October 2020. **The Committee requests the Government to indicate the measures taken to ensure that the maximum permissible doses or amounts are determined without delay. It also requests the Government to provide information on any mechanism ensuring the review of such dose limits.**

*Article 9. Warning of the presence of hazards from ionizing radiations and instructions for workers directly engaged in radiation work.* **The Committee requests the Government to provide information on any measures taken to ensure that: (i) appropriate warnings are used to indicate the presence of hazards from ionizing radiations; and (ii) adequate instructions are provided to all workers directly engaged in radiation work before and during such employment.**

*Article 12. Medical examination.* The Committee notes that, according to the 2004 National OSH Policy, the employer is required to make provisions for pre-employment, pre-placement and periodic medical examinations for the persons they employ, while the Ministry of Health shall work towards the establishment of an occupational health unit, which will, among other functions, provide medical assistance in this regard. **The Committee requests the Government to provide further information on the medical examinations prescribed and provided in practice to workers directly engaged in radiation work, including examinations prior to or shortly after taking up such work, and their subsequent examinations at appropriate intervals.**

*Article 13. Measures in case of irradiation or radioactive contamination.* The Committee notes that Part VIII of the Radiation Safety and Security Act provides for emergency preparedness and response. However, the Committee notes that it does not contain any provisions addressing the protection of workers as required by *Article 13(a), (c) and (d)* of the Convention. **The Committee requests the Government to provide information on any measures taken or envisaged, in law or in practice, in case of exposure of workers to ionizing radiations with regard to the protection of workers as required by the Convention, including appropriate medical examination of affected workers, examination of the conditions in which workers' duties are performed and any necessary remedial action.**

*Article 14. Employment involving exposure to ionizing radiation contrary to medical advice.* **The Committee requests the Government to provide information on the measures taken to ensure that workers are not employed or engaged in work liable to expose them to ionizing radiations contrary to qualified medical advice, including measures for the provision of alternative employment.**

**[The Government is asked to reply in full to the present comments in 2022.]**

## Plurinational State of Bolivia

### Benzene Convention, 1971 (No. 136) (ratification: 1977)

### Asbestos Convention, 1986 (No. 162) (ratification: 1990)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine the application of Conventions Nos 136 (benzene) and 162 (asbestos) together.

#### 1. Benzene Convention, 1971 (No. 136)

*Article 2 of the Convention. Substitution of benzene or of products containing it.* The Committee notes that the Government, in its reply to the Committee's previous comment, once again refers in its report to general OSH standards that do not contain specific provisions that give effect to *Article 2* of the Convention. **The Committee requests the Government to take concrete measures without delay to ensure the use of harmless or less harmful substitute products instead of benzene or products containing benzene.**

*Article 6(1) and (3). Prevention of the escape of benzene vapour into the air. Measurement of the concentration of benzene.* The Committee notes that the Government reiterates information relative to the fixed maximum concentration of benzene in the air in places of employment (*Article 6(2)* of the Convention), once again without referring to the Committee's request in its previous comment regarding the remaining provisions of *Article 6* of the Convention. **The Committee requests the Government to specify: (i) whether concrete measures have been adopted or are envisaged to prevent the escape of benzene vapours in the air of places of employment in premises where benzene, or products containing benzene, are manufactured, handled or used (Article 6(1)); and (ii) whether the competent authority has issued directions on carrying out the measurement of the concentration of benzene in the air of places of employment (Article 6(3)).**

*Article 7. Work processes in enclosed systems or workplaces equipped with means to ensure the removal of benzene vapour.* The Committee notes that, in reply to its previous comment, the Government once again refers to Technical Safety Standard (NTS) 009/18, for the Presentation and Approval of OSH Programmes, which contains no specific provisions giving effect to *Article 7* of the Convention. **The Committee requests the Government to take concrete measures without delay to ensure that: (i) work processes involving the use of benzene or of products containing benzene are as far as practicable carried out in an enclosed system; and (ii) where it is not practicable for work to be carried out in an enclosed system, places of work in which benzene or products containing benzene are used are equipped with effective means to ensure the removal of benzene vapour to the extent necessary for the protection of the health of the workers.**

#### 2. Asbestos Convention, 1986 (No. 162)

*Article 17(1) and (3) of the Convention. Demolition of plants or structures containing asbestos, and removal of asbestos by employers or qualified contractors. Elaboration of a work plan in consultation with the workers or their representatives.* The Committee notes that, in reply to its previous comment, the Government once again refers in its report to general OSH standards, which contain no specific provisions giving effect to *Article 17(1)* and (3) of the Convention. **The Committee urges the Government to take concrete measures without delay to ensure that: (i) the demolition of plants and structures and removal of asbestos provided under Article 17(1) of the Convention shall be undertaken only by employers or contractors who are recognised by the competent authority as qualified to carry out such work (Article 17(1)); and (ii) the workers or their representatives shall be consulted on the work plan to be drawn up by the employers or contractors (Article 17(3)).**

*Article 20(2), (3) and (4). Records of the monitoring of the working environment. Right to request the monitoring of the working environment.* With reference to its previous comment, the Committee notes that the Government once again refers to general OSH standards which contain no specific provisions giving effect to *Article 20(2), (3) and (4)* of the Convention. **The Committee urges the Government to take concrete 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)).**

Furthermore, the Committee notes with **regret** that the Government's report contains no responses to its earlier comments, which are reiterated below.

#### A. Protection against specific risks

##### 1. Benzene Convention, 1971 (No. 136)

*Article 4 of the Convention. Prohibition of the use of benzene as a solvent or diluent.* With reference to its previous comments, the Committee notes that the Government reiterates in its report that the use of benzene is not prohibited. **The Committee once again requests the Government to take the necessary measures, in accordance with Article 4 of the Convention, to prohibit the use of benzene and of products containing benzene as a solvent or a diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work.**

##### 2. Asbestos Convention, 1986 (No. 162)

*Articles 3 and 4 of the Convention. Legislation and consultation.* With reference to its previous comments, the Committee notes that the Government repeats in its report the information on the general OSH standards to which it referred previously, adding a reference to the Technical Safety Standard for the Presentation and Approval of Occupational Safety and Health Programmes (NTS-009/18), which does not contain any specific provisions on asbestos. The Committee notes with **deep concern** that the necessary measures have not been taken to bring the legislation into conformity with the requirements of Article 3. The Committee recalls the Resolution concerning asbestos, adopted by the 95th Session of the International Labour Conference, June 2006, which stated that the elimination of the future use of asbestos and the identification and proper management of asbestos currently in place are the most effective means to protect workers from asbestos exposure and to prevent future asbestos-related diseases and deaths. **The Committee once again strongly urges the Government in accordance with Article 3 of the Convention, to take the necessary measures as soon as possible to: (a) prevent and control health hazards due to occupational exposure to asbestos; and (b) protect workers against such risks. It also urges the Government to take the necessary measures to consult the most representative organizations of employers and workers concerned with regard to the measures to be taken to give effect to the provisions of the Convention.**

*Articles 9, 10, 11 and 12. Preventive measures by law or regulation. Prohibition of the use of crocidolite and spraying.* The Committee **regrets** to note that the necessary measures have not been adopted to bring the legislation into conformity with the requirements of *Articles 9, 10, 11 and 12*. **The Committee once again requests the Government to provide information on the measures adopted or envisaged to ensure the application of Articles 9 and 10 (preventive measures by law or regulation), 11 (prohibition of crocidolite) and 12 (prohibition of spraying).**

*Article 15. Exposure limits.* The Committee notes the Government's indication that the maximum permissible concentration of asbestos in the air in occupied areas is 5 million particles per cubic foot, in

accordance with section 20 of Presidential Decree No. 2348 of 18 January 1951, which approved the Basic Regulations on industrial health and safety. The Government also refers to Annex D of Technical Standard on Minimum Conditions for the Performance of Work in Confined Spaces (NTS-008/17) which provides in general terms that the permissible exposure limits shall be those determined by the Occupational Safety and Health Administration of the Department of Labor of the United States (OSHA) which establishes limits for air contaminants. The Government indicates that Standards 29 CFR of the OSHA contain asbestos concentration limits (0.1 fibre per cubic centimetre of air as an eight hour time-weighted average and 1.0 fibre per cubic centimetre of air as averaged over a sampling period of 30 minutes, in accordance with Standards 29 CFR, 1910.1001). In this regard, the Committee observes that section 8 of NTS-008/17 determines that employers shall include in protocols for work in confined spaces the necessary safety mechanisms for entry into the premises, including preventive measures to be adopted during work, such as continuous monitoring of air in the workplace.

With reference to its previous comments on respiratory protective equipment and special protective clothing, the Government indicates that the Technical Standard on Demolition Work (NTS-006/17) provides that, when there is evidence of the existence of materials containing asbestos fibres, the requirements set out in the adequate procedures established by the national or foreign minimum safety and health standards applicable to work involving the risk of exposure to asbestos, shall be met. The Committee notes that NTS-009/18 provides that the enterprise or labour establishment shall attach to the occupational safety and health programme documents on the provision of work clothing and personal protective equipment. The Committee notes that the Government also indicates that the Regulations of Act No. 545 on safety in construction (DS No. 2936) establish the general requirement for the contractor to provide workers with appropriate individual protective equipment in relation to the hazards of the workplace in the sector. The Committee also notes the Government's indication that, in accordance with section 6(d) of DS No. 2936, the contractor shall provide without any cost to the workers, clothing, work apparel and personal protective equipment that is appropriate in relation to the risks analysed for the workplace, and that they shall be verified, inspected and reissued regularly in light of the deterioration and/or damage caused by their use. Finally, the Committee notes that the Government has not provided information on the application of *Article 15(2) and (3) of the Convention*. **The Committee requests the Government to provide information on the measures adopted or envisaged to: (a) prevent or control the release of asbestos dust into the air; (b) ensure that the exposure limits or other exposure criteria are complied with; and (c) reduce exposure to as low a level as is reasonably practicable. The Committee once again requests the Government to provide specific information on the measures taken in relation to respiratory protective equipment and special protective clothing, as provided for in Article 15(4) of the Convention.**

*Article 16. Practical measures for prevention and control.* The Committee notes that NTS-009/18 provides that the enterprise or establishment shall undertake, through methodology, the identification of hazards and the assessment of risks in the activities undertaken, as well as other relevant measures. Under the terms of the Technical Safety Standard in force adopted by the Ministry of Labour, Employment and Social Welfare, or in the absence of such a Standard or another reference standard applicable to national conditions, the enterprise or labour establishment shall present a specific study on contaminating chemicals in the working environment (hazardous substances). **The Committee requests the Government to provide additional information on the specific measures adopted to ensure that employers are made responsible for the establishment and implementation of practical measures for the prevention and control of the exposure of the workers that they employ to asbestos and for their protection against the hazards due to asbestos.**

*Article 21(3) and (4). Information on medical examinations. Other means of maintaining income when assignment to work involving exposure to asbestos is inadvisable.* With reference to its previous comments, the Committee notes that NTS-009/18 provides that the enterprise or establishment shall indicate in the occupational safety and health programme the following information: (a) pre-recruitment

medical examinations; (b) periodic examinations of workers in line with the risks identified in the “Hazard Identification and Risk Evaluation”, including the development of any occupational diseases that are detected; and (c) post-employment examinations of workers who have concluded their work in the enterprise or establishment (post-employment management). The Committee also notes section 404 of the General Act on occupational safety and health and welfare (Legislative Decree No. 16998), which provides that care shall be taken in the selection of workers that each worker is assigned to the work for which she/he is best suited from the viewpoint of her/his aptitude and physical strength. However, the Committee observes that specific measures have not been adopted to bring the legislation into conformity with the requirements set out in *Article 21*. **The Committee once again requests the Government to provide specific information on the measures adopted or envisaged to ensure that: (a) workers are informed in an adequate and appropriate manner of the results of their medical examinations and receive individual advice concerning their health in relation to their work; and (b) when continued assignment to work involving exposure to asbestos is found to be medically inadvisable, every effort is made, consistent with national conditions and practice, to provide the workers concerned with other means of maintaining their income, in accordance with Article 21(3) and (4) of the Convention.**

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

**[The Government is asked to reply in full to the present comments in 2022.]**

## Lebanon

### Radiation Protection Convention, 1960 (No. 115) (ratification: 1977)

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

*Articles 3(1) and 6 of the Convention. All appropriate steps to ensure the effective protection of workers, in the light of available knowledge and maximum permissible doses of ionizing radiation.* 1. *Lens of the eye.* The Committee notes that table 2 of Decree No. 11802, regarding the organization of prevention, safety and professional hygiene, sets the dose limitation to the lens of the eye as 150 mSv per year. **With reference to paragraph 32 of its 2015 general observation on the application of Convention No. 115, the Committee requests the Government to take measures to ensure that the dose limits to the lens of the eye are set as 20 mSv per year, averaged over defined periods of five years, with no single year exceeding 50 mSv per year.**

2. *Protection for pregnant and breastfeeding workers.* **With reference to paragraph 33 of its 2015 general observation on the application of Convention No. 115, the Committee once again requests the Government to provide information on any measures to establish the maximum permissible dose for workers who are pregnant or breastfeeding.**

*Articles 6(1), 7(1)–(2) and 8. Dose limits for persons between 16 and 18 years.* The Committee previously requested the Government to indicate whether Decree No. 700 of 1999 had been revised with a view to setting limits for workers under the age of 18 years involved in ionizing radiation work and prohibiting the engagement of workers under the age of 16 in such work. The Committee notes the Government’s indication, in response, that Decree No. 700 has been repealed and replaced by Decree No. 8987 of 2012. Decree No. 8987 provides that engaging workers under the age of 18 in activities where they are exposed to carcinogenic substances, radiations or substances that may cause infertility or birth defects is totally prohibited (section 1 and Annex 1). It also notes that section 21 of Decree No. 11802 sets general dose limits for workers over 18 years of age in the terms of table 2 of the Decree’s Annex. However, the Committee notes that Annex 2 of Decree No. 8987, concerning a list of work activities which are likely to harm the health, safety or morals of workers under the age of 16 years, and are allowed for workers aged 16 and over, includes those exposing workers to atomic or ionizing radiation, provided that these workers are offered full protection of their physical, mental and moral health and that these minors receive special education or appropriate vocational training, with an exception of the works totally banned in the terms of Annex 1. With reference to its 2015 general observation on the application of Convention No. 115, the Committee recalls that for occupational exposure of apprentices aged 16 to 18 years of age who are being trained for

employment involving radiation and for exposure of students aged 16 to 18 who use sources in the course of their studies, the dose limits are: (a) an effective dose of 6 mSv in a year; (b) an equivalent dose to the lens of the eye of 20 mSv in a year; and (c) an equivalent dose to the extremities (hands and feet) or to the skin of 150 mSv in a year. **The Committee once again requests the Government to take the necessary measures, including in the course of the ongoing labour law reform, to ensure that specific dose levels are fixed for workers between the ages of 16 and 18 engaged in radiation work.**

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

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

## Lesotho

### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2001)

*Articles 1 and 2 of the Convention. Scope of application. Public employees.* The Committee notes the Government's indication, in reply to its previous request, that the national occupational safety and health (OSH) policy adopted in 2020 will pave the way for the adoption of the OSH Act, which will ensure that public employees benefit from the protection of the provisions of the Convention. The Committee further notes the Government's reference to section 138 of the Public Service Regulations, 2008, which provides that the Head of Department shall establish and maintain a safe and healthy work environment for public officers, and that a public officer shall not engage in any activity that threatens the safety of other public officers. **Taking due note of this information, the Committee requests the Government to continue to provide information on the measures taken or envisaged to ensure that public employees benefit from the protection of the provisions of the Convention, as well as any progress made regarding the adoption of the envisaged OSH Act. It request the Government to provide a copy of the national OSH policy and the relevant legislation, once adopted.**

*Articles 13 and 19(f). Protection of workers removed from imminent and serious danger.* Following its previous comment, the Committee notes the Government's statement that the Labour Code Bill 2021 will give effect to these provisions of the Convention. The Committee also notes the Government's indication in its report under Convention No. 167, that the national OSH policy includes the right of the workers to refuse to undertake any work that is not safe because of hazards existing before the commencement of the job. **The Committee requests the Government to provide information on any progress made towards the amendment to the Labour Code and to provide a copy of the relevant legislation as soon as it has been adopted, indicating the specific provisions giving effect to these Articles of the Convention.**

*Article 17. Collaboration between two or more undertakings engaged in activities simultaneously at the same workplace.* The Committee notes the Government's reference, in reply to its previous request, to section 25 of the Workmen's Compensation Act of 1977, which concerns liability in case of workers employed by contractors. However, the Committee observes that *Article 17* of the Convention refers to a situation where two or more undertakings are engaged in activities simultaneously at one workplace and collaboration is required in applying the requirements of the Convention. **The Committee requests once again the Government to take measures to ensure in law and in practice that whenever two or more undertakings engage in activities simultaneously at one workplace, they collaborate in applying the provisions regarding OSH and the working environment.**

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

## Madagascar

### Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

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

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 2 June 2015, to the effect that the number of accidents notified to the National Social Security Fund (CNAPS) is very low, owing to the fact that monitoring of the application of the Convention is not undertaken officially or at regular intervals, and that there should be an official report for this kind of notification. **The Committee requests the Government to send its comments on this matter.**

*Legislation.* The Committee notes the concise information supplied by the Government in reply to its previous comments, in which it expressed the hope that the adoption of implementing regulations for the Occupational Safety and Health Code would enable effect to be given to *Articles 2 and 4 of the Convention*. It notes the Government's indication that Order No. 889 of 20 May 1960 establishing general occupational safety and health measures remains in force but that it intends to revise it in order to take account of the current context, including the protection of machinery, and that the participation of a number of entities and qualified persons will be necessary for the revision process. It also notes that section 120 of the Labour Code of 2004 provides that work installations and materials are subject to compulsory safety standards and must undergo systematic inspection, maintenance and checking in order to prevent the risk of accidents. Furthermore, the Committee notes the Government's indication that the labour inspectorate is intensifying controls on machines imported into the country. **The Committee requests the Government to take the necessary steps to ensure the revision of Order No. 889, particularly with a view to giving effect to the Convention, and to provide information on all progress made in this respect. It also requests the Government to provide information on the measures taken in the meantime to ensure the application of Articles 2 and 4 of the Convention, prohibiting the vendor, the person letting out on hire or transferring the machinery in any other manner, the exhibitor or the manufacturer, to sell, let out on hire, transfer in any other manner or exhibit machinery of which the dangerous parts specified in Article 2(3) and (4) are without appropriate guards.**

*Application in practice.* The Committee requests the Government to provide an appreciation of the manner in which the Convention is applied in practice, including, for example, extracts from inspection reports and, where such statistics exist, details of the number of accidents recorded in relation to the Convention, the number and nature of infringements reported, etc.

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

### Hygiene (Commerce and Offices) Convention, 1964 (No. 120) (ratification: 1966)

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

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 2 June 2015, to the effect that: (1) the national legislation should be harmonized with the Convention, while taking account of the current context; and (2) new technologies in the areas of hygiene, safety and health should be developed. **The Committee requests the Government to send its comments on this matter.**

*Legislation.* The Committee notes the Government's concise report, which indicates that following the socio-political instability of recent years, the country is now embarking on a return to constitutional order and that the formulation and implementation of a general state policy is a priority for the Government. The Committee also notes that Order No. 889 of 20 May 1960 establishing general occupational safety and health measures has still not been revised and that, in view of the complex scope of application of the aforementioned Order, which should be extended to take account of new technologies, the participation of a number of entities and qualified persons will be necessary for the revision process. **The Committee requests the Government to take the necessary steps to ensure the revision of Order No. 889, particularly**

**with a view to giving effect to the Convention, and to supply information on all progress made in this respect.**

*Article 14 of the Convention. Provision of suitable seats for workers.* The Committee notes that, under section 115 of the Labour Code of 2004, workers must be provided with all furniture necessary for their comfort during their hours of work. **The Committee requests the Government to supply additional information on the measures taken to ensure that sufficient and suitable seats are supplied for workers and workers have the opportunity to use them.**

*Article 18. Noise and vibrations.* Referring to its previous comments, the Committee once again requests the Government to supply information on the steps taken to ensure that noise and vibrations likely to have harmful effects on workers shall be reduced as far as possible.

*Application in practice.* **The Committee requests the Government to provide a general appreciation of the application of the Convention in practice, including, for example, information on the number and nature of infringements reported and the corresponding penalties imposed.**

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

### Maximum Weight Convention, 1967 (No. 127) (ratification: 1971)

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 Christian Confederation of Malagasy Trade Unions (SEKRIMA), received on 2 June 2015.

*Article 3 of the Convention. Establishment of maximum weight for manual transport of loads.* Further to its previous comments, the Committee notes with **satisfaction** the information provided in the Government's report concerning the entry into force of Inter-Ministerial Order No. 50149/2009 of 8 December 2009, setting the maximum weight for the manual transport of any load by a single male adult worker at 50 kg. In this regard, the Committee notes SEKRIMA's indication that many workers are unaware of the existence of the Order and that dissemination of it is necessary. **The Committee requests the Government to send its comments on this matter.**

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

## Malawi

### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2019)

### Safety and Health in Agriculture Convention, 2001 (No. 184) (ratification: 2019)

### Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (ratification: 2019)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 155 (OSH), 184 (safety and health in agriculture) and 187 (promotional framework for OSH) together.

The Committee notes that the first reports of the Government for Conventions Nos 155, 184 and 187 have not been received.

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), received on 30 August 2021, concerning Convention No. 184. The Committee considers it appropriate to examine the content of the observations under Conventions Nos 155 and 187 as well.

## Occupational Health and Safety Convention, 1981 (No. 155) and Safety and Health in Agriculture Convention, 2001 (No. 184)

*Article 16(1) of Convention No. 155, Article 3(2) of Convention No. 187 and Article 18 of Convention No. 184. Employers' obligation to ensure that workplaces are without risks to health and safety. Promotion of a safe and healthy working environment. OSH measures for women workers in agricultural undertakings.* The Committee notes that, according to the observations of the IUF, a number of women working in tea plantations and macadamia nuts orchards allege that they have been subjected to gender-based violence, including rape and sexual harassment. In particular, according to the IUF, women employed under seasonal, hence precarious, contracts, are forced to submit to the demands for sexual favours of supervisors for fear of losing their employment. In light of the above, the IUF requests that the Committee invites the Government of Malawi to accept ILO technical cooperation in order to address the issue of gender-based violence and harassment in the Malawi tea plantations. The Committee recalls that *Article 16(1)* of Convention No. 155 provides that employers shall be required to ensure that the workplaces under their control are safe and without risk to health. In addition, *Article 3(2)* of Convention No. 187 requires the promotion and advancement of the right of workers to a safe and healthy working environment. The Committee also recalls that, according to *Article 18* of Convention No. 184, measures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to their reproductive health. **Noting with serious concern the gravity of these allegations, the Committee requests the Government to provide its comments in this respect. The Committee expresses its firm hope that the Government will consider requesting technical assistance to address the matters raised by the IUF. The Commission trusts that the requested technical assistance will be carried out with a multidisciplinary approach in order to address these issues, from the perspective of the implementation of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), as well.**

*[The Government is asked to reply in full to the present comments in 2022.]*

## Mexico

### Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1984)

*Articles 4 and 7 of the Convention. Consideration of the national policy on occupational safety and health (OSH) and the working environment.* With regard to its previous request for information on available statistics relating to the number of accidents in the mining sector, the Committee notes that the Government indicates in its report that, according to Mexican Social Security Institute (IMSS) statistics, between 2017 and 2020, almost 1.5 million occupational accidents were reported at national level, of which less than 1 per cent occurred in extraction and exploitation of underground resources (mining, oil and gas). The Government adds that the statistics are not disaggregated to show accidents specifically occurring in the mining sector. The Committee notes the general information on occupational accidents and diseases, available on the web page of the Secretariat of Labour and Social Welfare, according to which for the period between 2009 and 2019: (i) the number of occupational accidents shows a decreasing trend (395,024 in 2009; 422,043 in 2011; 415,660 in 2013; 425,063 in 2015; 410,266 in 2017; and 399,809 in 2019); (ii) the number of occupational diseases mainly shows a continuous increase (4,101 in 2009; 4,105 in 2011; 6,364 in 2013; 12,009 in 2015; 14,159 in 2017 and 13,309 in 2019); and (iii) the number of fatal occupational accidents is falling (1,109 in 2009; 1,221 in 2011; 982 in 2013; 1,133 in 2015; 993 in 2017; and 939 in 2019). **In light of these statistics, the Committee requests the Government to provide information to explain the increase in the number of occupational diseases between 2009 and 2019. The Committee also requests the Government to provide information on the measures adopted or envisaged at the national level, including with respect to specific sectors (including the mining sector) to continue the periodic review of its national policy in respect of OSH, in consultation with the most representative organizations of the employers and workers, with the aim**

**of preventing the accidents and diseases that can result from work. The Committee also requests the Government to continue to provide information on available statistics related to occupational accidents, occupational diseases and fatal accidents recorded, if possible disaggregated by year and by sector.**

*Article 9. Adequate and appropriate system of inspection. Adequate penalties.* With regard to its earlier request for information on the number of inspections as well on the number and nature of reported violations in the mining sector, the Committee notes the information provided by the Government on the number of inspections undertaken in extractive mines (5,533 inspections), the number of workers included (258,272 workers) and the number and nature of the measures adopted (23,327 technical safety and health measures) in the 2016–18 period, making particular reference to coal mining (219 inspections undertaken, benefiting 5,258 workers and with 1,991 technical measures taken). **The Committee requests the Government to continue providing information on the operation of the inspection services in relation to OSH, making particular reference to the number of inspection visits, the number and nature of infractions detected, and the number and type of measures taken (including sanctions imposed), disaggregated by year and by sector (including the mining sector).**

*Article 13. Protection of workers who remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health.* With regard to its previous comments regarding the abolition of the requirement, included under section 343-D of the Federal Labour Act (LFT), of prior notification of, or authorization from, the joint safety and health committee for workers to be able to exercise their right to remove themselves from danger, the Committee notes that the Government considers that the notification that the worker must give under the above-mentioned provision is not a prior requirement or condition for the exercise of their right to remove themselves from imminent danger, but a duty to inform the employer, so that the latter may take the necessary steps to reduce the risk. The Committee, however, recalls that section 343-D of the LFT expressly establishes that workers can refuse to provide his services if and when the joint safety and health committee identifies an imminent risk situation that could endanger their life, physical integrity or health. Thus, the provision cited does not provide the possibility for workers to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health, without prior identification by the joint safety and health committee that the situation is an imminent danger to workers. **Noting that section 343-D of the LFT does not give full effect to Article 13 of the Convention, the Committee once again requests the Government to adopt the necessary measures without delay, including legislative measures, to ensure that workers who deem it necessary to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health are protected from undue consequences. It also requests the Government to provide information on the measures taken in this respect.**

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

## North Macedonia

### White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1991)

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

The Committee notes that in its brief report, the Government once again refers to the Rulebook on the Minimum Health and Safety Requirements Regarding the Exposure of Workers to Chemical Substances, indicating that pursuant to section 11(2) of the Rulebook, the procedures relating to the protection of health when working with dangerous chemical substances for which there is a binding biological limit value are provided for in Annex No. 2 of the Rulebook. However, the Committee notes that despite its request, the Government has not submitted a copy of the Rulebook and its annexes and has not provided information

on measures taken to give effect to the Convention. **Recalling that the Office is available to assist governments in bringing their national law and practice into conformity with the Conventions, the Committee requests the Government to provide detailed information in its next report on measures taken or envisaged to give full effect to each of the provisions of the Convention and to submit a copy of the abovementioned Rulebook and its annexes.**

**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)

For a number of years, the Committee has drawn the attention of the Government to the fact that the national legislation does not contain provisions to give effect to *Part II* of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of *Article 17* of the Convention (which applies to all sectors of economic activity), as national laws do not apply to certain branches of activity, such as sea, air or land transport, and mining.

Since 1979, in reply to the Committee's comments, the Government has indicated that a Bill to revise the 1974 Factories Act was being drafted, which would contain provisions consistent with those of the Convention, and would apply to all branches of economic activity. In its report submitted in 1986, the Government indicated that the draft Factories Bill, 1985, which contained provisions to give effect to *Part II* of the Convention, had been examined by the competent parliamentary committee and submitted to Parliament for adoption. The Committee requested the Government to indicate the stage of adoption of the Bill.

In its report, the Government indicates that the Factories Bill has not been adopted and that, in 2018, the Factory Inspectorate was renamed the Directorate of Occupational Safety and Health and that a new instrument entitled "the Occupational Safety and Health Bill" has been drafted.

**The Committee requests the Government to provide information on the OSH-related duties and responsibilities of the Factory Inspectorate. It also expresses the hope that the draft Occupational Safety and Health Bill will be adopted in the near future and will contain provisions which would give effect to Part II and Article 17 of the Convention. The Committee requests the Government to provide a copy of this text, once it has been adopted.**

## Turkey

**Radiation Protection Convention, 1960 (No. 115)** (ratification: 1968)

**Guarding of Machinery Convention, 1963 (No. 119)** (ratification: 1967)

**Maximum Weight Convention, 1967 (No. 127)** (ratification: 1975)

**Occupational Safety and Health Convention, 1981 (No. 155)** (ratification: 2005)

**Occupational Health Services Convention, 1985 (No. 161)** (ratification: 2005)

**Safety and Health in Construction Convention, 1988 (No. 167)** (ratification: 2015)

**Safety and Health in Mines Convention, 1995 (No. 176)** (ratification: 2015)

**Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)** (ratification: 2014)

In order to provide a comprehensive view of the issues relating to the application of ratified occupational safety and health (OSH) Conventions, the Committee considers it appropriate to examine Conventions Nos 115 (radiation protection), 119 (guarding of machinery), 127 (maximum weight), 155 (OSH), 161 (occupational health services), 167 (OSH in construction), 176 (OSH in mining) and 187 (promotional framework for OSH) together.

The Committee notes the observations of the Confederation of Public Employees' Trade Unions (KESK) on the application of Convention No. 155, received on 1 September 2021, and the response of the Government received on 19 November 2021. The Committee also notes the observations of the Turkish Confederation of Employers' Associations (TISK) on Conventions Nos 115, 119, 127, 155, 161, 167, 176, 187, received on 8 September 2021.

*COVID-19 measures.* The Committee notes that, in reply to its previous request, the Government indicates in its report that an advisory board, consisting of 14 experts of public health, carried out studies regarding COVID-19 in workplaces. Accordingly, 36 guides and documents related to 24 different subject areas were prepared by taking into account the opinions of the scientific advisory board. The Government also enumerates the activities conducted by the Ministry of Family, Labour and Social Services to prepare informative and guidance material on OSH, and to raise awareness of the OSH system in various sectors of the economy. The Committee notes that, according to the Government, upon notifications and complaints related to COVID-19, a total of 4,630 workplaces were examined by the Directorate of Guidance and Inspection in 2020 and 2021. In addition, between January and April 2021, the Directorate conducted 2,773 scheduled and 723 unscheduled OSH inspections. The Committee takes note of this information, which addresses its previous request.

*Articles 2, 3, 4(3)(a) and 5 of Convention No. 187, Articles 4, 7 and 8 of Convention No. 155, Article 1 of Convention No. 115, Article 16 of Convention No. 119, Article 8 of Convention No. 127, Articles 2 and 4 of Convention No. 161, Article 3 of Convention No. 167 and Article 3 of Convention No. 176. Continuous improvement of OSH in consultation with the most representative organizations of employers and workers and the national tripartite advisory body. National OSH policy and programme.* In its previous comment, the Committee requested the Government to provide information on the review of its National OSH Policy and Action Plan for the period 2014–18, on the formulation and adoption of a new OSH policy and on the consultations held with the most representative organizations of employers and workers in this respect. The Committee notes that, in reply to its previous comments, the Government provides information on the actions undertaken within the annual performance indicators in each of the seven objectives set out in the National Action Plan 2014–18. The Committee also notes the Government's indication that, following the amendment of section 21 of the Occupational Health and Safety Law No. 6331 (OSH Act), adopted by Decree-Law No. 703 of 2018, the National Occupational Health and

Safety Council has been removed from the text of the OSH Act and references to the “National Occupational Health and Safety Council” in this law were replaced with a “Board or Authority under the Presidency”. In its observations, KESK reiterates that there were no meetings of the Council since 2018. The Government indicates, in its report and in its response to the KESK observations, that the National Occupational Health and Safety Board will be steered by the Social Policies Council of the Presidency and that regular meetings and consultations with the Presidency of the Republic of Turkey are ongoing in connection with the establishment of the chairmanship of the Board. The Committee notes with **concern** that the Board is not yet established and that the Government does not provide information concerning its composition and mandate regarding OSH. The Committee further notes that the Government refers to the content of the 11th Development Plan for 2019–23 and the target to increase the quality and efficiency of the services carried out in the field of OSH. The Committee also notes that, according to TISK, the Development Plan provides for the implementation of a series of measures in the field of OSH, such as training and seminars, studies on the compliance of work equipment with OSH standards, and the development of occupational standards and qualifications. However, the Committee notes that the Government does not provide information on the revision of the National OSH Policy and Action plan for 2014–18 and on progress made in the adoption of the new policy and programme. **The Committee requests the Government to provide detailed information on the establishment, mandate and composition of the National OSH Board under the Presidency and in particular, to indicate if it includes representatives of employers’ and workers’ organizations. The Committee requests the Government once again to provide information on the review of its National OSH Policy and Action Plan for the period 2014–18, including the evaluation of progress made with the performance indicators. The Committee also requests the Government to provide information on the formulation and adoption of a new OSH policy and programme for the subsequent period. It requests the Government once again to provide detailed information on the consultations held with the most representative organizations of employers and workers in this respect.**

*Articles 2 and 3 of Convention No. 187 and Article 4 of Convention No. 155. Prevention as the aim of the national policy on OSH.* The Committee notes the information provided by the Government regarding the prevention activities in the field of OSH, such as training, seminars, projects and publication of brochures and guides, carried out particularly in the construction, mining and agricultural sectors. The Committee also notes the information provided by the Government regarding the plan to establish an occupational accidents research centre that would examine occupational accidents, carry out studies with a preventive focus and ensure that necessary protection measures are adopted in advance. The Committee welcomes the detailed statistics provided by the Government covering the number of occupational accidents, fatal occupational accidents and occupational diseases by sectors, and the distribution of occupational diseases, according to age and gender for the period 2015–19. In addition, the Government provides information on the number of occupational accidents with a breakdown by causes, economic activity and gender for the years 2019 and 2020. The Committee further notes that, according to the figures provided by the Government, the number of occupational accidents in the construction, mining and agricultural sectors had an increasing trend between 2015 and 2018, but then decreased in 2019. The Committee notes that the most common causes of accidents are falls and those related to the use of machineries. **In the framework of a national OSH policy and plan, as mentioned above, the Committee requests the Government to continue to provide information on the actions taken and the results achieved in order to promote, in consultation with the most representative organizations of employers and workers, basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at the source; and developing a national preventative safety and health culture that includes information, consultation and training. The Committee also requests the Government to continue to provide detailed information on the number of occupational accidents, including fatal accidents, in all sectors and workplaces. It also**

**requests the Government to provide information regarding occupational diseases, including data disaggregated, by sector, age group, gender and type of occupational disease.**

Articles 13 and 19(f) of Convention No. 155, Article 12(1) of Convention No. 167 and Article 13(1)(e) of Convention No. 176. *Right of workers to remove themselves from danger.* In its previous comment, the Committee requested the Government to take the necessary measures to ensure that national legislation or regulations provide that workers shall have the right to remove themselves from danger when they have good reason to believe that there is an imminent and serious danger (or in the case of workers in mines, when circumstances arise which appear, with reasonable justification, to pose a serious danger) to their safety or health. The Committee notes that the Government reaffirms that section 13(3) of the OSH Act, adopted by Decree-Law No. 703 of 2018, provides that workers are able to leave their place of work without going through the process of authorization foreseen in section 13(1) of the OSH Act, if the danger is serious, imminent and unavoidable. The Committee recalls that Article 13 of Convention No. 155, Article 12(1) of Convention No. 167 and Article 13(1)(e) of Convention No. 176 do not refer to a danger that is “unavoidable” and include situations where the workers have a good reason or a reasonable justification to believe that there is an imminent and serious danger. **Therefore, the Committee urges the Government to adopt the necessary measures in order to give full effect to Articles 13 and 19(f) of Convention No. 155, Article 12(1) of Convention No. 167 and Article 13(1)(e) of Convention No. 176, by ensuring that national legislation or regulations provide that workers shall have the right to remove themselves from danger when they have a reasonable justification to believe that there is an imminent and serious danger (or in the case of workers in mines, when circumstances arise which appear, with reasonable justification, to pose a serious danger) to their safety or health.**

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

## Uganda

### Asbestos Convention, 1986 (No. 162) (ratification: 1990)

The Committee notes with **deep concern** that the Government’s report, due since 2018, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Articles 3–18 and 20–22 of the Convention. *Application of the Convention in law and in practice.* Following its examination of the information at its disposal, the Committee notes that important information on measures giving effect to Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21 and 22 of the Convention has not been submitted, namely:

- specific laws or regulations for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos;
- specific regulations, if any, adopted in application of the National Environment Act 2019 (pursuant to section 71 of the Act) and repealing the National Environment (Waste Management) Regulations S.I No. 52/1999; and
- the application of measures taken to prevent, control, and to protect workers against, asbestos-related health hazards in practice.

**The Committee requests the Government to provide detailed information on the points listed above without delay, including copies of the relevant pieces of legislation.**

**[The Government is asked to reply in full to the present comments in 2022.]**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 13** (*Lao People's Democratic Republic, Latvia, Madagascar, Mali, Mauritania, Montenegro, Morocco*); **Convention No. 45** (*Lesotho, Malawi, Malaysia: Peninsular Malaysia, Mexico, Montenegro, Nigeria, Sierra Leone, United Republic of Tanzania: Tanganyika*); **Convention No. 62** (*Mauritania*); **Convention No. 115** (*Latvia, Lebanon, Luxembourg, Mexico, Norway, Turkey, Ukraine*); **Convention No. 119** (*Latvia, Malaysia, Montenegro, Morocco, North Macedonia, Republic of Moldova, Turkey*); **Convention No. 120** (*Latvia, Lebanon, Norway*); **Convention No. 127** (*Lebanon, Luxembourg, Turkey*); **Convention No. 136** (*Lebanon, Morocco, North Macedonia*); **Convention No. 139** (*Guyana, Lebanon, Montenegro, North Macedonia, Norway*); **Convention No. 148** (*Lebanon, Luxembourg, Montenegro, North Macedonia, San Marino, Zambia*); **Convention No. 155** (*Latvia, Lesotho, Luxembourg, Mali, Mauritius, Mexico, Mongolia, Montenegro, Nigeria, North Macedonia, Norway, Republic of Moldova, Turkey*); **Convention No. 161** (*Luxembourg, Mexico, Montenegro, North Macedonia, Turkey*); **Convention No. 162** (*Luxembourg, Montenegro, Morocco, North Macedonia, Norway*); **Convention No. 167** (*Plurinational State of Bolivia, Lesotho, Luxembourg, Mexico, Montenegro, Norway, Turkey*); **Convention No. 170** (*Côte d'Ivoire, Lebanon, Mexico, Norway*); **Convention No. 174** (*Lebanon, Luxembourg*); **Convention No. 176** (*Guinea, Lebanon, Luxembourg, Mongolia, Morocco, Mozambique, Norway, Turkey, Zambia*); **Convention No. 184** (*Luxembourg, Republic of Moldova*); **Convention No. 187** (*Belgium, Guinea, Malaysia, Mauritius, Montenegro, North Macedonia, Norway, Republic of Moldova, Turkey*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 13** (*Luxembourg*); **Convention No. 127** (*Republic of Moldova*); **Convention No. 136** (*Montenegro*); **Convention No. 148** (*Latvia, Norway*).

## Social security

### Armenia

#### Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 2004)

The Committee notes the observations of the Confederation of Trade Unions of Armenia (CTUA), communicated with the Government's report.

*Article 11 of the Convention. Compensation of industrial accidents in the event of the insolvency of the employer or insurer.* Since 2013, the Committee has been drawing the Government's attention to the case of workers employed by companies liquidated after 2004 who, following the adoption of Governmental Decision No. 1094-N of 2004, had not been paid compensation in cases of industrial injuries. In its previous comments, the Committee urged the Government to provide compensation for the workers currently seeking it, and for similarly situated workers henceforth, and to provide information concerning measures taken or envisaged in this regard.

The Committee notes the reply provided by the Government, indicating that the procedure for work-related injury compensation, in case of liquidation of companies, is set out in Governmental Decision No 914-N of July 23, 2009. In such cases, the capitalization of assets of the employer or company responsible for the payment of compensation to victims of work-related injuries is undertaken in accordance with the Civil Code. The current legislation does not make provision for cases where the capitalization of assets, pursuant to the above-mentioned procedure, would not be sufficient to provide the compensation that is due to victims, which, according to the Government, does not constitute a legal gap. In this connection, the Government indicates that, in its view, the State has the discretion to choose the policy deemed most appropriate with respect to existing socio-economic conditions.

The Committee further notes the observations of the CTUA in this regard, which considers that the approach taken by the Government results in discrimination for persons injured in workplace accidents in different years. The CTUA also maintains that injured workers employed in organizations which have been liquidated since August 2004 have been deprived of the right of social protection in the event of accidents and occupational diseases at workplace, while it is the state's duty to provide equality and social justice among its citizens and secure their right of social protection.

While taking note of the Government's position, the Committee recalls that by ratifying the Convention, it has undertaken to ensure that workers who suffer personal injury due to an industrial accident, or their dependants, shall be compensated, by virtue of *Article 1* of the Convention. This obligation is related to that of *Article 11* of the Convention, which requires the State to make such provision as, having regard to national circumstances, is deemed most suitable for ensuring in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to workers who suffer personal injury due to industrial accidents, or, to their dependants in case of death of the worker. In this regard, the Committee underlines that the consideration of national circumstances within the meaning of *Article 11* of the Convention only refers to the choice of means that the Government may take for its implementation, and not to the objective of this provision, which consists in ensuring the comprehensive protection of employees in the event of insolvency of the employer or insurer.

***In view of the above, the Committee once again urges the Government to provide, without further delay, compensation to victims of work injury who have not received compensation due to the liquidations that have taken place between 2004 and 2009 and for similarly situated workers henceforth.***

***The Committee further requests the Government to take the necessary measures to ensure the due and effective compensation of injured workers and their dependants in the event of the insolvency***

**of the employer or insurer and requests the Government to provide information on any measures taken or envisaged in this regard.**

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 the Convention is in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in 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 once again 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 (accepting its Part VI) as the most up-to-date instruments in this subject area.**

## Djibouti

**Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)**  
(ratification: 1978)

**Sickness Insurance (Industry) Convention, 1927 (No. 24)** (ratification: 1978)

**Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)** (ratification: 1978)

**Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)** (ratification: 1978)

The Committee notes with **deep concern** that the Government's reports, due since 2018, have not been received. In light of the urgent appeal launched to the Government in 2020, the Committee is proceeding with the examination of the application of the Convention on the basis of the information at its disposal.

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 19 (equality of treatment, industrial accidents), 24 (sickness insurance, industry), 37 (invalidity insurance, industry), and 38 (invalidity insurance, agriculture) together.

*Article 1(1) and (2) of Convention No. 19. Equality of treatment in relation to compensation for industrial accidents.* In its previous comments, the Committee noted that since the Convention was ratified in 1978, it has been drawing the Government's attention to the need to amend section 29 of Decree No. 57-245 of 1957 concerning compensation for industrial accidents and occupational diseases. This provision sets out that foreign workers injured in industrial accidents who are no longer resident in the country receive a lump sum payment instead of a periodic payment, while nationals are not subject to the same condition of residence in order to obtain a periodic payment as compensation for an industrial accident. **In the absence of new information in this regard, the Committee once again requests the Government to take the necessary measures, without delay, to grant to the nationals of any other Member having ratified the Convention, who suffer personal injury due to industrial accidents happening in its territory, or to their dependents, the same treatment in respect of worker's compensation as it grants to its own nationals, as provided for under Article 1(1) of the Convention. The Committee particularly requests the Government to proceed with the formal amendment or repeal of section 29 of Decree No. 57-245 so as to ensure equality of treatment to foreign workers and their dependents without conditions of residence, in accordance with the terms of Article 1(2) of the Convention.**

*Articles 1, 3 and 6 of Convention No. 24. Setting up a system of compulsory sickness insurance. Sickness benefits.* In its previous comments, the Committee requested the Government to provide information on the introduction of a universal sickness insurance within the framework of the reform

of the system of social protection announced by the Government in 2008. It also expressed the hope that this new insurance system would cover the payment of sickness benefits to insured persons, which were currently covered by employers, contrary to the terms of *Articles 1* and *3* of the Convention. While reiterating its concern at the absence of a Government report, the Committee takes due note that Act No. 24/AN/14/7th L of 5 February 2014 establishes a universal sickness insurance system (AMU) and that Decree No. 2014-156/PR/NITRA of 21 June 2014 issues the establishment of the Universal Health Insurance Solidarity Fund. The Committee specifically notes that universal sickness insurance covers basic healthcare for the entire population living in the territory (section 2 of Act No. 24/AN/14/7th L), by “covering the costs of the services provided by the contractual providers” (section 4) in addition to the benefits covered by the compulsory sickness insurance system provided for workers and other protected groups. Nevertheless, the Committee notes that cash benefits are not covered by the above Act and that, according to the information contained in *Social Security Programs Throughout the World: Africa, 2019* of the International Social Security Association (ISSA), they remain the responsibility of the employer. The Committee recalls that under *Article 3* of the Convention, read in conjunction with *Article 1*, sickness benefits payable to an insured person unable to work by reason of the abnormal state of his or her bodily or mental health, must be financed from a system of compulsory sickness insurance and shall not be borne directly by the employer. Further, in accordance with *Article 6* of the Convention, this system, must be administered by self-governing institutions, which shall be under the administrative and financial supervision of the competent public authorities or private institutions specially approved by the competent public authority.

***In the light of the foregoing, the Committee requests the Government to take the necessary measures, without further delay, to give effect to Articles 3 and 6 of the Convention by establishing compulsory insurance, under the supervision of the State, for the payment of sickness benefits to workers protected by the Convention. In addition, the Committee requests the Government to provide detailed information on the manner in which Act No. 24/AN/14/7th L and Decree No. 2014-156/PR/NITRA, as well as other legislation subsequently adopted in relation to the universal sickness insurance and the Universal Health Insurance Solidarity Fund, give effect to the Convention. The Committee also requests the Government, if current statistics allow, to provide information on the healthcare provided by the universal sickness insurance and the compulsory sickness insurance systems.***

*Articles 1, 4, and 5(2), of Conventions Nos 37 and 38. Establishment of a compulsory invalidity insurance system for workers generally incapacitated for work. Conditions for entitlement to a pension.* In its previous comments, the Committee noted the absence of a specific branch relating to invalidity benefits within the national social security system and requested the Government to establish an invalidity insurance scheme in order to give effect to Conventions Nos 37 and 38, which required the institution of compulsory invalidity insurance. The Committee further noted that, under Act No. 154/AN/02/4th-L of 31 January 2002 codifying the operation of the Social Protection Institute and the general retirement scheme for salaried employees, workers aged 50 years and over who are affected by a permanent physical or mental impairment, were only entitled to claim an early retirement pension when they had accrued a minimum of 240 contribution months (section 60 ff). In this regard, the Committee emphasized that the fixing of a minimum age at which a person can receive invalidity benefit was in breach of *Article 4* of Conventions Nos 37 and 38, which do not permit the right to invalidity benefits to be conditional upon reaching a specific age, although a qualifying period not exceeding 60 contribution months may be imposed under *Article 5* of the above Conventions. ***In the light of the foregoing, and in the absence of information on any measures that may have been taken by the Government to remedy the gaps in implementation noted above, the Committee requests the Government to take all necessary measures, without further delay, to give full effect to Conventions Nos 37 and 38 by establishing a compulsory invalidity insurance system or introducing invalidity benefits within its national social insurance system, guaranteeing the right of workers covered by the***

**Conventions to such benefits under conditions at least equivalent to those set out in Articles 1, 4 and 5 of the Conventions.**

*Application of the Conventions in practice. Implementation of the national social protection strategy.* While reiterating its concern at the absence of a Government report, the Committee takes due note of the adoption of the National Social Protection Strategy (SNPS) 2018–2022 of the Republic of Djibouti, established by Act No. 043/AN/19/8th L of 23 June 2019, as the national reference document for all regulations on social protection (section 2). In particular, the Committee notes that some of the priority pillars set out therein relate to matters covered by the social security Conventions ratified by Djibouti, as do the objectives laid out, which are aligned to some extent with the objectives of the relevant Conventions. Thus, the first pillar of the SNPS aims to guarantee the right to food security, while the second pillar provides for income guarantee for children to improve nutrition and health. With respect to invalidity, the aim of the third pillar is to ensure an income for older persons and those who are unable to work because of disability. The overall objective of the fourth pillar of the SNPS is to guarantee minimum income support for people of working age who are unable to earn an adequate income owing to life accidents and covers outcome 3.1, which aims to guarantee a minimum income for life to those who have a permanent physical disability that prevents them from returning to paid work, including those who have suffered an industrial accident or have an occupational disease. The Committee also observes the multiple references to the ILO Social Protection Floors Recommendation, 2012 (No. 202) in the SNPS, as a reference standard for the implementation of a national social protection floor, according to the above objectives, pillars and targets, in addition to the basic guarantees contained in Recommendation No. 202 with supplementary social protection programmes. **The Committee welcomes the adoption of the SNPS 2018–2022 and hopes that its implementation will contribute to strengthening the application of the social security Conventions ratified by Djibouti. The Committee requests the Government to keep it informed of any measures adopted or envisaged in this regard.**

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. 24 is in force should be encouraged to ratify the most recent Medical Care and Sickness Benefits Convention, 1969 (No. 130) or the Social Security (Minimum Standards) Convention, 1952 (No. 102), accepting Parts II and III of this instrument (see GB.328/LILS/2/1). The Member States for which Conventions Nos 37 and 38 are in force should be encouraged to ratify the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), accepting its Part II, or Convention No. 102, accepting its Part IX. Conventions Nos 102 (Parts II and III) and 130 reflect the more modern approach to medical care and sickness benefits, while Conventions Nos 102 (Parts IX) and 128 (Part II) reflect the more modern approach to invalidity 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. 128 (accepting Part II), Convention No. 130 and/or Convention No. 102 (accepting Parts II and III, as well as IX), which are the most up-to-date instruments in these subject areas.**

## Guinea

### Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1967)

The Committee notes with **deep concern** that the Government's report, which has been due since 2016, has not been received. In light of the urgent call made to the Government in 2020, the Committee is therefore proceeding with the examination of the application of the Convention on the basis of the information available.

*Article 5 of the Convention. Payment of benefits abroad.* In its previous comments, the Committee noted the conclusion in 2012 of the Economic Community of West African States (ECOWAS) General

Convention on Social Security, which aims to enable migrant workers who have worked in one of the 15 ECOWAS Member States to exercise their right to social security in their country of origin through the coordination of national social security systems, while noting that Cabo Verde was however the only other ECOWAS Member State that had ratified Convention No. 118. The Committee recalls that, under the terms of *Article 5(1)*, Guinea is under the obligation to guarantee the provision of old-age benefits, survivors' benefits and death grants, and employment injury pensions to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention in respect of these branches, when they are resident abroad. ***The Committee requests the Government to indicate whether, as provided in section 91 of the Social Security Code, issued by Act No. L/94/006/CTRN of 14 February 1994, the provision of the above benefits is guaranteed in practice to nationals of other States that are parties to the Convention which have accepted the same branches, when they are resident abroad. In this regard, the Committee once again requests the Government to indicate whether a procedure for the transfer of benefits abroad has been established by the National Social Security Fund and to indicate whether procedures are also envisaged in the case of residence in a third country. The Committee also once again requests the Government to indicate whether Guinea nationals who transfer their residence abroad can also receive their benefits abroad, in accordance with Article 5 of the Convention.***

*Articles 6 and 10. Payment of benefits to families.* With reference to the comments that it has been making for many years concerning the provision of family allowances to workers whose children are resident abroad, the Committee noted in its previous comment that, under the terms of section 94(2) of the Social Security Code, to be entitled to family benefit, dependent children must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Organization, reciprocal agreements or bilateral or multilateral agreements. The Committee recalls that, in accordance with *Article 6* of the Convention, any State which has accepted the obligations of the Convention for branch (i) of *Article 2* (family benefit), shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention for that branch, in respect of children who reside on the territory of any such Member, under conditions and within limits to be agreed upon by the Members concerned. *Article 10(1)* of the Convention also provides that the provisions of the Convention apply to refugees and stateless persons without any condition of reciprocity.

***In the absence of updated information at its disposal on this matter, the Committee once again requests the Government to indicate whether family benefit is also provided for insured persons who are up to date with their contributions, whether they are nationals of Guinea or of States which have accepted the obligations of the Convention for branch (i) of Article 2 (family benefit), whose children are resident on the territory of one of the States that has ratified the Convention and accepted the obligations for the same branch, in accordance with Article 6 of the Convention, as well as to refugees and stateless persons without any condition of reciprocity, as provided in Article 10(1) of the Convention. The Committee also reiterates its request to the Government to provide information on the manner in which, in such cases, the lifting of the condition of residence in accordance with the above provisions of the Convention is harmonized in practice with the application of section 99(2) of the Social Security Code, which only recognizes as dependent those children who live with the insured person, and with section 101, under which the provision of family allowances is subject to an annual medical examination of the child, up to the age at which the child comes under the school medical service and the care provided to those attending educational or vocational training courses.***

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

## Haiti

**Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)** (ratification: 1955)

**Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1955)

**Sickness Insurance (Industry) Convention, 1927 (No. 24)** (ratification: 1955)

**Sickness Insurance (Agriculture) Convention, 1927 (No. 25)** (ratification: 1955)

**Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)** (ratification: 1955)

While noting the difficult situation experienced by the country, the Committee notes with **deep concern** that the Government's reports, which have been due since 2013, have not been received. In light of the urgent appeal made to the Government in 2019, the Committee is proceeding with the examination of the application of the Conventions on the basis of the information at its disposal.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on social security, the Committee considers it appropriate to examine Conventions Nos 12 (workers' compensation, agriculture), 17 (workers' compensation, accidents), 24 (sickness insurance, industry), 25 (sickness insurance, agriculture) and 42 (revised, workers' compensation, occupational diseases) together.

*Article 1 of Conventions Nos 12, 17 and 42, application in practice. Guaranteeing effective coverage and the right of workers and their dependants to compensation in the event of employment accidents and occupational diseases.* In its previous comments, the Committee noted that most agricultural workers are excluded from the scope of application of social security legislation, including the Act of 28 August 1967 establishing the Employment Injury, Sickness and Maternity Insurance Office (OFATMA), due to the absence of formal agricultural enterprises. The Committee also noted difficulties in the application of the legislation, even in relation to workers in the formal economy. Moreover, the Confederation of Public and Private Sector Workers (CTSP), in its observations received in 2019, alleges that the legislation in force does not cover apprentices and that, in practice, municipal and State workers and domestic workers are not covered by employment accident insurance.

In this regard, the Committee observes that, according to the information contained in the National Social Protection and Promotion Policy (PNPPS) adopted by the Government in April 2020, employment accident and occupational disease insurance only covers the formal economy, and mainly workers in the textile and apparel industries. The Committee also notes from the PNPPS, that these industries are still characterized by a high rate of non-conformity with occupational safety and health standards (an average of 76.5 per cent), even though there is a high risk of accidents. Indeed, the last report of the OFATMA, published in 2014–15, and quoted in the PNPPS, indicates that 2,522 employment accidents were processed (2,030 men), 42 per cent of which were in the textile and apparel industries and in construction. According to the same report, employment accident benefits, paid to 1,365 persons, amounted to HTG 17.6 million. In the agricultural sector, the PNPPS reports that 94.7 per cent of the workers are paid below the minimum wage and that the work is still principally informal.

Finally, the Committee notes with **concern** the indications contained in the PNPPS that the OFATMA does not cover occupational diseases, as required by the law.

On the basis of the information at its disposal, the Committee is bound to conclude that the significant gaps in coverage reported previously by the Government continue to exist and that the great majority of workers in Haiti, and their dependants, are not covered by compensation in the event of employment accidents and occupational diseases, and that effect is not therefore given to *Article 1* of Conventions Nos 12, 17 and 42. However, the Committee notes that, with a view to remedying the gaps in protection, the PNPPS sets as a specific objective the protection of all men and women workers

against the risks of employment injury and economic dependence related to invalidity as a result of an employment accident, as well as cases of occupational diseases, through the extension of insurance within the framework of the reform of social security institutions. With reference to the coverage of agricultural workers, the PNPPS provides for insurance subsidies for livelihoods as a financial support mechanism for the resilience of self-employed workers and small enterprises and undertakings in the agricultural and fishing sectors.

***Observing that the objectives of the PNPPS are in line with the objectives of Conventions Nos 12, 17 and 42, and that the measures envisaged will reinforce the application of Article 1 of these Conventions, the Committee requests the Government to provide information on the progress achieved in their implementation, and particularly with reference to the extension of coverage of compensation for employment accidents and occupational diseases to the workers covered by these Conventions. The Committee also requests the Government to provide information on any other measures adopted or envisaged to ensure the effective entitlement of these workers to compensation in the event of employment accidents and occupational diseases.***

*Articles 1, 2 and 6 of Conventions Nos 24 and 25. Establishment of a system of compulsory sickness insurance for the effective protection of workers and their families in the event of sickness.* In its previous comments, the Committee noted the Government's intention to continue its efforts to progressively establish a sickness insurance branch covering the whole of the population. In this regard, the Committee emphasized the need to the Government to envisage as a priority the establishment of mechanisms to provide the population as a whole, including workers in the informal economy and their families, with access to basic health care and to a minimum income in cases where their earnings capacity is affected as a result of sickness, an employment accident or an occupational disease, and it drew attention to the relevance of the guidance provided in this regard in the Social Protection Floors Recommendation, 2012 (No. 202).

The Committee notes the information contained in the PNPPS reporting the limited coverage of social protection, with the exception of sickness insurance, with 500,000 persons being covered directly by the OFATMA. The Committee notes that, despite the existence of sickness insurance, the PNPPS indicates that the sick, and particularly the poorest, make very little use of health services because of the high cost of direct payments for health care, which are paid by users, and the prevalence of private profit-making institutions in the provision of health care and services. The Committee recalls in this respect that Conventions Nos 24 and 25 require the establishment of a system of compulsory sickness insurance (*Article 1*) for the provision of medical care and sickness benefits to all manual and non-manual workers, including apprentices, employed in industrial, commercial and agricultural undertakings, as well as homeworkers and domestic workers (*Article 2*), and medical benefit for members of their families, as appropriate (*Article 5*). *Article 6* of the Conventions adds that sickness insurance shall be administered by self-governing institutions under the administrative and financial supervision of the public authorities and shall not be carried out with a view to profit, and that private institutions must be specially approved by the public authorities.

As it emphasized in previous comments, and taking into account the situation experienced in Haiti, the Committee considers that it is still necessary for the Government to envisage as a priority the establishment of mechanisms to provide the population as a whole, including workers in the informal economy and their families, with access to basic health care and a minimum income when their earnings capacity is affected as a result of sickness, an employment accident or occupational disease, in line with the guidance contained in Recommendation No. 202. In this regard, while reiterating its concern at the absence of a Government report, the Committee takes due note that, according to the information contained in the PNPPS, health insurance is currently being set up progressively, with a view to the extension of coverage to self-employed workers in the informal economy on the basis of a subsidy which would make it possible to collect contributions from workers, in accordance with their contributory capacity.

***In light of the above, the Committee requests the Government to report on the progress achieved in extending statutory and effective coverage of compulsory sickness insurance and the sickness insurance scheme to workers in Haiti and the members of their families, as appropriate, and any specific measures taken for this purpose.***

Article 8, in conjunction with Articles 6, 7, 10 and 11 of Convention No. 17, and Article 6 of Conventions Nos 24 and 25. Responsibility of the State for the establishment, control and administration of the compensation scheme for employment accidents and sickness insurance. The Committee notes the allegations made by the CSTP, in its 2019 observations, according to which there are failings in the application of several Articles of Convention No. 17, due to problems related to the management and organization of the OFATMA. The CSTP indicates, more specifically, that: (i) Article 6 of Convention No. 17 is not applied in practice due to the delays in the provision by the OFATMA of the benefits payable as from the fifth day; (ii) the additional compensation required by Article 7 of the Convention is not paid; (iii) the supply and renewal of artificial limbs and surgical appliances, envisaged in Article 10 of the Convention, is not implemented; and (iv) the payment of compensation to workers who are victims of accidents and their dependants is not ensured in the event of the insolvency of the employer or insurer, as required by Article 11 of the Convention, due to the very weak system for the enforcement of the legislation. The CSTP also alleges a lack of transparency in the administration of the OFATMA. Finally, the CSTP alleges that the Board of Directors of Social Security Organizations (CAOSS), a tripartite body administering State social protection and social security institutions, is dysfunctional, which is affecting the methods of controlling employment accidents. In view of the above, the CSTP therefore emphasizes the need to deal at a higher level in a framework of social dialogue, with ILO support, with the situation of tripartite social protection and social security bodies, while carrying out actuarial studies and audits of the OFATMA and discussing once again a deep-rooted reform of the Ministry of Social Affairs and Labour (MAST). The Committee also notes the information provided by the Confederation of Haitian Workers (CTH) and the Confederation of Public and Private Sector Workers (CSTP) to the International Trade Union Confederation (ITUC), and received in 2020, indicating that, in practice, contributions are not paid to the social security system by employers or the authorities and that workers who dare to present claims are dismissed.

The Committee notes that the Decent Work Country Programme (DWCP) 2015–20, approved by the ILO tripartite constituents, should have resulted in the reform of the social security legislation, as well as an improvement in the effectiveness of the contributions system and the sound operation of the tripartite administration of social protection institutions. The Government also made a commitment in this framework to strengthen the role and technical capacities of the CAOSS, the National Office of Old-Age Insurance (ONA), the OFATMA and other key institutions with a view to the progressive extension of social protection coverage. The Committee notes that these objectives are taken up, at least in part, in the 2020 PNPPS, which indicates that the provisions of social security laws and regulations will be extended with a view to rationalizing the administration of schemes that is currently undertaken by several institutions and facilitating the transfer of the rights of contributors. The strengthening of the CAOSS is also planned alongside the reforms of the ONA and the OFATMA envisaged in the PNPPS in relation to social protection. The Committee observes that these objectives are in line with the improved application of Article 6 of Conventions Nos 24 and 25 and Article 8 of Convention No. 17 which establish, respectively, the responsibility of the State for the administration of sickness insurance schemes and for the adoption of the measures of supervision necessary for the effective implementation of employment accident compensation schemes.

***In light of the above, the Committee expresses the firm hope that the objectives set out in the DWCP and the PNPPS in relation to the strengthening of social security and social protection institutions and their sound governance will be achieved and emphasizes the importance of social dialogue in this respect. It requests the Government to provide information on any progress achieved in this respect. In particular, the Committee requests the Government to report any measures adopted***

**or envisaged to improve the administration of social security bodies and institutions, the collection of contributions and in general to ensure the establishment in practice of social insurance schemes, particularly for employment accidents and occupational diseases, in conformity with Article 8 of Convention No. 17 and Article 6 of Conventions Nos 24 and 25.**

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 Conventions Nos 17 and 42 are in force should be 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 (GB.328/LILS/2/1). Member States for which Conventions Nos 24 and 25 are in force should be encouraged to ratify the Medical Care and Sickness Benefits Convention, 1969 (No. 130), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Parts II and III. Conventions Nos 121, 102 and 130 reflect the more modern approach to employment injury benefit and medical care and sickness benefit. **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 and/or Convention No. 102 (accepting the obligations in Part VI), and Convention No. 130 and/or Convention No. 102 (accepting the obligations in Parts II and III), as the most up-to-date instruments in these subject areas.**

**The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in relation to the matters raised above.**

## Lebanon

**Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1977)**

**Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)  
(ratification: 1977)**

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

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on workmen's compensation, the Committee considers it appropriate to examine Convention No. 17 (accidents) and No. 19 (equality of treatment) together.

*Convention No. 17. Application of the Convention in practice.* In its previous comments, the Committee hoped that the Government would make every effort to complete the reforms required to guarantee the protection afforded by the Convention to injured workers. The Committee notes the information provided by the Government in its report according to which, issues in the application of the Convention were due to the delayed implementation of the Occupational Accidents and Occupational Diseases Branch, established by the Social Security Code (Decree No. 13955 of 1963) but not yet established in practice. The Committee notes with **concern** that compensation in case of work-related accidents is still regulated by Legislative Decree No. 136 of 1983, which it has previously found not to be in compliance with the requirements of the Convention in many respects: *Article 2* – the necessity to make the above Legislative Decree applicable to apprentices; *Article 5* – the necessity to provide in the event of employment injury that the compensation shall be paid in the form of periodical payments to the injured worker or his or her dependants, provided that it may only be paid in the form of a lump sum where there are guarantees that it will be properly utilized; *Article 6* – the payments of compensation in case of temporary incapacity from the fifth day following the accident at the latest and throughout the duration of the invalidity, that is until the worker is cured, or up to the date of the commencement of the periodical payments for permanent incapacity; *Article 7* – necessity to provide additional compensation where the worker requires the constant help of another person; *Article 8* – provision for review of the periodical payments either automatically or at the request of the beneficiary in the event of a change in the condition of the worker; and *Article 11* – making provision for guarantees in the

event of the insolvency of the insurer, inter alia. The Committee observes that, despite the comments it has been making for many years, the measures necessary to bring the national legislation into conformity with the Convention have still not been taken. **The Committee once again requests the Government to report on measures envisaged or taken with a view to giving full effect to the Convention, including measures related to the amendment of Legislative Decree No. 136 of 1983 and the implementation of the Occupational Accidents and Occupational Diseases branch of the Social Security Code.**

*Article 1(1) and (2) of Convention No. 19. Equality of treatment for survivors.* In its previous comments, the Committee recalled that, for many years, it has been drawing the Government's attention to the issue of the right of survivors of foreign workers, originating from a country party to Convention No. 19, to receive a pension even if they did not reside in Lebanon at the time of the accident causing the death of their breadwinner, and hoped that the new Labour Code would guarantee this right in law and practice and would not forestall the corresponding amendment of the legislation governing compensation for employment injuries, namely section 10 of Legislative Decree No. 136 of 1983 and sections 9(3), subparagraphs (2) and (4) of the Social Security Code. The Committee notes the Government's indication that it would be necessary to amend the relevant provisions in the Social Security Code once the Occupational Accidents and Occupational Diseases Branch is enacted to give effect to the Convention. **Recalling that the Convention guarantees equality of treatment between the dependants of nationals and those of foreign workers from a country which has ratified the Convention without any requirement as to residence and irrespective of any reciprocity condition, the Committee once again requests the Government to take necessary measures to bring the national legislation in conformity with the Convention.**

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM tripartite working group), the Governing Body has decided that member States for which Convention No. 17 is in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102), accepting its Part VI (see GB.328/LILS/2/1). Conventions Nos 102 and 121 reflect the more modern approach to employment injury benefits. **The Committee therefore encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM tripartite working group and to consider ratifying Conventions Nos 102 (Part VI) or 121 as the most up-to-date instruments in this subject area. The Committee reminds the Government of the possibility to avail itself of the technical assistance of the Office in this regard.**

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

## Mauritania

### Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1968)

*Part XIII (Common provisions) of the Convention, Article 71(3) and Article 72(2). General responsibility of the State for the provision of benefits and the proper administration of the social security system.* For many years, the Committee has raised questions regarding the application of the Convention in practice, in view of the concerns expressed by the Free Confederation of Mauritanian Workers (CLTM) and the General Confederation of Workers of Mauritania (CGTM), regarding the Government's management of the national social security system. In its previous comments, the Committee noted the various measures taken by the Government and the national authorities to counter evasion of contributions, to ensure the registration of new employers with the National Social Security Fund (CNSS) and to increase effective coverage by simplifying administrative procedures. On the basis of that information, the Committee requested the Government to report on the progress achieved in the implementation of the announced reforms, in particular, in the context of the plan of action instigated by the CNSS for 2014–2020.

The Committee notes with **regret** the absence of tangible progress reported by the Government in this connection. The Committee nevertheless notes that, according to the Government, the Bill modifying and replacing Act No. 67-039 of 3 February 1967 establishing a social security scheme and its

accompanying explanatory notes have been submitted to the competent technical body. The Government also indicates that the drafts of the implementing orders and decrees of the Bill have also been prepared and that they will be submitted to the technical body, following promulgation of the Act.

In light of the systematic problems related to the functioning of the social security system in Mauritania, the Committee recalls that under *Articles 71(3) and 72(2)* of the Convention, the State shall accept general responsibility for the due provision of the social security benefits provided as well as for the proper administration of the institutions and services of the social security system. As set out previously, the Committee considers that the proper administration of the social security system by the State, in conformity with the above-mentioned Articles of the Convention, must be based on a clear and precise legal framework, reliable actuarial data, supervision by the representatives of the persons protected, an effective inspection system and sufficiently dissuasive penalties. ***The Committee therefore requests the Government to take the measures required to ensure the proper administration of the national social security system and provision of benefits, in conformity with Articles 71(3) and 72(2) of the Convention, and to give full effect to the Convention in practice. The Committee also requests the Government to provide information on the results of the CNSS plan of action for 2014–2020. It further requests the Government to provide a copy of the Act modifying and replacing Act No. 67-039 of 3 February 1967 establishing a social security regime, once it has been adopted, together with its implementing decrees and orders.***

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

## Mauritius

**Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)** (ratification: 1969)

**Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1969)

**Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)**  
(ratification: 1969)

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 12 (workers' compensation, agriculture), 17 (workers' compensation, accidents), and 19 (equality of treatment, accident compensation) together.

*Article 1 of Convention No 12, and Article 2 of Convention No. 17, in conjunction with Articles 5, 7, 9, 10 and 11 of Convention No. 17. Scope of application of legislation on workers' compensation.* For more than 40 years, the Committee has been drawing the Government's attention to the lack of compliance of the Workmen's Compensation Act (Chapter 220), 1931, applicable to certain categories of workers excluded from the National Pensions Act, 1976, with the following provisions of Convention No. 17: *Article 5* (compensation in the form of periodical payments in cases of permanent incapacity or death of the injured worker); *Article 7* (additional compensation for injured workers who must have the constant help of another person); *Article 9* (entitlement to the necessary medical and surgical aid, free of charge); *Article 10* (supply and renewal of artificial limbs and surgical appliances); and *Article 11* (guarantees in the event of the insolvency of the employer or insurer).

The Committee pointed, in particular, to the unequal treatment in coverage for work accident compensation that ensued for certain categories of workers, and notably for employees of the central government and of parastatal bodies and local authorities earning less than a prescribed amount and workers in the sugar industry. On this basis, the Committee requested the Government to conclude the merger of the Workmen's Compensation Act (Chapter 220), 1931 and the National Pensions Act, 1976, indicated by the Government as a means to give effect to the above-mentioned provisions of Convention

No. 17 since 1999, and to take other measures to bring the national legislation fully in line with Conventions Nos 12, 17 and 19 for all the categories of workers protected by the Conventions.

The Committee notes with *interest* the indication by the Government, in its report, that the National Pensions Act, 1976, has been amended by the Social Contribution and Social Benefit Act, No. 14 of 2021 (SCSB Act), which covers all industrial injuries and all workers who draw an income, without exceptions (sub-part III of Part III, SCSB Act). In this context, the Government points out that a merger between the Workmen's Compensation Act, 1931, and the SCSB Act, which has amended the National Pensions Act, 1976, is now being considered.

While taking due note of the adoption of the SCSB Act, the Committee observes, that, pursuant to its section 2, public sector employees are excluded from the definition of employees for the purpose of sub-part III of Part III of the SCSB Act, which regulates industrial injury benefits, and that apprentices under a contract of apprenticeship regulated by the Mauritius Institute of Training and Development Act are also excluded from coverage under sub-part III of Part III. The Committee further observes that the Workmen's Compensation Act, 1931, is still in force, which suggests that certain categories of workers continue to be subjected to an unequal treatment in case of industrial injury, and granted a lesser protection than that set out in the Conventions. In this respect, the Committee recalls that, pursuant to *Article 2* of Convention No. 17, all workers, employees and apprentices employed by any enterprise, undertaking or establishment of whatsoever nature, whether public or private who suffer personal injury due to an industrial accident, shall be granted compensation, on terms at least equal to those provided by the Convention. As for Convention No. 12, it requires, under its *Article 1*, the extension to all agricultural wage-earners of laws and regulations making provision for the compensation of workers for personal injury by accident arising out of or in the course of their employment.

***In light of the above, the Committee requests the Government to provide clarifications as to the provisions of its national legislation regulating the compensation of workers excluded from the scope of protection of sub-part III of Part III (Industrial Injury Benefits) of the SCSB Act, 2021, for work-related injury. The Committee requests the Government to specify, in particular, the provisions applicable to employees of the central government, parastatal bodies and local authorities, and workers in the sugar industry.***

***In the event that some workers are still covered by the Workmen's Compensation Act, the Committee requests the Government to take the necessary measures to ensure that these workers and their dependents are duly compensated in cases of work-related injury, on terms at least equal to those provided by Conventions Nos 12 and 17.***

*Article 1(1) of Convention No. 19. Equality of treatment for non-national workers and their dependants.* For many years, the Committee has been noting that non-citizen workers employed in export processing zones and who have resided less than two years in Mauritius were not considered as insured persons under the National Pensions Act, and were only entitled to work injury benefits under the Workmen's Compensation Act, 1931, which provided a lesser protection.

The Committee notes the Government's indication that non-citizen employees residing in Mauritius are covered by the SCSB Act in case of an industrial accident. The Committee notes, however, that non-citizen employees, employed by an export manufacturing enterprise who have resided in Mauritius for a continuous period of less than 2 years, are still excluded from participation in the social insurance system which ensures protection against industrial injuries, pursuant to section 2 of the SCSB Act. The Committee recalls that *Article 1(1)* of the Convention requires that a ratifying member State must grant to injured workers who are nationals of any other member State that has ratified the Convention, or to their dependants, the same treatment in respect of workmen's compensation as it grants to its own nationals.

***The Committee urges the Government to take the necessary measures to ensure that non-citizen workers employed in export processing zones who have resided less than two years in the country are***

**granted the same treatment in industrial injury compensation as nationals and other foreign workers under the SCSB Act, 2021, in application of Article 1 of Convention No. 19.**

*Conclusions and recommendations of the Standards Review Mechanism.* With respect to its previous comment, the Committee recalls the recommendations of the Standards Review Mechanism (SRM) Tripartite Working Group, based on which 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), and accept the obligations in its Part VI (see GB.328/LILS/2/1). **Taking note of the Government's indication that due consideration would be given to ratification of most up-to-date relevant instruments, the Committee encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM Tripartite Working Group, and to consider ratifying Conventions Nos 121 or 102 (Part VI) as the most up-to-date instruments in the area of employment injury benefit, and reminds the Government of the possibility to avail itself of the technical assistance of the Office in this regard.**

## Mexico

### **Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1961)**

*Article 28 of Part V (Old-age benefit), Articles 65 and 66 of Part XI (calculation of periodic payments) and the appended Schedule. Guarantee of the minimum level of benefit.* With regard to its previous comments that the protection provided by the pension system does not provide the guarantees required under Article 65 of the Convention in respect of the minimal replacement rates for old-age pensions, the Committee notes the statistical data from the Mexican Institute of Social Security (IMSS), provided by the Government with its report. The data indicate a replacement level, between 2013 and May 2016, of between 73.6 and 74.6 per cent of beneficiaries' average previous earnings for old-age and retirement benefits provided, in accordance with the Acts on the IMSS of 1973 and 1997. The State Workers' Social Security Institute (ISSSTE) provided average pension replacement rates of 55 per cent up to 2016, with the average wage taken as 7,567.86 pesos and the average pension as 4,188.57 pesos.

While taking note of this information, the Committee considers that it does not demonstrate the capacity of the current IMSS and ISSSTE pension schemes to guarantee a minimum old-age pension corresponding to 40 per cent of previous earnings, for a standard beneficiary (as defined in the Schedule to Part XI of the Convention), after 30 years of contributions. As it has pointed out several times, the Committee recalls that the amount of the pensions provided by the IMSS and ISSSTE schemes, which following the 1997 and 2007 reforms, are compulsory individual capitalization accounts, cannot be determined in advance, but depend on the capital accumulated in the workers' individual accounts, and especially on the rate of return obtained. Therefore, as the Committee concluded previously, they do not comply with the requirements of *Article 65* of the Convention.

The Committee also notes that the IMSS pension scheme guarantees a minimum pension to workers on reaching the age of 60 years, having registered one thousand weeks of contributions, of which the amount is calculated according to the table appended to section 170 of the Social Security Act, reformed in 2020. According to the Government, by virtue of this reform, the amount of the pension guaranteed by the State to workers who do not have sufficient funds in their individual accounts has increased. Similarly, the ISSSTE pension scheme provides for a guaranteed monthly pension of 3,3034.20 pesos, updated annually in line with changes in the National Consumer Price Index (section 92 of the Act on the ISSSTE). The State guarantees this pension to affiliated workers that fulfil the age and qualifying period conditions laid down in section 89 of the Act.

The Committee recalls, once again, that the minimum guaranteed pension provided by the IMSS and ISSSTE can be assessed with reference to *Article 66* of the Convention, which requires the rate of

old-age pension to correspond to least 40 per cent of the reference wage of an ordinary adult male labourer, determined in accordance with *Article 66(4-7)*, after 30 years of contributions.

***The Committee reiterates its request and firmly hopes that the Government will be able to provide, without further delay, the information necessary to demonstrate that the rate of the minimum guaranteed pensions provided by the IMSS and ISSSTE schemes comply with the requirements laid down in Article 28, in conjunction with Article 66, of the Convention. The Committee requests the Government to provide the necessary calculations to that end, following the methodology established in Article 66 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 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.***

## Sierra Leone

### Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1961)

*Article 1 of the Convention. Ensuring the coverage and effective protection of workers in case of industrial accidents.* The Committee observes that, pursuant to the Workmen's Compensation Ordinance of 1954 (WCO), employers are liable for the payment of compensation in respect of any personal injury by accident caused to their workers in the course of, or arising out of employment. It also observes that, since 2016, employers with more than five employees are obligated to insure their liability with private insurance carriers, according to section 22 of the Insurance Act of 2016. The Committee further observes that, while all employees are covered under the national legislation, they represent only 10.8 per cent of the labour force (ILO, *World Social Protection Database, 2021*). The majority of workers in the country thus have no entitlement to compensation in case of work-related accidents for being in a work arrangement that does not qualify as employment under the law, or because they operate in the informal economy, which is prevalent, according to Sierra Leone's 4th National Human Development Report, 2019, published by the United Nations Development Programme (UNDP). In addition, the Committee observes from the 2018 Integrated Household Survey Report that the largest number of workers in the informal economy are located in regions highly engaged in mining and agriculture, considered particularly dangerous activities, characterized by a high rate of injury. **Taking into account the small proportion of workers protected by law in case of work-related accidents and the specificities of the labour market, the Committee requests the Government to consider taking measures to broaden the coverage of the workers' compensation scheme, or introducing new mechanisms of protection, to ensure that all victims of work-related accidents, or their dependents in case of death, are compensated as set out in the Convention. The Committee requests the Government to provide information on any measures taken or envisaged in this respect, with a view to progressively extending the protection of workers under the Convention and recalls the possibility of availing itself of the ILO's technical assistance for this purpose.**

**The Committee further requests the Government to supply statistical data, to enable it to assess the manner in which national laws and regulations respecting work accidents are applied in practice in Sierra Leone, including in particular: (i) the total number of workers, employees and apprentices employed by all enterprises, undertakings and establishments, to whom the Convention is applicable; (ii) the total amount of compensation paid in cash and the average amount of compensation paid to victims of work accidents; and (iii) the number and nature of work accidents reported and the number of work accidents in respect of which compensation was paid.**

**Lastly, the Committee recalls the important role of labour inspection in the application of the Convention, and requests the Government to refer to its detailed comments under the Labour Inspection Convention, 1947 (No. 81).**

*Article 5. Compensation in case of permanent incapacity for work or death.* For more than 30 years, the Committee has been drawing the Government's attention to the fact that sections 6, 7 and 8 of the WCO, 1954 were not fully aligned with *Article 5* of the Convention, by restricting the duration of payment of compensation due in respect of a work accident and limiting its total amount, and allowing a lump sum payment (equal to 42 times the worker's monthly earnings in case of permanent incapacity for work and 56 times the deceased's monthly earnings in case of death). In its previous comments, the Committee also noted the Government's indication on the existence of a bill on worker's compensation that reflected the provisions of the Convention concerning the payment of compensation due to a work accident throughout the period of contingency, and requested the Government to provide information on it.

The Committee notes the Government's reply, in its report, that the bill on worker's compensation has not been adopted yet. The Committee further notes that, according to section 13(1)(a), (2) of the

WCO, 1954, the compensation paid in case of permanent incapacity for work or death due to a work accident shall be transferred to a court which may order that the whole or any part of the compensation to be paid to a person entitled or to be invested, applied or otherwise dealt with for his/her benefit in such a manner as the court thinks fit. The Committee recalls that, according to *Article 5* of the Convention, the compensation payable to victims of work accidents, in case of permanent incapacity or death, shall, in principle, be paid in the form of periodical payments, as long as the personal injury subsists or as long as the state of dependency exists. Nevertheless, *Article 5* of the Convention allows the compensation due to a work accident be wholly or partially paid in the form of a lump sum, if the competent authority is satisfied that it will be properly utilized. **The Committee therefore requests the Government to provide information on the manner in which the court or any other supervisory body conducts a review of the circumstances of work accident victims, and the basis on which that body is satisfied that the compensation in case of permanent incapacity for work or death due to a work accident, when paid as a lump sum, will be properly utilized, in line with Article 5 of the Convention. The Committee also requests the Government to provide information on any progress made in the adoption of the bill on worker's compensation and to provide a copy of it, once adopted.**

*Article 9. Medical, surgical, and pharmaceutical aid. (i) Effective access to medical, surgical, and pharmaceutical aid.* In its 2019 General Survey, Universal social protection for human dignity, social justice and sustainable development, paragraph 239, the Committee noted the existence of significant shortages of health and social workers in Sierra Leone, which it found to be challenging to guarantee the availability of adequate essential health care of acceptable quality for the population. The Committee further observes the findings of the UNDP's National Human Development Report, 2019, according to which the health system in Sierra Leone has failed to deliver effective, safe and quality health interventions due to, particularly, a shortage of healthcare workers, high out-of-pocket payments, distance from public health facilities, and poor-quality services.

**The Committee requests the Government (i) to indicate the measures in place to ensure the provision of the necessary medical, surgical and pharmaceutical aid to victims of work accidents as well as the effective access of injured workers to such aid, as required by Article 9 of the Convention and (ii) to provide information on the organization of the health services and facilities through which such aid is provided, and on the type of health providers involved in the provision of such aid.**

*(ii) Provision of medical, surgical, and pharmaceutical aid free of charge.* The Committee observes that, by virtue of section 32 of the WCO, 1954, an employer shall defray the reasonable medical expenses incurred by a worker injured in the course of employment. The Committee further observes that, according to section 34 of the WCO, 1954, the fees and charges for medical aid to workers shall be established in accordance with a scale as may be prescribed, and that no claim for an amount in excess of a fee or charge in accordance with that scale shall lie against an employer in respect of any such medical aid. The Committee recalls that, pursuant to *Article 9* of the Convention, the cost of medical, surgical, and pharmaceutical aids recognized to be necessary in consequence of work accidents shall be defrayed either by the employer, by accident insurance institutions, or by sickness or invalidity insurance institutions.

**The Committee requests the Government to provide information as regards any scale that would have been adopted for the establishment of fees and charges for medical aid, prescribed pursuant to section 34 of the WCO, 1954, together with an explanation of how these fees and charges relate to the cost of medical care and treatment provided by the country's health services. The Committee further requests the Government to indicate whether the costs of medical, surgical, and pharmaceutical aid incurred by victims of work accidents that would be in excess of the costs established by such scale(s) and therefore not assumed by the employer, are defrayed by an insurance institution, or whether they are at the charge of the injured worker.**

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 welcomes the indication by the Government that the process of ratification of Convention No. 102 is under way, and that the ratification of Convention No. 121 is being considered. The Committee requests the Government to keep it informed of any progress made in this regard, and invites the Government to take account of the relevant provisions of these Conventions when addressing the points raised above in relation to the application of Convention No. 17.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 12** (Angola, Burundi, Dominica, Madagascar, Morocco); **Convention No. 17** (Angola, Burundi, Djibouti, Guinea-Bissau, Mexico, Morocco, Mozambique, Uganda); **Convention No. 18** (Angola, Djibouti, Mozambique); **Convention No. 19** (Angola, Dominica, Haiti, Lesotho, Malaysia: Peninsular Malaysia, Malaysia: Sarawak, Morocco, Nigeria, Saint Lucia); **Convention No. 42** (Burundi, Morocco, Solomon Islands); **Convention No. 102** (Barbados, Luxembourg, Mauritania, Mexico); **Convention No. 118** (Guinea, Mauritania, Mexico); **Convention No. 121** (Guinea, Netherlands: Aruba); **Convention No. 128** (Barbados).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 19** (Mali).

## Maternity protection

### Equatorial Guinea

#### Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1985)

The Committee notes with **deep concern** that the Government's report, which has been due since 2008, has not been received. In view of the urgent appeal made to the Government in 2019, the Committee will proceed with the examination of the application of the Convention on the basis of the information available to it.

*Article 6 of the Convention. Dismissal during maternity leave. Public officials.* With reference to its previous comments, the Committee observes that, in the same way as the earlier provisions, new Act No. 2/2014 on State public officials, in sections 111 et seq., provides for the possibility of the dismissal of women workers for gross misconduct following the appropriate disciplinary procedure. The Committee recalls that *Article 6* of the Convention provides that it shall not be lawful for an employer to give a woman notice of dismissal during maternity leave, including any prenatal or post-natal leave to which she is entitled, or to give her notice of dismissal at such a time that the notice would expire during such absence. **The Committee urges the Government to provide information on the measures which ensure that effect is given to Article 6 of the Convention and which establish a formal prohibition on giving a public official her notice of dismissal during her absence on maternity leave, or at a time such that the notice would expire during her absence.**

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM Tripartite Working Group), the Governing Body has decided that Member States for which Convention No. 103 is in force should be encouraged to ratify the more recent Maternity Protection Convention, 2000 (No. 183) (see GB.328/LILS/2/1). Convention No. 183 sets out the more modern approach to maternity protection. **The Committee therefore encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM Tripartite Working Group and to consider ratifying Convention No. 183 as the most up-to-date instrument in this subject area.**

### Latvia

#### Maternity Protection Convention, 2000 (No. 183) (ratification: 2009)

*Article 2 of the Convention. Coverage of public employees.* The Committee notes the reply provided by the Government, in its report, concerning the manner in which the Convention is applied to public sector employees. It notes, in particular, that public sector employees benefit from the same protection as private sector employees in relation to maternity and that they are covered by the same provisions in this respect, namely the Labour Law, the Law on Maternity and Sickness Insurance, 1995, and the Law on State Social Benefits, 2002. The Committee takes note of this information.

*Article 4(4). Compulsory postnatal leave.* In its previous comments, the Committee requested the Government to indicate whether the representative organizations of employers and workers at the national level had been consulted regarding the establishment of a compulsory postnatal leave of two weeks in the Labour Law, considering that *Article 4(4)* of the Convention required maternity leave to include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.

In reply, the Government indicates that the minimum two-week period of compulsory maternity leave was included in the Labour Law after consultation and in agreement with workers' and employers' representatives, namely the Free Trade Union Confederation of Latvia and the Employers' Confederation of Latvia. The Government further specifies that, according to section 154 of the Labour

Law, all women covered are entitled to 56 days of postnatal maternity leave, which they can use as they wish or require. The Committee takes note of this information.

*Article 6(1). Suspension of maternity cash benefits in case of incapacity of the mother to care for her child.* In its previous comments, the Committee noted that maternity benefits were suspended where a woman could not care for her child during a period of up to 42 days after birth due to health-related reasons, and requested the Government to indicate if during that suspension, sickness benefit was provided so as to allow the payment of maternity benefits to resume upon recovery from illness. The Committee notes the reply of the Government, indicating that, pursuant to section 6(2) of the Law on Maternity and Sickness Insurance, 1995, where the mother is incapable of caring for her child for up to 42 days following childbirth due to sickness, injury or other health-related reasons, the father or the person who is effectively taking care of the child is granted the maternity benefit for the time during which the mother is not able to care for her child. The Committee further notes that, according to the Government, in such cases maternity benefits are not suspended, as both the mother and the father, or the other person caring for the child in lieu of the parents, are entitled to the maternity benefit simultaneously. The Committee takes note of this information.

*Articles 6(1) and 9. Replacement of maternity leave by sick leave in certain cases.* In its previous comments, the Committee noted that, pursuant to section 5(6) of the Law on Maternity and Sickness Insurance, women who relinquish the care and upbringing of their child or abandon their child were granted sickness benefit in place of maternity cash benefit, and requested the Government to indicate if sickness benefit could be provided during the whole period of maternity leave.

The Committee notes the Government's reply, indicating that the duration of sickness or disability benefit in such cases would be linked to the health condition of the woman concerned, and is provided until she recovers. The payment of sickness benefit for the whole duration of the maternity leave period is therefore not envisaged. On this basis, the Government does not consider the right to sickness benefit to be guaranteed for a shorter period than maternity leave, and indicates that no problematic cases have been identified until now. The Committee also notes the Government's indication that, in case of a child abandonment, the entitlement to maternity benefit is transferred to the father or to the other carer, as the case may be, and notes that section 6(1) and (2) of the Law on Maternity and Sickness Insurance provides the same in cases where the mother has relinquished the care and raising of the child. Lastly, the Government specifies that in Latvia, the source of financing of sickness and maternity benefits is the same, and that these benefits come from the same fund.

While taking due note of the above, the Committee reiterates that the measure set out in section 5(6) of the Law on Maternity and Sickness Insurance in the case of a woman who relinquishes the care and upbringing of her child, or abandons her child, may have the effect of depriving the insured person of her maternity benefit entitlements and of unduly shortening her right to sickness benefits in the postnatal period. It may also lead to discrimination against women, contrary to *Article 9* of the Convention, pursuant to which maternity shall not constitute a source of discrimination in employment. ***The Committee thus requests the Government to indicate any measure taken or envisaged to ensure that the cash benefits provided to women in the above mentioned cases to allow them to recover from pregnancy, childbirth and their consequences, for up to 2 weeks, which corresponds to the mandatory postnatal leave period in Latvia do not reduce their overall sickness benefit entitlement.***

*Article 6(2) and (3). Level of cash benefits.* In its previous comments, the Committee requested the Government to indicate for which categories of women workers the replacement rate of 80 per cent of insurable earnings established by the national legislation for maternity benefits would be insufficient for the maintenance of the mother and child, as prescribed by *Article 6(2)* of the Convention, compared to at-risk-of-poverty level and subsistence level determined in the country, as well as to supply information on how maternity benefits paid to low wage earners are related to the poverty and subsistence levels determined in the country. The Committee notes the reply provided by the

Government, indicating that low wage earners are protected by a statutory minimum monthly wage of €500 in 2021. Consequently, the amount of the minimum maternity benefit in 2021 is €400, representing 80 per cent of the minimum wage.

The Committee observes, however, based on the latest data available in the Eurostat database, that Latvia, in 2021, is still among the countries of the European Union (EU) with the highest share of persons at risk of poverty, i.e. 26 per cent of the population. Considering that the at-risk-of-poverty threshold (set, in the EU, at 60 per cent of the national median equivalized disposable income) corresponded, in 2019, to €441 for Latvia, for a single person household, the Committee observes that a minimum maternity benefit of €400, is below the at-risk-of-poverty threshold.

***In view of the above, the Committee requests the Government to indicate the measures taken to guarantee that maternity cash benefits are provided at a level ensuring that women can maintain themselves and their children in proper conditions of health and with a suitable standard of living, in accordance with Article 6(2) of the Convention. In this regard, the Committee requests the Government to provide information on any other cash benefits to which women, and in particular those at-risk of poverty, would be entitled during maternity leave, so as to ensure the application of Article 6(2) of the Convention. The Committee further requests the Government to indicate if the statutory minimum wage is applicable to women in atypical forms of dependent work, to whom the protection set out in the Convention must also be guaranteed.***

*Article 6(7). Medical benefits.* Noting that the legislation only provided for free of charge medical care during the first 42 days following childbirth, the Committee previously requested the Government to indicate the measures it envisaged to take with a view to harmonizing national laws and regulations with *Article 6(7)* of the Convention, to ensure the provision of prenatal, childbirth and postnatal care, as well as hospitalization care when necessary, free of charge, at least during the period of maternity leave. The Committee notes with **satisfaction** that, pursuant to the Health Care Financing Law of 14 December 2017, women who receive health care services related to pregnancy and post-natal observation, are released from any co-payment otherwise required, and therefore receive maternity medical care services free of charge for up to seventy days after childbirth. The Committee takes note of this information.

## Mali

### Maternity Protection Convention, 2000 (No. 183) (ratification: 2008)

*Article 2(1) of the Convention. Application of the Convention to all employed women.* The Committee notes the Government's indication that, in Mali, atypical forms of dependent work generally relate to informal work, for example, in craft skills (dyeing, sewing, soap-making) and family enterprises (trade, agriculture, market gardening). The Government also indicates that, in practice, the labour inspectorate rarely intervenes in the informal economy and not at all in family enterprises, given the inadequate material and human resources.

In this regard, the Committee notes that the United Nations Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 2018, noted with concern that approximately 96 per cent of workers were employed in the informal sector of the economy and were not covered by labour laws or the social protection system (E/C.12/MLI/CO/1, paragraph 20). ***The Committee requests the Government to take the necessary measures to ensure that women workers in the informal economy employed in atypical forms of dependent work benefit from the protection guaranteed by the Convention, in accordance with its Article 2(1), and to provide information on the measures taken in this regard. With respect to matching human resources and material means with the needs of inspection, the Committee refers to its detailed comments under the Labour Inspection Convention, 1947 (No. 81).***

*Article 8(1). Employment protection.* In its previous comments, the Committee noted that section L.183 of the Labour Code prohibited the dismissal of women while they were on maternity leave, including the period of supplementary leave in case of maternity related sickness and requested the Government to extend the protection provided in this section to the period of pregnancy and nursing.

In its reply, the Government indicates that it will examine this issue in consultation with the most representative organizations of employers and workers at the forthcoming revision of the Labour Code. ***The Committee once again requests the Government to take the necessary measures to ensure employment protection against dismissal of women workers not only during maternity leave but for the entire period of pregnancy and a prescribed period after their return to work, in accordance with Article 8(1) of the Convention. The Committee requests the Government to provide information on any measures taken or envisaged in this regard.***

*Article 9(1). Non-discrimination.* In its previous comment, the Committee requested the Government to envisage incorporating provisions into the Labour Code explicitly recognizing maternity as prohibited grounds of discrimination; imposing the obligation to abide by these provisions on all employers; and establishing effective penalties for any cases of discrimination on the basis of maternity, in order to give full effect to *Article 9(1)* of the Convention.

In its reply, the Government indicates that it will examine this issue in consultation with the most representative organizations of employers and workers at the forthcoming revision of the Labour Code. ***The Committee expresses the firm hope that the Government will take the necessary measures to give full effect to Article 9 of the Convention.***

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 3** (*Mauritania, North Macedonia*); **Convention No. 103** (*Mongolia, Tajikistan*); **Convention No. 183** (*Luxembourg, Mali, Mauritius, Montenegro, Morocco, North Macedonia, Republic of Moldova*).

## Social policy

### Cameroon

#### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

*Article 2. Inclusion of labour clauses in public contracts.* In its previous comment, the Committee requested the Government to take the necessary measures (legislative, administrative or others) for the inclusion in all public contracts to which the Convention is applicable 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 with **interest** the Government's indication that the Public Procurement Code was revised by Decree No. 2018/366 of 20 June 2018, and that 12 out of 19 implementing texts have been finalized with the cooperation of the sectoral administrations. It also notes that three other Orders were signed on 21 October 2019 by the Minister Delegate at the Presidency in charge of public procurement. These Orders set, respectively, the nature and the thresholds of the markets reserved for crafts workers (artisans), small and medium-sized enterprises, grassroots, community-based organizations and civil society organizations and the terms of their application; thresholds for the use of private project management and the terms for exercising public project management; and ceilings for the indemnities paid by the project managers and the delegated project managers to the presidents, members and rapporteurs of the committees for monitoring and verification. The Government indicates in its report that the new Public Procurement Code incorporates the provisions of the Convention in sections 88(1), 124, 55(2)(c)–(f), 57(1)(b), 158(f) and 192. The Committee notes that section 57(1)(b) of the new Code provides that “the conditions for the performance of public contracts must include social, economic and environmental considerations, likely to promote local labour and decent work and, where appropriate, to achieve the objectives of sustainable development. This refers particularly to “the introduction into the market of clauses stipulating respect of labour standards ratified by Cameroon”. In this context, the Committee refers to paragraph 117 of the 2008 General Survey concerning labour clauses in public contracts, in which it highlights that the Convention does not relate to some general eligibility criteria, or prequalification requirements, of individuals or enterprises bidding for public contracts but requires a labour clause to be expressly included in the actual contract that is finally signed by the public authority and the selected contractor. It also notes that a labour clause has to constitute an integral part of the actual contract signed by the selected contractor and that the insertion of labour clauses in tender documents, such as the general conditions or specifications, even though required under the terms of *Article 2, paragraph 4*, of the Convention, does not suffice to give effect to the basic requirement of the Convention set out in *Article 2, paragraph 1*. **The Committee requests the Government to provide information on the content and impact of the new legislation to enable it to evaluate its compatibility with the requirements of the Convention. In addition, the Committee requests the Government to provide detailed and up-to-date information concerning the application in practice of the Convention and to provide copies of recent public contracts in which labour clauses have been inserted in conformity with the requirements of the new Public Procurement Code, particularly section 57(1)(b).**

### Central African Republic

#### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1964)

*Article 2 of the Convention. Inclusion of labour clauses in public contracts.* In its previous comments the Committee noted that Act No. 08.017 Code of 6 June 2008 issuing the Public Procurement Code contains specifications to determine the conditions under which the contract is implemented and which include general administrative clauses, as well as specific administrative clauses. The Committee requested the Government to take appropriate measures to ensure that provisions giving full effect to

*Article 2* of the Convention are included in the general administrative clauses set out in the specifications. The Committee expressed the hope that, when issuing implementing decrees under the Public Procurement Code, the Government would not fail to bring the legislation into conformity with the Convention. In its report, the Government recognizes the merits of labour clauses and indicates that general conditions of labour are at the heart of common concerns and should be reflected in labour clauses when drafting national legislation on public procurement. It reiterates, however, that despite the omissions observed, the labour inspection services, in conformity with the legal provisions in force, carry out monitoring missions to enterprise directors and contractors holding public contracts, to ensure that working conditions, remuneration, the safety and health of workers above all, and the verification of the clauses provided under the employment contracts, are fully respected. In this regard, the Committee refers the Government to paragraphs 41 to 45 and 110 to 113 of the 2008 General Survey on labour clauses in public contracts, in which the Committee stresses that the applicability of national labour law to work done in the execution of public contracts is not sufficient to ensure application of the Convention. The Government indicates, however, that legislative reform has been engaged with the promulgation of Act No. 19.007 of 24 June 2019, establishing a legal framework for public-private partnerships in the Central African Republic. The main purpose of the Act is to set out the fundamental principles related to the conclusion of public-private partnership contracts and to establish the legal regime for the conclusion, execution, terms, monitoring and termination of public-private partnerships. The Committee notes that the above-mentioned law contains no provision for the insertion of labour clauses in public contracts, as required by *Article 2(1)* and *(2)* of the Convention. It also notes that the Government has not provided any information regarding measures taken or envisaged to give effect to the provisions of *Article 2* of the Convention concerning the incorporation of labour clauses in the specifications of public contracts. The Committee draws the Government's attention to the 2008 General Survey and to the practical guide on Convention No. 94, published by the Office in September 2008, which gives guidance and examples to follow when bringing the national legislation in line with the Convention. **Noting once again that it has been commenting for several years that the Government has not given effect to the Convention, the Committee recalls that the inclusion of appropriate labour clauses in all public contracts covered by the Convention does not necessarily imply the enactment of new legislation, but may also be achieved by issuing administrative instructions or circulars. The Committee strongly expects the Government to take all necessary steps, without further ado, to bring the national legislation into full conformity with the basic requirements of the Convention. The Committee requests the Government to keep the Office informed of progress achieved and recalls once more that the Government may have recourse to ILO technical assistance in this regard, if it so wishes.**

## Democratic Republic of the Congo

### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

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. Inclusion of labour clauses in public contracts.* Since 2011, the Committee has been asking the Government to take all appropriate steps to ensure that provisions giving full effect to *Article 2* of the Convention are incorporated into the general administrative clauses of the specifications prescribed by section 49 of Act No. 10/010 concerning public contracts. The Government indicates that it undertakes to refer the issue to the National Labour Council. The Government also reproduces a list of laws and regulations whose purpose is to govern the organization and functioning of public contracts and procedures for the award, execution and monitoring of contracts by the State, the provinces and other public entities. In this regard, the Committee notes once again that the legislation governing public contracts does not contain any provisions for the inclusion of labour clauses in public contracts, as prescribed in *Article 2(1)* and *(2)* of the Convention. The Committee once again draws the Government's attention to the 2008 General Survey on labour clauses in public contracts and on the Practical Guide to Convention No. 94, drawn up by

the Office in September 2008, which provides guidance and examples to follow to ensure that the national legislation is in conformity with the Convention. **Noting that the Government has not sent any information on the measures taken or contemplated to give specific effect to the essential requirements of the Convention, namely the inclusion of labour clauses in public contracts as provided for in Article 2 of the Convention, the Committee urges the Government to take all the necessary steps to guarantee the full application of the Convention, and to keep the Office informed of any progress made in this matter, including as regards the referral of the issue to the competent authorities.**

**The Committee reminds the Government that it may avail itself of technical assistance from the Office in this regard.**

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

## Djibouti

### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1978)

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. Inclusion of labour clauses in public contracts.* In its previous comment, the Committee asked the Government to take prompt steps to ensure the effective implementation of the Convention. The Committee notes once again that clause 9.1 of the General Administrative Terms and Conditions applicable to public procurement, adopted by Decree No. 2010-0084/PRE of 8 May 2010, and the exclusion provided for in section 13.1.1 of the Public Procurement Code are insufficient to give effect to the key requirements of the Convention. *Article 2* of the Convention provides for the inclusion of labour clauses in all public contracts covered by the scope of *Article 1* – drawn up after consultation of the employers' and workers' organizations – ensuring to the workers concerned conditions of remuneration and other conditions of labour which are not less favourable than those established by national laws or regulations, collective agreements or arbitration awards for work of the same character in the same sector. In its 2008 General Survey concerning labour clauses in public contracts, paragraph 45, the Committee observed that the essential purpose of the Convention is to ensure that workers employed under public contracts shall enjoy the same conditions as workers whose conditions of employment are fixed not only by national legislation but also by collective agreements or arbitration awards, and that in many cases the provisions of the national legislation respecting wages, hours of work and other conditions of employment provide merely for minimum standards which may be exceeded by collective agreements. The Committee therefore feels that the mere fact of the national legislation being applicable to all workers does not release the States which have ratified the Convention from the obligation to take the necessary steps to ensure that public contracts contain the labour clauses specified in *Article 2* of the Convention. The Committee therefore considers that the mere fact that the legislation applies to all workers does not release the government concerned from its obligation to include labour clauses in all public contracts, in accordance with *Article 2(1)* and *(2)* of the Convention. In this context, the Committee notes that the Government has not yet taken steps to give effect to the provisions of the Convention. It also notes the request made by the Government in its report for technical assistance to ensure the effective application of the Convention. The Committee recalls once again that the Convention does not necessarily require the adoption of new legislation but may be applied by means of administrative instructions or circulars. **The Committee expresses the hope that technical assistance from the Office will be available in the near future and requests the Government to provide information on all measures taken or contemplated to ensure the effective application of the Convention.**

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

## 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 2022, 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 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

### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1951)

*Article 2 of the Convention. Inclusion of labour clauses in public contracts.* In its previous comments, the Committee requested the Government to continue providing information on any legislative changes that could have an impact, and on the application in practice of the Convention at the national level. The Committee notes the detailed information provided by the Government on developments in public procurement law since 2016, in particular the entry into force on 1 April 2019, of the Public Procurement Code, which brings together in a single legal corpus all rules governing public procurement contracts. It also notes the modernization of the general administrative clause specifications applicable to public procurement (CCAGs). There are now six CCAGs, approved by Orders of 30 March 2021 with simultaneous entry into force on 1 April 2021. However, with regard to the effective application of the fundamental requirements of the Convention, which consists in the inclusion of labour clauses of the type provided under *Article 2* of the Convention, the Government indicates that the essential requirement provided under *Article 2* of the Convention is met under the legislative provisions and regulations in force. In any event, these provisions require that any enterprise must comply with the labour law applicable where the contract is performed and allow a public authority, through application of the CCAG clauses, to terminate a public contract in case of violation of a worker's labour rights. Nevertheless, the Committee draws the Government's attention to paragraph 45 of its 2008 General Survey on labour clauses in public contracts, which specifies that "... the mere fact of the national legislation being applicable to all workers does not release the States which have ratified the Convention from the obligation to take the necessary steps to ensure that public contracts contain the labour clauses specified in Article 2 of the Convention". The Committee also specified that, "as regards the content of labour clauses, the Convention provides that they should ensure to the workers

concerned wages, hours of work and other conditions of labour which are not less favourable than those established by collective agreement, arbitration award, or national laws, for work of the same character in the trade or industry concerned in the district where the work is performed. Where the conditions of labour are not regulated by any of these means in the district where the contract is executed, reference must be made to the nearest appropriate district where such means are used, or the general level of conditions of work observed in the trade or industry in which the contractor is engaged by employers whose general circumstances are similar” (paragraph 21). **Recalling that the Convention requires that labour clauses with very specific content be expressly included in public contracts effectively signed between the public authority and the selected entrepreneur, the Committee expects the Government to take all measures necessary to bring the national legislation into full conformity with the essential requirements of the Convention without further ado. The Committee requests the Government to keep the Office informed of progress made and reminds the Government that it can, if it so wishes, avail itself of the technical assistance of the ILO in this regard.**

## Morocco

### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1956)

The Committee notes the observations made by the National Union of Moroccan Workers (UNTM), received on 29 August 2019, and the Government’s reply in this regard, received in 2019.

*Article 2 of the Convention. Inclusion of labour clauses in public contracts.* In its previous comments, the Committee requested the Government to respond to the observations made by the Moroccan Labour Union (UMT), as well as those of the Democratic Confederation of Labour (CDT), received on 17 August 2017. The Committee further requested the Government to take all necessary measures without further delay to bring its national legislation into conformity with the Convention. In its report, the Government reiterates its previous comments concerning the legislation in force, namely, the two decrees No. 2.12.349 of 20 March 2013 and No. 2.14.394 of 13 May 2016 on governing public contracts and the provisions of article 519 of the Labour Code. The Committee notes, however, that these texts do not contain any reference concerning the insertion of a labour clause in public procurement contracts. It further notes that, while recognizing the efforts made by the Government to make public procurement more transparent, the UNTM observes that the law on public procurement does not provide adequate guarantees for the protection of employees, whether during or after the execution of the transaction, nor do they include provisions relating to the insertion of a social clause in public procurement contracts. In addition, the UNTM maintains that there is an incompatibility between the provisions of the Labour Code and the law on public procurement. The Committee notes the Government’s two responses to the observations of the trade union centres concerning the report on the implementation of Convention No. 94, received in 2017 (UMT and CDT) and 2019 (UMT), respectively. The Committee notes in particular that the Government recognizes that there is a difference of perspective with regard to the interpretation of national regulatory provisions and their conformity with the Convention. In this regard, the Government requests ILO technical assistance in order to bring its law and practice into line with the requirements of the Convention. In this context, the Committee wishes to recall paragraph 176 of its 2008 General Survey on labour clauses in public contracts which indicates that all the provisions of the Convention are articulated around and directly linked to the “core requirement” of *Article 2, paragraph 1*, the insertion of labour clauses ensuring favourable wages and other working conditions to the workers engaged in the execution of public contracts. In addition, in paragraph 117 of the same General Survey, the Committee observes that a labour clause must constitute an integral part of the actual contract signed by the selected contractor and that the insertion of labour clauses in tender documents, such as the general conditions or specifications, even though required under the terms of *Article 2, paragraph 4*, of the Convention, does not suffice to give effect to the “basic requirement” of the Convention set out in *Article 2, paragraph 1*. **The Committee hopes that**

***the Office will be able to provide the requested technical assistance in the near future. The Committee urges the Government to take all appropriate measures without further delay (legislative, administrative or others) for the inclusion in all public contracts to which the Convention is applicable 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 further requests the Government to provide updated information on progress achieved in this respect.***

## Sierra Leone

### Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1961)

*Articles 2, 4 and 5 of the Convention. Contractual provisions. Inspections and sanctions. Application of the Convention in practice.* For a number of years, the Committee has been requesting the Government to submit a detailed report on the state of national law and practice regarding labour clauses in public contracts in the light of public procurement reforms, including the adoption of the Public Procurement Act of 2004. The Committee notes the information provided by the Government in its report, which sets out a list of relevant laws and regulations, and refers to “the labour clauses in public procurement contracts”. The Government also indicates that the national laws specifically regarding the insertion of clauses in public contracts are still in force. The Committee also notes the annexes to the report, consisting of copies of the Workmen’s Compensation Act; an article concerning the Industrial Relations Act, 1971; the National Social Security and Insurance Trust Act, 2001; the National Employment Policy 2020–2024; and the Companies Act, 2009. The Committee notes, however, that the Government does not provide any description or information on the public procurement reforms, nor does it clarify its reference to “the labour clauses in public procurement contracts”. The Government merely indicates that the manner in which the Convention is applied in practice is well-appreciated by the stakeholders and that the Ministry of Labour and Social Security deals with matters fairly in respect of how it treats issues emanating from contracts, be they public–private contracts or contracts between private parties. The Committee nonetheless notes the adoption of the Public Procurement Act, 2016, the Public Procurement Regulations, 2020 and the Public Procurement Manual, Second Edition, 2020, none of which contain substantive provisions regarding the obligation set out in *Article 2(1)* of the Convention to insert labour clauses in public procurement contracts that ensure “to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried on: (a) by collective agreement or other recognized machinery of negotiation between organizations of employers and workers representative respectively of substantial proportions of the employers and workers in the trade or industry concerned; or (b) by arbitration award; or (c) by national laws or regulations”. ***Consequently, the Committee notes that the Government has not provided the requested information concerning the measures taken to give concrete effect to the main requirements of the Convention, namely the insertion of labour clauses in public contracts required under Article 2 of the Convention. The Committee requests the Government to provide detailed and updated information on the application of the Convention in practice. In particular, it requests the Government to indicate specifically whether the Administrative Regulation-Secretariat Circular No. 23 of 1946, which met the requirements of the Convention at the time of its ratification by Sierra Leone, is still in force. In addition, it reiterates its request that the Government submit a detailed report on the state of national law and practice regarding labour clauses in public contracts in the light of public procurement reforms. The Committee further requests the Government to provide examples of public contracts issued during the reporting period containing labour clauses within the meaning of the Convention, to enable the Committee to fully examine the manner in which the Convention is implemented in law and practice.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 94** (*Cyprus, Dominica, France: New Caledonia, Guyana, Netherlands: Aruba, Nigeria, Uganda*); **Convention No. 117** (*Democratic Republic of the Congo, Madagascar*).

## Migrant workers

### Barbados

#### Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1967)

The Committee notes with **deep concern** that the Government's report, due since 2017, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Article 7(2) of the Convention. Free services rendered by public employment offices.* In its previous comments, the Committee stressed that the requirement for migrant workers participating in the Canada–Caribbean Seasonal Agricultural Workers Programme the “Farm Labour Programme” – to remit 25 per cent of their earnings to the Government directly from Canada as mandatory savings, 5 per cent of which was retained to pay the administrative costs of the Programme, is contrary to the clear purpose of *Article 7* of the Convention, as services rendered by public employment services in connection with the recruitment, introduction and placement of migrants for employment are to be provided free of charge (2016 General Survey concerning the migrant workers instruments, paragraph 229). **In the absence of any updated information in this respect, the Committee urges the Government:**

- (i) **to discontinue the practice of forcing migrant workers enrolled under the Farm Labour Programme to remit a certain percentage of their wages to cover administrative costs, and**
- (ii) **to provide information on any steps taken, in cooperation with the workers' and employers' organizations, to review the impact of the Farm Labour Programme on the situation of Barbadian migrant workers.**

*Article 9. Free transfer of remittances.* The Committee recalls that, requiring nationals working abroad to transfer a certain percentage of their earnings or savings to the Government is contrary to the clear intent of *Article 9* of the Convention and, in this regard, wishes to stress the importance of reducing remittance costs in the context of the debate on effective governance of international labour migration (Sustainable Development Goal 10.c of the 2030 United Nations Sustainable Development Agenda aims to reduce to less than 3 per cent the transaction costs of migrant remittances by 2030). **In light of the above, the Committee requests the Government to take the necessary measures to ensure that migrants for employment are permitted to transfer such part of their earnings and savings as they desire, taking into account the limits allowed by national laws and regulations concerning the export and import of currencies.**

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

### Spain

#### Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1967)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), the General Union of Workers (UGT) and the Spanish Confederation of Employers' Organizations (CEOE), communicated with the Government's report. The Committee notes the corresponding responses of the Government.

*Article 6(1)(a) and (b) of the Convention. Equal treatment regarding conditions of work and social security.* The Committee takes due note that, in its report, the Government indicates that, under section 5(4) of Royal Decree No. 1620/2011 of 14 November establishing special labour regulations for domestic work, employers have the obligation to inform workers of essential elements of the contract and main conditions of work, where the contract lasts more than 4 weeks (including information on

salary, payments in cash, duration and distribution of working hours, remuneration and compensation systems, and the regime of overnight stays where applicable). In addition, the Government also refers to section 2(2) of Royal Decree No. 1659/1998 of 24 July to apply section 8(5) of the Workers' Statute dealing with information for workers on the main elements of the employment contract, which lists the information that a labour contract should contain. Also, regarding information, the Committee takes note of CCOO's observation that the Ministry on Inclusion, Social Security and Migration's website contains no specific guidance for domestic workers, as well as of the Government's reply indicating that the general information provided is applicable to domestic workers correspondingly.

Regarding effective and accessible complaints mechanisms for domestic workers, the Government indicates that the Labour Inspection is able to access private homes within the limits of the right to inviolability of the home (and, hence, requiring the owner's consent or a judicial authorization). The Committee notes with **interest** the Government's indication that a specific inspection campaign on domestic work was launched in 2021, which addresses informal economy by prioritizing complaints presented and includes technical assistance and sensitization on the regularization of salaries that are below minimum salary rates (and of corresponding contributions to social security schemes). The Committee also observes that the Government indicates it has taken measures to make claim forms available in different languages. The Committee takes due note that the Government also provides data on the inspections carried out in the domestic work sector for the period 2017–20, showing that: (1) the Service on Social Security and Foreigners did 1,072, 952, 956 and 669 inspections in 2017, 2018, 2019 and 2020 respectively, all of them concerning undeclared work; (2) in 2020, 161 inspections carried out by the Service of Labour Relations and 28 inspections carried out by the Occupational Safety and Health Service were originated in workers' complaints. The Committee notes, however, that such data does not indicate to what extent such claims were presented by migrant domestic workers. The Committee further notes UGT's observations that measures foreseen to monitor the implementation of Royal Decree 1620/2011, such as an impact evaluation and the creation of a group of experts, have not been undertaken.

***The Committee expects that, in applying section 2(2) of Royal Decree No. 1659/1998 and section 5(4) of Royal Decree No. 1620/2011, the Government will continue to take measures so that the relevant information is provided to migrant domestic workers in a manner and language that they understand, and take other necessary and appropriate measures to monitor the implementation of Royal Decree No. 1620/2011 as soon as possible. The Committee also asks the Government:***

- (i) to provide information on the implementation of the 2021 labour inspection action campaign on domestic work and the results achieved, and***
- (ii) to continue providing statistical information on complaints filed before the Labour Inspection, courts or any other competent authority, in particular those filed by migrant domestic workers, as well as the inspections conducted and sanctions imposed.***

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

## Tajikistan

### Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 2007)

The Committee notes with **deep concern** that the Government's report, due since 2018, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

*Articles 2, 4 and 7. Adequate and free services to assist migrants for employment. Measures to facilitate the departure, journey and arrival of migrant workers. Public Employment Service.* The Committee previously requested the Government: (1) to provide information on the activities of the

Agency for Employment Abroad (established in 2014) in providing services and assistance to Tajik workers going abroad and foreign workers employed in Tajikistan; (2) to indicate whether these services are free of charge; and (3) to provide detailed information on the measures taken and arrangements made to facilitate the departure, arrival and reintegration of migrant workers. According to its website, the Agency for Employment Abroad provides qualified consulting and mediation services for the employment of Tajik citizens who have found a job abroad. It is also engaged in the organized recruitment of Tajik citizens to work in the Russian Federation and other countries; recruitment centres are opened in four cities (Dushanbe, Khujan, Khorog and Bokhtar). The Committee notes that the website provides a wealth of information to prospective migrants in English, Tajik and Russian. According to the website, the Agency works closely with all government and non-governmental agencies (Migration Service of the Ministry of Labour, Migration and Employment of Population (MoLMEP); Ministry of Education and Science; Ministry of Health and Social Protection; Embassy of Tajikistan in the Russian Federation; etc.) that provide informational support to citizens of Tajikistan who want to go abroad, who face difficulties in another country or who want to return. It refers migrants to the right governmental or non-governmental agency which can help them before, during and after their migration journey. The Agency organizes workshops on pre-departure modules in partnership with the Pre-departure orientation Centre of the Migration service or Migrant Resource Centre in Dushanbe. The Committee observes that the Government has developed a mobile application to ease migrants' access to available services and information and published a handbook on safe labour migration in the Russian Federation. It further notes that the website clearly states that all the information and service provided by the Agency are completely free of charge. The Committee notes that, in its concluding observations, the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) expressed concern: (1) at the lack of coordination, exacerbated by unclear and overlapping mandates between the various agencies within the Ministry, such as the State Migration Service, the pre-departure preparation centres, the Agency for Employment Abroad, the representation of the Ministry in the Russian Federation and the Agency for the Labour Market and Employment; (2) about the inadequate human, technical and financial resources available to the Ministry for it to effectively carry out its work, including a lack of staff with expertise on issues relating to migration; and (3) at the lack of sufficient monitoring and evaluation mechanisms to assess the impact of migration policies and programmes on the rights of migrant workers and members of their families (CMW/C/TJK/CO/2, 9 May 2019, paragraph 16). In addition, the Committee observes that, according to the 2020 Asian Development Bank study "Strengthening support for labour migration in Tajikistan – assessment and recommendations" (ADB study), in practice, a majority of the migrants leave without any detailed knowledge of their destination country relying almost entirely on information from informal sources. The same study adds that staff of the Migration Services of Tajikistan are focusing most of their effort on re-entry bans in the Russian Federation issued to Tajik nationals in breach of the Russian legislation. It indicates that, according to Russian legislation, re-entry bans can be issued to foreign citizens for two reasons: when a foreign national is in breach of administrative regulations on the territory of the Russian Federation two or more times within a period of three years (e.g. for lacking registration), as well as in cases when a migrant has not left the country within thirty days after the expiry of his/her right to stay on the territory of the Russian Federation. Without knowing it, migrants can be issued re-entry bans for a period of three to five years as a result of a lack of documents or for an unpaid parking bill. Consequently, because there is no system of warning about re-entry bans, migrants leave the Russian Federation to go back to their home country and visit their relatives not aware that they will not be allowed to re-enter the Russian Federation. It is only when they want to go back to the Russian Federation that the electronic system at the border signals that they are not allowed to re-enter the Russian Federation and are rejected. In that regard, the Committee observes from the ADB study that, in 2019, approximately 240,000 migrants of Tajik origin were registered on

the re-entry ban list of the Russian Federation. ***In light of the above, the Committee urges the Government:***

- (i) to provide without delay accurate and free information to migrant workers and facilitate their departure, journey and reception in countries of destination, in particular to the Russian Federation;***
- (ii) to provide information on the specific measures taken or envisaged to ensure that its citizens going abroad are aware of the policy on re-entry restrictions in the Russian Federation, and of any negotiation in this respect with the Russian Federation (for example to remove their names from re-entry ban list);***
- (iii) to strengthen coordination between the different agencies under the MoLMEP regarding migration and employment to ensure that there is no overlap between their activities; and***
- (iv) to ensure that the MoLMEP and its agencies are provided with the adequate human, technical and financial resources for its effective functioning.***

***Please also provide information on any assistance and information services specifically targeting Tajik women workers going abroad.***

*Assistance to returning migrants workers.* In its concluding observations, the CMW mentions the existence of a state programme to promote employment which resulted in the employment of 222 individuals in permanent jobs between 2018–19 and indicates that, although the National Development Strategy for 2016–2030, includes measures for the reintegration of returning migrants, the support provided to such returnees in practice is inadequate, in particular with regard to the provision of high-quality training and educational opportunities for professional development, and also regarding support for self-employment and entrepreneurship (CMW/C/TJK/CO/2, paragraph 50). In this regard, the ADB study adds that: (1) the lack of reliable data on returning migrants is a major challenge for the effectiveness of migration services; and statistical data on returning migrants are weak as the migration service centre-s have no system for recording the “clients” they serve; and (2) the challenges for returning migrants include difficulties in economic, social, and psychological reintegration. ***The Committee requests the Government to provide information on the impact of its assistance programmes for returning migrant workers and on the measures taken or envisaged to expand its returning policy in order to addressing effectively all the needs of returning migrant workers for a proper reintegration in their country of origin. Finally, the Committee asks the Government to provide statistical data, disaggregated by sex, on returning migrant workers.***

*Article 3. Misleading propaganda.* The Committee wishes to stress that the existence of official information services does not suffice to guarantee that migrant workers are efficiently and objectively informed, nor protected against the manoeuvres of certain intermediaries who have an interest in encouraging migration by every possible means, including the dissemination of erroneous information on the possibilities and conditions of emigration. The Convention does not define the measures governments should take to combat misleading propaganda, so it is up to them to decide the nature of such measures. The Committee notes that, in practice, measures taken by governments to combat misleading propaganda are either preventive or repressive (See General Survey on migrant workers of 1999, paragraphs 214 and 217). ***In the absence of any recent information on the measures taken to combat effectively misleading propaganda, the Committee reiterates its requests to the Government: (i) to provide information on the specific activities of the Migration Office and the Agency of Employment Abroad in this regard; and, more generally, (ii) to indicate whether the legal framework regulates, supervises and provides for sanctions in response to the dissemination of misleading information aimed at encouraging emigration or immigration.***

*Article 9. Remittances.* The Committee notes that, both the ADB study and the CMW concluding observations, point out that migration for work is an important livelihood option for many households in Tajikistan (a third of the country's Gross Domestic Product) due to limited job opportunities and that

the economic crisis and worldwide shutdown induced by the coronavirus disease (COVID-19) have caused international migration flows to fall, and that remittances are projected to decline significantly (by 7 per cent). The Committee notes that the Government indicated, in its report to the CMW, that: (1) amendments were made in March 2018 to instruction No. 204 concerning procedures for money transfers with a view to facilitating the receipt of remittances by individuals without the need for a bank account; and (2) the National Bank of Tajikistan has recommended that credit organizations open branch offices in remote mountainous regions to facilitate access to funds transferred from abroad. The Committee however notes the concerns of the CMW over the fact that in, February 2016, the National Bank of Tajikistan issued an order requiring all money transfers in Russian roubles by individuals without bank accounts to be issued only in the national currency of the State party, and that, owing to the unfavourable official exchange rate, recipients of remittances from the Russian Federation continue to lose money (CMW/C/TJK/CO/2, paragraph 42). **The Committee asks the Government to indicate: (i) how the amendments made in 2018 to instruction No. 204 have facilitated concretely the receipt of remittances by migrant workers without a formal bank account; and (ii) whether the 2016 order issued by the National Bank of Tajikistan is still in force or has also been amended to facilitate the transfer of earnings and savings by migrant workers in the Russian Federation with preferential rates.**

*Enforcement.* **In order to be able to undertake a comprehensive analysis of the manner in which the Convention is applied in practice, the Committee once again urges the Government to provide information, as completely as possible, in accordance with Parts III–V of the report form approved by the Governing Body. Such information should include: (i) an indication of the competent authorities entrusted with the application of the relevant laws, regulations, policies, and administrative decisions, including information on the organization and role of labour inspection; (ii) a summary of any court decisions involving questions of principles relating to the application of the Convention; and (iii) information on any practical difficulties encountered in the application of the Convention.**

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. 97** (Barbados, Belize, Dominica, Grenada, Guyana, Portugal, Serbia, Slovenia, Spain, Tajikistan); **Convention No. 143** (Mauritania, Portugal, San Marino, Slovenia, Sweden, Uganda).

## Seafarers

### Congo

#### Maritime Labour Convention, 2006 (MLC, 2006) (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 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 hopes that the Government will make every effort to take the necessary action in the near future.**

### Dominica

#### Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 2004)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2022, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

*Article 2 of the Convention. Implementing legislation.* The Committee notes the Government's indication that a special Tripartite Committee has been appointed to advise the Government on all matters relating to legislation and institutional changes necessary for the ratification of the Maritime Labour Convention, 2006 (MLC, 2006). It also notes that a National Action Plan has been prepared in order to formulate recommendations to the Government on matters of maritime laws and administration. While welcoming the Government's active steps towards the ratification of the MLC, 2006, the Committee is bound to observe that the Government's first report on the application of Convention No. 147 does not contain any

information on the laws or regulations and other measures giving effect to the specific requirements of the latter Convention. **The Committee therefore requests the Government to indicate in detail how each of the Articles of the Convention is applied in national law and practice, and explain in particular in what manner the provisions of the International Maritime Act, 2002, and of the Dominica Maritime Regulations, 2002, are substantially equivalent to the Conventions mentioned in the Appendix of the Convention relating to safety standards, social security measures and shipboard conditions of employment and shipboard living arrangements, as required under Article 2 of the Convention.**

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

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

## Gabon

### Maritime Labour Convention, 2006 (MLC, 2006) (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 with **deep regret** that the Government has failed to submit its first report on the application of the Convention for the fourth consecutive year. As the requested report has not been received, the Committee examined the application of the Convention on the basis of publicly available information.

*Article I. General questions on application. Implementing measures.* The Committee notes that the provisions of the Convention are mainly implemented through Regulation No. 08/12-UEAC-088-CM-23 of the Central African Economic and Monetary Community (CEMAC) issuing the Community Merchant Shipping Code of 22 July 2012 (hereinafter, CCMM), which is directly applicable to Gabon and is one of the documents that must be carried on board ships flying the Gabonese flag and foreign ships operating in Gabonese territorial waters. The Committee also notes that section 1 of the Labour Code does not exclude seafarers from its scope of application. The Committee notes the lack of available information on the implementation of several provisions of the Convention. It recalls that, in conformity with *Article I* of the Convention, each Member which ratifies it undertakes to give complete effect to its provisions in order to secure the right of all seafarers to decent employment. **The Committee therefore requests the Government to adopt without delay the necessary measures to implement the Convention, taking into account the matters raised in the request addressed directly to the Government. It further requests the Government to provide a copy of any legislative texts or other regulatory instruments once adopted, as well as full information on the implementation of the Convention, including updated statistics on the number of seafarers who are nationals or residents of Gabon or who work on ships that fly the Gabonese flag. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.**

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

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

## Maldives

### Maritime Labour Convention, 2006 (MLC, 2006) (ratification: 2014)

Follow-up to the conclusions of the Committee on the Application of Standards  
(International Labour Conference, 109th Session, June 2021)

The Committee recalls that in 2020, in the framework of the procedure of "urgent appeal", it examined the implementation of the Convention by the Maldives 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 2021 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 the Maldives. 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. The Conference Committee urged the Government to take all necessary measures, in consultation with the social partners, to: (i) ensure full compliance of its law and practice with the MLC, 2006; (ii) provide full information regarding the application in law and in practice of the MLC, 2006; and (iii) fully comply with its reporting obligations. The Conference Committee requested the Government to avail itself of the ILO technical assistance to effectively implement these conclusions. The Committee notes that a representative of the Government participated in a course offered by the ILO Training Centre on reporting on International Labour Standards, which led to the finalization of the report on the MLC, 2006. It further 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 Office's technical assistance to address the numerous issues still pending towards a full implementation of the Convention.**

*Article I of the Convention. General questions on application. Implementing measures.* In its previous comments, the Committee requested the Government to adopt without delay the necessary measures to give effect to the provisions of the Convention. The Committee notes the Government's information that Marine Circular Number INT-2013/003 dated 20 August 2013 (hereinafter, Marine Circular INT-2013/003) seeks to implement the MLC, 2006 in the Maldives. The Committee notes that, while the Circular covers some of the matters enshrined in the MLC, 2006, it had been adopted before the ratification of the Convention for the purpose of the voluntary inspection and certification of the Maldivian-flagged ships for compliance with the MLC, 2006. 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 requests the Government to clarify the legal value of Marine Circular INT-2013/003 and to revise its text in view of the ratification and entry into force of the MLC, 2006 for the Maldives. The Committee further requests the Government to adopt the necessary measures to give effect to all the provisions of the Convention.**

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. 22** (Iraq, United Kingdom of Great Britain and Northern Ireland: Anguilla, United Kingdom of Great Britain and Northern Ireland: Jersey, Bolivarian Republic of Venezuela); **Convention No. 23** (Iraq, Ukraine, United Kingdom of Great Britain and Northern Ireland: Anguilla, Uruguay); **Convention No. 55** (Turkey, United States of America, United States of America: American Samoa, United States of America: Guam, United States of America: Puerto Rico, United States of America: United States Virgin Islands); **Convention No. 68** (Equatorial Guinea, Turkey); **Convention No. 69** (Turkey, Ukraine); **Convention No. 71** (Djibouti); **Convention No. 92** (Equatorial Guinea, Iraq, Turkey, Ukraine); **Convention No. 108** (Saint Lucia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Kingdom of Great Britain and Northern Ireland: Anguilla, United Kingdom of Great Britain and Northern Ireland: Bermuda, United Kingdom of Great Britain and Northern Ireland: British Virgin Islands, United Kingdom of Great Britain and Northern Ireland: Gibraltar, Uruguay); **Convention No. 133** (Turkey, Ukraine); **Convention No. 134** (Turkey, Uruguay); **Convention No. 146** (Iraq, Turkey); **Convention No. 147** (Dominica, Iraq, Trinidad and Tobago, Ukraine, United States of America, United States of America: American Samoa, United States of America: Guam,

*United States of America: Northern Mariana Islands, United States of America: Puerto Rico, United States of America: United States Virgin Islands); **Convention No. 164** (Turkey); **Convention No. 166** (Turkey); **Convention No. 185** (Congo, Tunisia, Turkmenistan, United Republic of Tanzania); **MLC, 2006** (Bahamas, Chile, China, Congo, Croatia, Gabon, Ghana, Honduras, India, Islamic Republic of Iran, Ireland, Jamaica, Kenya, Kiribati, Malaysia, Maldives, Mauritius, Mongolia, Montenegro, Nigeria, Republic of Korea, Romania, Saint Kitts and Nevis, Samoa, Senegal, Seychelles, Sri Lanka, Togo, Tuvalu, United Kingdom of Great Britain and Northern Ireland: Bermuda, United Kingdom of Great Britain and Northern Ireland: Gibraltar, Viet Nam).*

## Fishers

### Liberia

**Minimum Age (Fishermen) Convention, 1959 (No. 112)** (ratification: 1960)

**Medical Examination (Fishermen) Convention, 1959 (No. 113)** (ratification: 1960)

**Fishermen's Articles of Agreement Convention, 1959 (No. 114)** (ratification: 1960)

The Committee notes the Government's reports on the application of Conventions Nos 112, 113, and 114 on the fishing sector. In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on fishing, the Committee considers it appropriate to examine them together.

The Committee requested the Government to clarify whether the Liberian Maritime Law, RLM 107 and the Liberian Maritime Regulations, RLM-108 were applicable to fishers. The Committee notes with *regret* that the Government has not provided the clarification requested in this regard. **Therefore, recalling that for numerous years the Government has been requested to provide information on the applicability of existing legislation to fishers, the Committee once again requests the Government to indicate the measures adopted to give full effect to the provisions of the Conventions, taking into account the points raised in previous observations.**

*Impact of the COVID-19 pandemic.* The Committee notes with *deep concern* the impact of the COVID-19 pandemic on the protection of fishers' rights as laid out in the Conventions. **In this regard, the Committee refers to the resolution adopted by the Governing Body in its 340th Session (GB.340/Resolution) concerning maritime labour issues and COVID-19 disease, which calls on Member States to take measures to address the adverse impacts of the pandemic on fishers' rights, and requests the Government to provide information in its next report on any temporary measures adopted in this regard, their duration and their impact on fishers' rights.**

### Trinidad and Tobago

**Fishermen's Competency Certificates Convention, 1966 (No. 125)** (ratification: 1972)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

*Implementing legislation on fishers' competency certificates.* The Committee had noted in its previous comment the absence of laws and regulations giving effect to the requirements of the Convention and had requested the Government to provide a copy of the Safety of Fishing Vessel Regulations which was under preparation. The Committee *regrets* to note the Government's indication in its report that the regulations governing all aspects of fishing vessel operations, including fishers' certificates of competency, are still being developed. **The Committee therefore urges once again the Government to adopt the necessary measures without delay to regulate fishers' competency certificates.**

**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. 113** (Uruguay); **Convention No. 114** (United Kingdom of Great Britain and Northern Ireland: Guernsey); **Convention No. 125** (Sierra Leone); **Convention No. 126** (Sierra Leone, Ukraine); **Convention No. 188** (Congo, France: New Caledonia, Portugal, Senegal, Thailand).

## Dockworkers

### Congo

#### Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1986)

The Committee notes with **deep concern** that the Government's report has not been received. 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. Firefighting 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 firefighting 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 Government is asked to reply in full to the present comments in 2023.]*

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 27** (Ukraine, Viet Nam); **Convention No. 32** (Sierra Leone, Tajikistan, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay); **Convention No. 137** (United Republic of Tanzania, Uruguay); **Convention No. 152** (Turkey, United Republic of Tanzania).

## Indigenous and tribal peoples

### Honduras

#### Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1995)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021. It also notes the observations of the Honduran National Business Council (COHEP), received on 31 August 2021, and the Government's reply.

#### Follow-up to the conclusions of the Committee on the Application of Standards (110th Session of the International Labour Conference, May–June 2021)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2021, and in particular that in its conclusions it requested the Government to avail itself of ILO technical assistance and urged it to accept an ILO direct contacts mission. In this regard, the Committee notes that, in a communication dated 24 August 2021, the Government confirmed that it accepted a visit to the country by the direct contacts mission, and proposed that it take place in the first months of 2022. The Committee welcomes the willingness demonstrated by the Government in this regard, and hopes that this mission will contribute to finding solutions to the issues raised in relation to the application of the Convention.

*Article 3 of the Convention. Human rights.* On several occasions, both the Committee of Experts and the Conference Committee, in its conclusions in 2016 and 2021, have expressed deep concern regarding the allegations of murders, threats, forced disappearances and violence of which representatives and members of indigenous and Afro-Honduran peoples have been victims, and requested the Government to conduct, without delay, independent investigations and prosecutions in relation to these allegations, and to indicate the protection measures taken as a consequence of the crimes and threats against members of indigenous and Afro-Honduran peoples.

In its report, the Government indicates that: (1) between 2018 and 2020, the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage received 255 allegations of acts of violence and threats against members of indigenous and Afro-Honduran peoples, including 64 regarding threats, 4 concerning attempted homicide, 3 concerning homicide and 13 regarding murders; (2) at the request of the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage, 15 protection measures were implemented for members and leaders of indigenous communities, and leaders of representative organizations of indigenous peoples; (3) under the National Protection System, between 2018 and February 2021, the Prevention and Context Analysis Unit developed 14 prevention plans and guarantees of non-recurrence, together with the beneficiary communities, and carried out training activities on the Protection Act for defenders of human rights, journalists, social communicators and actors in the justice system; (4) in April 2021, criminal proceedings were initiated against the suspected instigator of the murder of Berta Cáceres (former President of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH), committed in 2014, while the Public Prosecutor's Office continues its investigation to identify other possible instigators involved in the murder.

The Committee observes the ITUC's allegations that environmental and human rights defenders continue to face a critical situation, with reference to the murders of indigenous leaders committed in 2018, 2019 and 2020. The ITUC refers specifically to the kidnapping and disappearance of four members of the Garifuna community in El Triunfo de la Cruz, on 18 July 2020, and the murders in December 2020 of José Adán Medina, a member of the Tolupan indigenous community, and Félix Vásquez, an environmental activist from the Lenca community for whom the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage had requested protection measures. The ITUC alleges the lack of protection measures and prevention of acts of violence against environmental and human rights

defenders, and the minimal, slow and inconsistent processes for the investigation and prosecution of the perpetrators and instigators of these acts.

The Committee also observes that, on 2 September 2020, the Inter-American Court of Human Rights issued a resolution calling for the adoption of urgent measures in the case of the disappearance of four members of the Garifuna community (the case referred to by the ITUC), and requested the Government to adopt the necessary and appropriate measures to determine the whereabouts of these persons, and to provide effective protection for the rights to life and personal integrity of community leaders from the Garifuna communities of Triunfo de la Cruz and Punta Piedra who are collectively taking action for the defence of the rights of the Garifuna people.

With regard to the proceedings against the alleged perpetrator of the murder of Berta Cáceres, the Committee duly notes that, according to the information available on the official website of the Public Prosecutor's Office, the Trial Court with national jurisdiction issued a guilty verdict against the chief executive officer of the enterprise Desarrollos Energéticos S.A. (DESA), and found that he had ordered the death of Berta Cáceres as part of a plan to remove any obstacle that interfered with the operations of DESA on the Gualcarque river, which is an ancestral territory of the Lenca indigenous people.

The Committee observes with **deep concern** that, according to the information provided by the ITUC and the allegations filed with the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage, the members and leaders of indigenous and Afro-Honduran communities continue to face a climate of violence and their physical and psychological integrity remains under threat. The Committee hopes that, in the same way as the perpetrators, the instigators of the murder of Berta Cáceres will finally be punished. The Committee recalls that for indigenous and tribal peoples to be able to assert and enjoy the rights set out in the Convention, governments must adopt appropriate measures to guarantee a climate free from violence, pressure, fear and threats of any kind. **The Committee firmly urges the Government to continue taking all the necessary measures to: protect the life and physical and psychological integrity of indigenous and Afro-Honduran peoples, and their representatives and leaders; ensure the full and effective exercise of their human rights; and ensure that those responsible are held accountable and the perpetrators and instigators of the crimes committed against these persons, in the context of the peaceful assertion of their rights, are punished (including in the new cases reported by the ITUC). The Committee requests the Government to provide detailed information in this respect, in particular on the protection measures requested by the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage, the investigations carried out following the complaints received, and the legal proceedings in process.**

*Articles 6 and 7. Appropriate consultation and participation procedures.* The Committee noted previously the development of a draft regulatory framework respecting the prior, free and informed consultation of indigenous peoples, and the submission by the Government of a draft Bill to the National Congress, which subsequently established a special commission to examine the Bill on consultation. The Committee requested the Government to ensure that the peoples covered by the Convention are consulted and are able to participate in an appropriate manner in the development of the regulatory framework for consultation.

The Government indicates that, due to the fact that the state of emergency declared in the context of the COVID-19 pandemic remains in force throughout the country, it has not been possible to initiate the consultation process with all indigenous and Afro-Honduran peoples. However, the Committee notes the Government's reiterated indication that, with the aim of resuming the activities in the congressional commission, outreach meetings were held through video conferences with certain representatives of indigenous peoples, although not everyone could participate.

The Committee observes that the ITUC refers again to the rejection by some representatives of indigenous and Afro-Honduran peoples of the action taken by the Government in relation to the draft

Bill on prior, free and informed consultation, both concerning the 2016 outreach workshops (due to the inadequate representation of indigenous and Afro-Honduran communities) and in the context of the preparation of a new draft for submission to the Congress which was not consulted or disseminated to the communities.

***The Committee considers it of the utmost importance that the regulatory framework for prior consultation is subject to a full, free and informed consultation process with all indigenous and Afro-Honduran peoples, and urges the Government to take all the necessary measures to ensure that indigenous and Afro-Honduran peoples, through their institutions, are able to participate in this consultation process in a manner that is appropriate to the circumstances and, so that they can express their opinions and have an influence on the final outcome of the process. Pending the adoption of the law, the Committee recalls the obligation of the Government to consult the peoples covered by the Convention in relation to any legislative or administrative measure that may affect them directly, and once again requests the Government to provide information on the consultation processes held and their outcomes.***

*Articles 20, 24 and 25. Protection of the rights of the Misquito people.* The Committee previously welcomed the comprehensive approach adopted to grant comprehensive compensation to the victims of dive-fishing and their families and to improve the living and working conditions of the members of the Misquito community. Both the Committee of Experts and the Conference Committee in 2021 requested the Government to continue adopting effective measures in this respect.

The Committee notes the information provided by the Government on: (1) the adoption in October 2020 of the Occupational Safety and Health Regulations for Dive-Fishing and an action plan for its implementation. The purpose of the Regulations is to develop and apply legal, technical and administrative measures for the prevention of employment accidents and occupational diseases on fishing vessels and during work related to the activity of underwater dive-fishing; and (2) the updating of the Pluriannual Strategic Plan of the Inter-Institutional Commission for Problem Prevention and Assistance in Dive-Fishing (CIAPEB) for the period 2020–2025 and the activities carried out with the participation of the Misquito people between 2015 and 2019 for the implementation and evaluation of the plan. The Committee observes that the Strategic Plan 2020–2025 aims, inter alia, to: improve the development of human capital and social development within the Misquito population; contribute to the improvement of the livelihoods of the families of disabled divers and of active divers; improve access to justice for the Misquito population; and strengthen the capacities of local organizations and State institutions to promote respect for human rights and the rights of indigenous peoples.

The Committee observes the view of COHEP that these measures demonstrate that significant progress has been made, and that it is the responsibility of the Secretariat of Labour and Social Security, through the Labour Inspection Directorate and the other government institutions involved, to ensure strict compliance with both the regulations and the Strategic Plan, and to guarantee decent recruitment and employment conditions for Misquito divers. While the ITUC recognizes that the Government has implemented several health and compensation measures for Misquito divers, it expresses concern at the deplorable situation that they continue to face, with precarious working conditions without adequate occupational safety measures.

The Committee observes that, in its decision in the case of the *Miskito (Lemoth Morris and others) v. Honduras*, of 31 August 2021, the Inter-American Court of Human Rights approved the amicable settlement agreement reached between the parties, in which the Government and the representatives of victims agreed on comprehensive reparations for victims through a series of measures (such as restitution and satisfaction measures, financial measures, and guarantees of non-recurrence).

***The Committee encourages the Government to continue taking measures to improve the working conditions of Misquito divers, including through prevention and capacity-building activities, and for the labour inspectorate to ensure the effective application of the legal framework regulating dive-***

***fishing. The Committee requests the Government to provide detailed information on the measures taken in the context of the implementation of the Strategic Plan 2020–2025, and particularly to improve the development of human capital and social development in the Misquito population.***

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

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

## Panama

### Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1971)

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI), received on 30 August 2021, as well as the Government's reply to them.

*Articles 2 and 5(b) of the Convention. Coordinated and systematic programmes. Participation of indigenous peoples.* In its previous comments, the Committee noted the adoption of the Plan for the Comprehensive Development of the Indigenous Peoples of Panama (PDIPIP), formulated with the participation of the representatives of the various indigenous peoples of the country, as well as the support project for the implementation of the PDIPIP. In this regard, the Committee requested the Government to provide information on the results achieved through its implementation. The Committee also noted the establishment of the National Council for the Comprehensive Development of Indigenous Peoples (CNDIPI) as an advisory body on public policies targeting indigenous peoples.

The Committee notes the Government's indication in its report that the PDIPIP seeks in the short term to respond to the urgent needs in terms of infrastructure and installations given priority by indigenous communities in the fields of health, education, water and sanitation. In the medium term, the Plan will contribute to the design and implementation of programmes to improve the quality and cultural relevance of these services, and in the long term to transforming the capacity of the Government and indigenous authorities to plan and invest in their territories. The execution of the PDIPIP is under the responsibility of several Ministries, which shall have the authorization of the traditional authorities and have to work in coordination with them. Five of the seven indigenous peoples in the country have defined their own plans of action through consultations involving indigenous women. The Committee takes due note of the activities and results achieved within the framework of the support project for the implementation of the PDIPIP between 2018 and 2020, and the information on the active participation of indigenous peoples in its execution and evaluation. It also notes the establishment of the Multisectoral Technical Working Group in the Department of Indigenous Affairs, which brings together the indigenous territories and *comarcas* in Panama and is called upon to examine broad themes such as the PDIPIP, governance in indigenous territories and other subjects of interest to indigenous populations.

The Committee also notes with ***interest*** Bill No. 316 of March 2020 establishing measures for the comprehensive development of the indigenous peoples of Panama which, according to the Government, has already been examined and received the support of the CNDIPI. In accordance with section 2 of the Bill, the Ministry of Economy and Finance shall incorporate and classify as compulsory the policies and objectives of the Government's strategic plan for indigenous peoples and establish plans for indigenous development together with the Department of Indigenous Affairs and the CNDIPI. Section 4 of the Bill also provides that the participation of indigenous peoples shall be promoted in the formulation, design, application and evaluation of development programmes that concern them.

The Committee welcomes the measures taken by the Government for the implementation of the PDIPIP and requests it to continue providing information on the progress achieved in its various policy areas and on the number of communities that have benefited. The Committee also encourages the Government to continue promoting the participation of indigenous peoples, including, as indicated by the Government, indigenous women, in the formulation, implementation and evaluation of the

development plans that concern them. In this regard, the Committee requests the Government to provide information on the manner in which indigenous peoples collaborate with the Multisectoral Technical Working Group of the Department of Indigenous Affairs. Finally, the Committee requests the Government to provide information on the progress achieved in the adoption of Bill No. 316 of March 2020 establishing measures for the comprehensive development of the indigenous peoples of Panama.

*Article 11. Lands. Adjudication processes.* In its previous comments, the Committee welcomed the adoption of Act No. 72 of 23 December 2008 establishing the special procedure for the adjudication of the collective ownership of lands by indigenous peoples which are not within *comarcas*, and it requested the Government to provide updated information on the collective lands adjudicated under the terms of the Act. The Committee notes the observation by the CONUSI that the Government has not made available updated information on the number of communities that have benefited from adjudication processes, and that the Bri Bri indigenous community requested the adjudication of its ancestral lands before the National Land Administration Authority (ANATI) in 2015, but that its claims were denied. The Committee recalls that in previous comments it noted that the Government had established dialogue forums to address the issue of the recognition of the collective territory of the Bri Bri people.

The Committee also notes the reference by the Government to the adoption of Decision No. DM-0612-2019 of 29 November 2019 of the Ministry of the Environment establishing the legal criterion to be applied by the Ministry of the Environment to determine the feasibility of approving the claims made by indigenous communities for the adjudication of collective lands, the boundaries of which coincide partially or totally with protected areas or State forest lands. In accordance with the Decision, requests for adjudication submitted by indigenous peoples shall be approved on condition that, on the basis of a technical report issued by the Department of Indigenous Affairs, the traditional occupation commenced prior to the creation of the respective protected areas or, in the case of State forest lands, that the occupation commenced prior to the entry into force of Act No. 1 of 1994 respecting forest law. The Decision also provides that, in the event of the existence of recognized collective lands of indigenous peoples, the boundaries of which coincide partially or totally with protected areas or State forest lands, the communities concerned shall submit a plan for the sustainable use of the natural resources and the community development of such areas for approval by the Ministry of the Environment.

***The Committee requests the Government to take the necessary measures to address as soon as possible the claim for the recognition of the collective ownership by the Bri Bri indigenous community of the lands that they traditionally occupy and encourages it to continue dialogue with that community to seek a solution. The Committee also once again requests the Government to provide updated information on the number of requests for the adjudication of collective lands which have been approved under Act No. 72 of 2008, including the number of beneficiary communities as well as the number of requests that have been rejected along with the reasons for such rejection and the number of requests still under consideration. Finally, the Committee requests the Government to provide examples of plans for the sustainable use of natural resources submitted by indigenous communities under the terms of Decision No. DM-0612-2019 of 29 November 2019 of the Ministry of the Environment.***

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

## Peru

### Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1994)

The Committee notes the observations of the General Confederation of Workers of Peru (CGTP), received in 2018; the observations of the Autonomous Workers' Confederation of Peru (CATP), received in 2018 and 2019; and the observations of the International Organisation of Employers (IOE), received in 2019. The Committee notes the Government's reply to these observations. ***Lastly, the Committee***

**notes the observations of the National Confederation of Private Business' Institutions (CONFIEP), received on 10 September 2021, and requests the Government to send its comments in this regard.**

*Article 3 of the Convention. Human rights. 1. Events in Alto Tamaya–Saweto.* In its previous comments, the Committee deplored the murders of four indigenous trade union leaders (Edwin Chota Valera, Jorge Ríos Pérez, Leoncio Quinticima Meléndez and Francisco Pinedo) of the Asháninka indigenous community of Alto Tamaya–Saweto after reporting illegal logging in their community, events that were examined in 2016 in the report of the tripartite committee set up in the context of a representation made in 2014 alleging violation of the Convention (GB.327/INS/5/3). The Committee urged the Government to continue taking all necessary measures to determine responsibilities and punish the perpetrators of the murders, and also to investigate the reports of acts of violence and illegal logging in the above-mentioned community.

The Committee notes that the CATP states in its observations that despite the judicial proceedings instituted against the suspected perpetrators of the murders, those with primary responsibility for the crimes are still at liberty and have not been punished, also pointing out that some authorities have contributed to procedural delays in the investigations and that there are other persons who were involved in the murders who have still not been charged. The Committee also notes that, according to the CATP, it was determined in the investigations that the main motive for the crime was illegal logging within the *habilitación* (advances) system which involves forced labour practices. The Committee notes that the Government attaches to its report copies of the reports of the Public Prosecutor's Office and the judiciary in relation to the status of the criminal proceedings against the suspected perpetrators of the murders of the indigenous trade union leaders from Alto Tamaya–Saweto which occurred in 2014. It observes that, according to the 2019 report of the High Court of Justice of Ucayali, criminal proceedings had been instituted for aggravated premeditated homicide against five suspected perpetrators of the murders; these proceedings were at an intermediate stage, with the corresponding indictment due to be issued soon. Moreover, the 2019 report of the Public Prosecutor's Office indicated that not all the perpetrators of the murders had been identified but that the prosecution service was continuing investigations in order to establish the facts. The Committee notes that, in June 2021, the oral hearing took place, in which the Special Transitional Court for Annulment of Ownership within the High Court of Ucayali issued a trial order against five suspected perpetrators of the murders (the oral hearing is available on the official channel of the judiciary). At the hearing, the judge stated that so far no order for pretrial detention or any other interim measure has been issued against any of the accused. ***Recalling the seriousness of the acts committed seven years ago and the importance of preventing a climate of impunity which can affect indigenous and tribal peoples, the Committee strongly urges the Government to continue taking all necessary measures to ensure that the competent authorities proceed without delay with completing the investigations under way to enable the prosecution and conviction of the instigators and perpetrators of the murders of the trade union leaders of the Alto Tamaya–Saweto community in 2014. The Committee also requests the Government to provide information on progress made in the investigations relating to the reports of acts of violence in the context of illegal logging in the above-mentioned community.***

2. *Allegations of criminalization of social protest.* The Committee previously emphasized the need to guarantee that indigenous peoples can fully exercise, in freedom and security, the rights established by the Convention and to ensure that no force or coercion is used in violation of their human rights and fundamental freedoms. The Committee observes that the CATP and CGTP refer to the criminalization of social protest and to acts of violence against indigenous defenders, both women and men, some of whom have been prosecuted by the criminal and administrative justice system in the context of socio-environmental protests. In particular, the CATP refers to a climate of violence affecting the indigenous communities of the Amazon region of Ucayali, in the context of their territorial demands. The Committee also notes that CONFIEP: (i) expresses its utmost concern at the threats to which indigenous peoples are subjected in the context of defending their territories and the environment;

(ii) highlights the establishment in 2021 of the inter-sectoral mechanism for the protection of human rights defenders (Supreme Decree No. 004-2021-JUS), which seeks to prevent situations of risk arising as a result of their activities and to ensure their protection and access to justice; and (iii) adds that it hopes that this measure will contribute towards eradicating activities which are having a serious impact on the environment and safety of indigenous peoples.

While welcoming the adoption of the above-mentioned mechanism, the Committee observes that the social partners in the country express concern at the perpetration of acts of violence against the representatives of indigenous peoples who exercise the right to protest. The Committee recalls the importance of governments taking measures to prevent and investigate acts of violence suffered by indigenous peoples and their representatives in the context of peaceful action to defend their rights. ***The Committee therefore expects that the inter-sectoral mechanism for the protection of human rights defenders will prove effective in ensuring respect for the life, physical safety and psychological well-being of indigenous leaders, both women and men, and in creating a climate of trust, free of threats, so that they can defend their peoples' rights, including through their right to protest without having recourse to violence. The Committee requests the Government to provide information on the activities of the intersectoral mechanism in question, and on any other additional measures adopted or envisaged in this regard.***

*Article 6. Consultation.* The Committee notes that, in reply to its request for measures to be taken to strengthen the capacities of officials responsible for implementing consultation processes and to ensure that the peoples concerned can participate fully in those processes, the Government indicates: (1) the number of consultation processes carried out at the national level, including the number of agreements reached; (2) that the Vice-Ministry of Intercultural Affairs, through the Directorate for Prior Consultation, has coordinated training and support activities in the consultation processes; (3) that a total of 837 prior consultation agreements had been processed by 2021 by the Technical Secretariat of the Standing Multisectoral Committee for the Application of the Right to Consultation and 57 per cent of all these agreements had been finalized; (4) that one of the measures one which consultations were held was the draft Framework Act on Climate Change, as a result of which it was agreed to set up an indigenous climate platform as a forum in which indigenous peoples will be able to coordinate, exchange, manage and follow up proposals for action with regard to climate change; and (5) that between 2019 and June 2021 a total of 4,009 public officials and 9,290 members of indigenous peoples received technical assistance from the Directorate for Prior Consultation at the Ministry of Culture, and that 2,746 persons (public officials and members of indigenous peoples) were trained in the right and process of prior consultation by means of 94 workshops, both face-to-face and online.

The Committee notes with ***interest*** the ongoing progress in the implementation of consultation processes with indigenous peoples and also training activities on consultation. ***The Committee encourages the Government to continue its efforts to create the appropriate conditions to enable indigenous peoples to participate fully in consultation processes and affect the final outcome thereof, and to enable agreements to be reached on the proposed measures. The Committee requests the Government to continue providing information on the consultation processes that have been carried out, on the agreements reached and on compliance with them.***

*Articles 6 and 15. Consultation. Mining projects.* With regard to its request for information on established procedures to enable proper identification of indigenous peoples whose interests might be affected by mining concessions and the consultations held with the peoples concerned, the Committee notes the Government's indication that a total of 15 consultation processes have been carried out in relation to mining projects (13 on resolutions which authorize exploration activities and two on exploitation activities) and that dialogue forums have been set up with indigenous or native peoples in the context of the Standing Multisectoral Committee on Combating Illegal and Informal Mining. The Government also refers to the setting up of the Energy and Mining Sector Executive Committee for the Productive Development of the Country by means of Ministerial Resolution No. 326-2018-EF/10,

comprising several ministries and representatives of the private sector, for the purpose of identifying, promoting and proposing actions for the sustainable development of the mining, hydrocarbon and energy sectors. The above-mentioned committee referred to the need to have updated, reliable information on the existence of locations of indigenous or native peoples in the area impacted by mining projects of importance for the economic and productive development of the country. On that basis, the Ministry of Culture carried out the identification of indigenous or native peoples connected with 23 mining projects deemed to have priority status. As a result, six locations of indigenous or native peoples which had not yet been incorporated into the official Database of Indigenous or Native Peoples (BDPI) and 90 locations already incorporated in the BDPI were identified.

The Committee notes the general claim by the CATP that, in the consultations with the indigenous peoples regarding mining activities, no justification was made of the measures concerned, there was no determination of their impact and nor was any specific information on the projects in question provided in the measures, resulting in agreements of a fairly general nature which do not protect the rights of the peoples concerned. In this regard, the Government indicates that the Environmental Assessment and Inspection Agency (OEFA) carries out actions to open channels of communication with indigenous communities inhabiting the area impacted by a project subject to monitoring, promoting their participation in early environmental assessments and environmental monitoring actions. **The Committee requests the Government to provide information on any action taken in addition to the tasks performed by the Standing Multisectoral Committee on Combating Illegal and Informal Mining and by the Energy and Mining Sector Executive Committee for the Productive Development of the Country aimed at ensuring that the peoples inhabiting the areas where it is planned to undertake mining exploration or exploitation activities are identified and consulted in order to determine to what extent their interests might be prejudiced. The Committee also requests the Government: (i) to continue providing information on the number of consultations held with representatives of the indigenous peoples concerned with regard to mining exploration or exploitation projects and the results thereof; and (ii) to ensure that the indigenous peoples consulted have the relevant information and are able to understand it fully so that full dialogue is achieved between the parties.**

*Article 14. Land. National policy on titling.* The Committee observes that the CATP and CGTP once again refer to the lack of public policy with regard to land titling, the inadequacy and lack of coordination of institutions responsible for the regularization of the lands of *campesino* (peasant-farming) and native communities, and the lack of legal protection of these communities with regard to the occupation and dispossession of their traditional lands by third parties. In this regard, the Committee notes the Government's indication that procedures for the recognition and titling of communities are the responsibility of regional governments, being the Ministry of Agriculture and Irrigation the lead agency for legal and physical regularization and formalization. Moreover, the Government indicates that four indigenous reserves have been officially delimited for indigenous peoples in situations of isolation or initial contact (PIACI) in the regions of Cusco, Madre de Dios, Ucayali and Loreto, with a total area of 3,967,341.56 hectares. However, the Committee once again notes the lack of detailed information on the status of land titling requests submitted by indigenous peoples who are not in a situation of isolation or initial contact. The Committee also notes that Departmental Report No. 002-2018-AMASPPI PPI, prepared by the Ombudsman's Office and referred to by the Government in its report, indicates that no significant progress has been recorded with regard to the physical and legal regularization of communal land or the recognition and titling of native and *campesino* communities because of the lack of budgets and staff allocated to regional governments for this task and because of the existence of disputes in areas awaiting recognition. In this regard, the Committee emphasized in its 2018 general observation that the recognition of traditional occupation as the source of ownership and possession rights is the cornerstone on which the land rights system established by the Convention is based. **The Committee therefore urges the Government to take the necessary measures to implement the processes of identification, demarcation and regularization of the lands**

*traditionally occupied by the peoples covered by the Convention in the different regions of the country, and once again requests the Government to send detailed information on titling processes which have been concluded or are in progress, disaggregated by regions as far as possible. The Committee also requests the Government to provide information on existing mechanisms for settling any land disputes which arise between indigenous peoples and third parties, indicating, if possible, examples of disputes which have been resolved through these mechanisms.*

*Titling of Shawi community lands. The Committee once again requests the Government to provide detailed information on the manner in which the Shawi communities have been afforded effective protection of their rights of ownership and possession with respect to the plot referred to in the 2016 tripartite committee report.*

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

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

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 107** (Panama, Syrian Arab Republic); **Convention No. 169** (Dominica, Honduras, Peru).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 169** (Spain).

## Specific categories of workers

### Guatemala

#### Plantations Convention, 1958 (No. 110) (ratification: 1961)

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 in 2020, as well as on the basis of the information at its disposal in 2019.

The Committee notes that the Government's report does not reply to the 2014 observations of the Trade Union of Workers of Guatemala (UNSI TRAGUA) regarding: the engagement and recruitment of agricultural workers; wages; payment of overtime hours; annual paid holiday; registration with the Guatemalan Institute of Social Security (IGSS); migrant workers; health and safety conditions; housing and food; and child labour and labour inspection. **The Committee once again requests the Government to provide its comments in this regard.**

*Part II of the Convention. Engagement and recruitment and migrant workers. Articles 5–19 of the Convention.* The Committee notes the adoption of the Agricultural Policy 2016–2020, which includes focal points, guidelines and actions aimed at, inter alia, commercial producers. According to the typology of producers established by the Ministry of Agriculture, Livestock and Food based on the size of the farms that they occupy and their socio-economic conditions, three per cent of agricultural producers are classed as commercial producers and occupy 65 per cent of arable land. The Committee notes that, according to the 2016 National Employment and Income Survey (ENEI) of the Guatemalan National Institute of Statistics (INE), 28.8 per cent of employment in the country is in the agricultural sector, 89.5 per cent of whom are men and 10.4 per cent are women. Furthermore, the agricultural sector has the highest percentage of persons in informal employment (36.9 per cent). The Committee observes, however, that this statistical data does not indicate which of these workers work on plantations. **Noting that the Government does not provide information on this part of the Convention, the Committee once again requests it to provide detailed and updated information on the measures taken to give full effect to Articles 5 to 19 of the Convention, and information on the national policies adopted recently, including the Agricultural Policy 2016–2020, which cover the plantation sector, and their impact on the living and working conditions of workers in the sector.**

*Part IV (Wages). Articles 24–35.* The Committee notes the adoption of Government Decision No. 250-2020 of 30 December 2020, which establishes the daily minimum wage in the agricultural sector at 90.16 quetzals (approximately US\$12) per day. The Committee also refers to its comments from 2019 on the application of the Forced Labour Convention, 1930 (No. 29), in which it noted that, in its 2019 annual report, the UN Office of the High Commissioner in Guatemala highlighted that several workers on plantations in the Northern Transversal Strip had reported the use of illegal contractors who charge workers to be hired, high production goals, and payment of less than the minimum wage (A/HRC/40/3/Add.1, 28 January 2019, paragraph 76). **The Committee requests the Government to take measures to ensure that the social partners are consulted regularly on matters affecting the implementation of the Convention. The Government is also requested to provide detailed and updated information on the manner in which the representatives of the employers' and workers' organizations concerned were consulted with regard to the determination of the minimum wage in 2020, as required by Article 24 of the Convention. The Committee also requests the Government to provide information on the manner in which it ensures that workers in the plantation sector receive at least the established minimum wage, including information on the number and results of inspections conducted with regard to the payment of the minimum wage on plantations.**

*Part XI (Labour inspection). Articles 71–84.* In its previous comments, the Committee referred to its 2014 comments made under the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and noted the observations of workers' organizations denouncing the Government's failure to supervise compliance with labour legislation on dozens of plantations. The Committee also noted the extensive use of child labour on coffee, sugar cane, cardamom and cotton plantations, and requested the Government to provide detailed information on the specific measures taken to supervise and control the working conditions of under-aged workers on plantations. In this regard, the Committee notes that the Universal Period Review (UPR) Working Group of the UN Human Rights Council, in its 2017 report, indicated that, despite the reduction in child labour, the Committee on Economic, Social and Cultural Rights had reiterated its concern about the continuing economic exploitation of children in sectors such as agriculture (A/HRC/WG.6/28/GTM/2, paragraph 70). In this regard, the Committee observes that, according to the 2016 National Employment and Income Survey of the INE, the agricultural sector has the highest percentage of child labour (58.8 per cent) with a greater number of boys engaged than girls. The Committee further notes the statistical data provided by the Government which indicate that 1,290 labour inspections were conducted between 2018 and 2019. The Committee observes, however, that only inspections under the heading "sugar and African palm" refer, in general, to those conducted on plantations and that these related to the verification of the payment of the minimum wage, end-of-year bonuses, and annual bonuses, as well worker-employer documentation and health and safety measures. The Committee also notes that the Ministry of Labour and Social Security published, in 2017, a single protocol on procedures for the labour inspection system, which includes a procedure for the inspection and verification of the rights of agricultural workers, and which specifies the steps to be followed to conduct an inspection of an agricultural enterprise or plantation. The Committee also notes the information provided by the Government in its supplementary report regarding the measures taken with a view to mitigating the impact of the COVID-19 pandemic on the working and living conditions of workers. These measures include the adoption of Decree No. 13-2020, Act on the provision of economic relief for families from the impact of the COVID-19 pandemic, which establishes a fund for the protection of employment, and the creation of an electronic procedure for the registration, control and authorization of collective suspensions of employment contracts, by means of which employers have the authority to request the individual or collective suspension of employment contracts before the General Labour Inspectorate, and subsequently request the Ministry of the Economy to compensate the workers. The Government indicates that enterprises with an economic activity identified as the "manufacture of rubber products and agriculture" requested the suspension of the employment contracts of 69 and 168 workers, respectively. ***The Committee requests the Government to: (i) continue providing detailed statistical data on the inspections conducted on plantations, including the violations of labour laws reported, in accordance with Article 74(1)(a) of the Convention, and the penalties imposed; (ii) indicate the specific measures taken by the labour inspectorate to supervise and control the working conditions of under-aged plantation workers; (iii) provide detailed information on the impact of the single protocol on procedures for the labour inspection system on the inspections conducted on plantations, including disaggregated statistical information on inspections conducted on banana plantations. Lastly, the Committee requests the Government to supply information on the impact of the measures taken to mitigate the effects of the COVID-19 pandemic on the working and living conditions of plantation workers.***

### **Nursing Personnel Convention, 1977 (No. 149) (ratification: 1995)**

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 is proceeding with the examination of the application of the Convention on the basis of the supplementary information received from the Government in 2020, as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations made by the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala, received on 16 October 2020, which denounce the recruitment of nursing personnel through temporary contracts for professional services to perform work of a permanent nature, and the precarious working conditions of these workers. In particular, they report that these workers do not have access to the rights established for nursing personnel in the labour legislation relating to aspects such as holidays, access to benefits of the Guatemalan Social Security Institute, healthcare, maternity leave or breastfeeding breaks. They also report that, in the context of the COVID-19 pandemic, the nursing personnel under the aforementioned contractual arrangements who were infected with the virus did not receive medical assistance, and were required to go to work despite presenting symptoms of COVID-19. In addition, they highlight that they were not provided with personal protective equipment (PPE) and were refused access to COVID-19 testing. The workers' organizations indicate that on 25 May 2020, they submitted an application for protection (*amparo*) to the Constitutional Court, which ordered the Ministry of Health to immediately adopt the necessary measures to issue PPE to all workers and to protect those workers considered to be high risk. The workers' organizations also indicate that they submitted an application for protection (*amparo*) for the misuse of temporary contracts, for health sector services to carry out labour activities, with a proven relationship of permanent dependence. The workers' organizations also denounce the initiation of dismissal proceedings as a reprisal against the workers who promoted and supported the submission for the above remedies. In addition, they denounce the significant salary differences between nursing personnel who perform the same functions but who are hired under different contractual terms or in different regions. Lastly, the workers' organizations report that in the last four years, graduates of the nursing schools in Quiché, Cobán and Guatemala Capital have not received their academic certificates, which prevents them from accessing employment. Furthermore, they report the absence of adequate and sufficient protection measures in the context of the COVID-19 pandemic, including the lack of PPE and measures to minimize the risks to which workers are exposed. **The Committee requests the Government to provide its reply in this regard.**

*COVID-19 pandemic. Measures adopted concerning public health.* The Committee notes the detailed information provided by the Government in its supplementary report on the various public health measures adopted to address the effects of the COVID-19 pandemic. The Government indicates that on 16 March 2020, it issued Governmental Decree No. 5-2020 declaring a state of public disaster throughout the national territory as a result of the COVID-19 pandemic, which has subsequently been extended on several occasions. The Government indicates in its supplementary report that, in March 2020, the Plan to prevent, contain and respond to COVID-19 cases in Guatemala, developed by the Ministry of Public Health and Social Assistance (MSPAS), was approved. The measures in the Plan to be adopted to address the epidemiological threat posed by COVID-19 include ongoing training and active participation of personnel from the different levels of healthcare in the various coordination forums of the health sector and emergency response system, as well as the National Coordinating Body for Disaster Reduction (CONRED). **The Committee invites the Government to provide up-to-date information in its following report on the impact of the pandemic on the implementation of national policies and programmes relating to nursing services and nursing personnel with a view to ensuring the objectives of the Convention.**

*Article 2 of the Convention. National policy for nursing services and nursing personnel.* The Committee notes the detailed information provided by the Government regarding the regulations on the nursing profession and the various studies conducted on the situation of health workers in the country, including nursing personnel. In particular, the Committee notes the reports provided by the Government regarding the evaluations carried out in 2005 and 2013 on achievement of the targets established in the National Plan for the development of human resources in health 2007–2015. The Committee also notes that the Government refers to the development of the Regional Plan of the nursing professionals' group of Central America and the Caribbean 2018–2022. Its lines of action

include: building the human resources of nursing personnel, improving the working conditions of nursing personnel and strengthening continuous and lifelong education for these workers. The Government indicates that such lines of action would be agreed upon by representatives of nursing associations and colleges affiliated with the International Council of Nurses (ICN) at a meeting to be held in Singapore in 2019. The Committee also notes the Government's indication that, within the framework of the II Central American and Caribbean Summit on "the development of nursing in Central America, a collective project to improve health" organized in October 2017, a declaration was signed by nursing personnel representatives of the participating countries. The Government indicates that the declaration includes pillars of work relating to governance, vocational internships and training for human resources, working conditions of nursing personnel, technical cooperation projects between national nursing associations, professional nursing colleges and the International Council of Nurses, the implementation of strategies to strengthen work within nursing networks, and the regulation of national policy and law on nursing. The Government adds that participants in the II Regional Summit undertook to disseminate the declaration at the national level, follow up on the agreements, strengthen union organization and carry out studies on the situation of nursing personnel. In this connection, the Government reports the development of a study by the Nursing Services Development Unit of the MSPAS on the working conditions of nursing personnel in Guatemala. This study highlights that obstacles to improving the working conditions of nursing personnel comprise the insufficient number of nursing personnel in the country owing to the lack of funding for recruitment, the heavy workload of nursing personnel who perform functions that are not part of their jobs, the lack of unified salaries for nursing personnel, the absence of ongoing occupational safety and health programmes, and salaries that are not commensurate with the qualifications and responsibilities of the position. With respect to the activities of the Inter-institutional Council, the Government refers to the establishment of the National Observatory of Human Resources in Health in 2012 and the coordination of inter-institutional actions with a view to developing proposals on plans for the training for human resources in health. Furthermore, the Committee notes the approval in 2019 of the regulations for the nursing staff of the hospital network of the MSPAS. The objectives of the regulations include standardizing the nursing staff functions according to position and academic degree, strengthening the quality of nursing care in the country's hospital network, and systematizing discussion forums for nurses for the comprehensive analysis of the development of the profession at the different levels of care. **The Committee requests the Government to provide detailed and up-to-date information on the impact on nursing services and nursing personnel of the measures adopted within the framework of the 2018–2022 Regional Plan and the declaration adopted at the II Central American and Caribbean Summit on the development of nursing, as well as the new regulations for the nursing staff of the hospital network of the MSPAS. The Committee also requests the Government to provide up-to-date information on the consultations carried out with the employers' and workers' organizations concerned, where such organizations exist, with regard to the above-mentioned measures (Article 2(3)).**

*Article 7. Occupational safety and health.* The Committee notes the Government's indication that, in May 2015, measures were adopted with a view to implementing safety and health policies for health workers in compliance with the goals set out in the Regional Plan for human resources in health. The Committee notes, however, that according to the assessment on achievement of this goal conducted by the inter-institutional committee for joint actions of the academic and health sectors, the level of achievement reached only 25 per cent. The Committee also notes the detailed information provided by the Government in its supplementary report on the safety and health measures taken in the context of the COVID-19 pandemic. The Government refers, inter alia, to the approval on 14 June 2020 of Governmental Agreement No. 79 of 2020, which complements the 2014 regulations on occupational safety and health, relating to the prevention and control of the spread of COVID-19 in all workplaces in the public or private sector in the country. The Agreement sets out the implementation of occupational safety and health measures that allow for safe working conditions to minimize the risk of infection. In

this connection, it establishes a series of obligations for the employer, such as providing PPE for the prevention and control of the spread of COVID-19 in the workplace. The Government reports that in August 2020, the Department of Occupational Safety and Health carried out an initial operation in 18 private sector hospitals to monitor compliance with the obligations established in the Agreement.

In this context, the Committee recalls that nursing personnel who, given the specific characteristics of their work must be in close physical contact with their patients, are at high risk of becoming infected while treating patients with suspected or confirmed COVID-19, particularly when precautions to control the spread, including the use of PPE, are not strictly applied. In this respect, the Committee wishes to draw the Government's attention to paragraph 49 of the Nursing Personnel Recommendation, 1977 (No. 157), which sets out that: "(1) All possible steps should be taken to ensure that nursing personnel are not exposed to special risks. Where exposure to special risks is unavoidable, measures should be taken to minimize it; (2) Measures such as the provision and use of protective clothing, immunization, shorter hours, more frequent rest breaks, temporary removal from the risk or longer annual holidays should be provided for in respect to nursing personnel regularly assigned to duties involving special risks so as to reduce their exposure to these risks; and (3) In addition, nursing personnel who are exposed to special risks should receive financial compensation. **The Committee requests the Government to indicate whether the above-mentioned measures adopted in 2015 and Governmental Agreement No. 79 of 2020 have been effective in the prevention and control of COVID in the workplace, and to provide detailed and up-to-date information on the continued application of safety measures, including: the provision of PPE and training on its proper use; the provision of adequate breaks during shifts and limitation of excessive hours wherever possible, with a view to protecting the health and well-being of nursing personnel; and limiting, as far as possible, their risk of contracting COVID-19. In addition, it requests the Government to provide detailed and up-to-date information on the number and result of the checks carried out on compliance with Governmental Agreement No. 79 of 2020 concerning nursing personnel.**

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

## Spain

### Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172) (ratification: 1993)

The Committee notes the observations made by the Trade Union Confederation of Workers' Commissions (CCOO) and by the Spanish Confederation of Employers' Organizations (CEOE), included in the Government's report, and the Government's replies to them. In particular, the Committee notes the observation of the CCOO indicating an impasse in sectoral collective bargaining. The CCOO indicates that agreements covering more than 800,000 workers in the sector are blocked and progress has been impossible in the negotiation of 39 sectoral collective agreements out of a total of 53 existing agreements (at the national, regional and provincial levels). **The Committee requests the Government to provide its comments on this matter.**

*Article 4 of the Convention. Hours of work.* The Committee notes the information provided by the Government concerning the measures taken relating to hours of work during the period covered by its report. The Government refers to Royal Decree-Law 6/2019, which guarantees the exercise of the "right to request adjustments to the duration and distribution of the working day, in terms of the planning of hours of work and the manner of performance, including the performance of work on a remote basis, in order to exercise the right to a work-life balance" (section 34(8) of the Workers' Statute). Royal Decree-Law 6/2019 also adds to section 12(4) of the Charter the guarantee of the absence of gender discrimination with regard to part-time contracts. It also introduces changes to section 37 of the Statute regarding leave of absence in order to ensure equal rights for men and women with respect to births, adoptions and foster care with a view to adoption or family placement. The Government also refers to

Royal Decree-Law 8/2019, which adds a new paragraph 9 to section 34 of the Workers' Statute, requiring employers to record daily hours of work. The Government adds that section 7(5) of the consolidated text of the Act on offences and penalties relating to the social order was amended to include any failure to record hours of work in the category of serious labour offences. Lastly, the Government refers to Royal Decree-Law 28/2020, which establishes the right of victims of gender violence or terrorism to perform all or part of their work remotely.

The Committee further notes the statistical information provided by the Government on the activity of the Labour and Social Security Inspectorate with regard to hours of work and overtime between 2017 and 2020, including the number of offences detected and the workers affected by them. The Committee recalls that it previously asked the Government to provide detailed, up-to-date information on the manner in which the most recent amendments to the Workers' Statute affect workers employed in hotels and restaurants. These amendments relate to the enterprise's ability, in the absence of an agreement, to distribute 10 per cent of working time unevenly throughout the year, and also relate to changes in the rules governing conditions of work for part-time workers. **The Committee observes that the Government has not provided any specific information in this regard, and once again asks the Government to supply the requested information.**

*Article 6 of the Convention. Remuneration.* The Committee notes the information provided by the Government on the changes introduced with regard to remuneration. The Government indicates that the inter-occupational minimum wage was fixed for 2019 and 2020 by Royal Decrees 1462/2018 and 231/2020 and that the last Royal Decree was extended pending approval of the Royal Decree fixing the inter-occupational minimum wage for 2021 in the context of social dialogue. The Government also indicates that, through Decree-Law 6/2019, workers' right to remuneration corresponding to their work has been explicitly established in section 28 of the Workers' Statute, with a view to equal pay without gender-based discrimination. This aspect is developed in detail through Royal Decree 902/2020 concerning equal pay for men and women. The Government adds that Royal Decree-Law 19/2020, adopting additional measures relating to agriculture, science, the economy, employment, social security and taxation in order to mitigate the effects of COVID-19, includes a specific rule on administrative silence in wage guarantee proceedings as provided for in section 33 of the Workers' Statute, with a paragraph 11 added to it. It is stipulated that administrative silence shall have a positive effect on any proceedings which have not been resolved within three months.

The Committee notes the statistical information on the activities of the Labour and Social Security Inspectorate with respect to wages, payslips and severance payments in hotels and restaurants between 2017 and 2020, including the number of offences detected and the workers affected by them. In particular, the Committee notes that the number of violations rose sharply between 2017 (168 violations) compared with 2020 (272 violations), with the number of workers affected by these violations doubling between 2017 (1,437 workers) and 2020 (2,995 workers). At the same time, the Committee notes that the sanctions imposed for these violations rose significantly (from €640,051 in 2017 to €923,211.23 in 2020). It also notes the statistical information on the average wage variation agreed in the hotel sector, in enterprise agreements (1.37 per cent) and in agreements at levels higher than the enterprise (0.58 per cent). **The Committee requests the Government to continue to provide detailed updated information, including disaggregated statistics on inspection activities in the hotel and restaurant sector, including the number of inspections conducted, the number and type of violations detected and the outcomes. In addition, the Government is requested to provide information on measures taken or envisaged to address the significant increase in the numbers of violations affecting workers in the sector.**

*Article 8 of the Convention. Application of the Convention. Collective agreements concluded in the sector.* The Committee notes the Government's indications regarding the collective agreements concluded in the sector between 2017 and 2020. The Government refers to the collective agreements at the national and regional levels in the hotel and catering sectors, and provides tables of agreements

at the provincial level or higher, and enterprise agreements in activities corresponding to lodging services and food and beverage services. With regard to the National Agreement for the hotel sector (ALEH), the Committee notes the Directorate-General of Labour Resolution of 11 November 2020, registering and publishing the agreements amending and extending ALEH V, with publication in Official Journal No. 307 of 23 November 2020. Under this Resolution, the ALEH Negotiating Board agreed to extend the validity of ALEH V until 31 December 2021 and to include in the text in force agreements reached under the ongoing revision and negotiation procedure, agreed between the representative parties of the state hotel sector.

***The Committee requests the Government to continue providing detailed, up-to-date information on the application of the Convention in practice, including sectoral and enterprise collective agreements, extracts from inspection reports, court decisions and data on the number of workers covered by the measures that give effect to the Convention, disaggregated by sex and age, as well as the number and nature of violations reported. Noting the Government's reference to Royal Decree-Law 28/2020 in the context of improving work-life balance, the Committee requests the Government to provide information on the manner in which work-life balance is ensured for workers in the hotel and restaurant sector, including disaggregated statistical data on the number of such workers making use of Royal Decree-Law 28/2020.***

*Hotel housekeepers.* In its previous comments, the Committee asked the Government to provide information on the application in practice of the Convention with respect to hotel housekeepers, and to provide information in reply to the allegations regarding cases of the sale and purchase of employment as hotel housekeepers. The Committee notes the Government's indication that in August 2018 the Committee on the Quality of Employment in the Hotel Sector agreed to the setting up of a working group for the preparation at state level of a "Practical guide for occupational risk assessment in the hotel sector", addressing the ergonomic and psycho-social risks to which workers in the sector are considered to be particularly exposed, with all such risks set against the necessary gender perspective. In September 2019, the National Occupational Safety and Health Institute produced the "Guide for the management and assessment of ergonomic and psycho-social risks in the hotel sector". ***The Committee once again requests the Government to provide detailed, up-to-date information on the application of the Convention in practice with respect to hotel housekeepers. In the absence of a response by the Government to its request regarding the allegations of cases of the sale and purchase of employment as hotel housekeepers, the Committee repeats its request. The Committee further requests the Government to provide information on the impact of the COVID-19 crisis on the conditions of work of hotel housekeepers, including their wages and social benefits, and the measures taken to mitigate this impact.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 149** (Congo, France, France: French Polynesia, Guatemala, Jamaica, Slovenia, Tajikistan); **Convention No. 172** (Lebanon, Netherlands: Curaçao); **Convention No. 177** (Tajikistan); **Convention No. 189** (Switzerland).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 172** (Switzerland).

## ▶ II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution)

---

### Albania

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has not replied to its previous observations. It recalls once again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2019 and June 2021, that the Government of Albania will comply with its constitutional obligation to submit Conventions, Recommendations and Protocols to the competent authorities in the future. Referring to its previous observations, the Committee reiterates its request that the Government provide information on the submission to the Albanian Parliament of 26 instruments: the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted by the Conference at its 82nd Session, the Promotion of Cooperatives Recommendation, 2002 (No. 193), and the List of Occupational Diseases Recommendation, 2002 (No. 194), adopted by the Conference at its 90th Session, as well as the instruments adopted at the 78th, 84th, 86th, 89th, 92nd, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions.**

### Angola

*Serious failure to submit.* The Committee notes with **deep regret** that the Government has not provided the information requested in its previous observations. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again reiterates its request that the Government provide the information required under Article 19 of the ILO Constitution on the 19 instruments pending submission to the National Assembly. These are: the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180), adopted by the Conference at its 79th Session; the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted by the Conference at its 82nd Session; and the instruments adopted at the 86th, 91st, 92nd, 94th, 95th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference (2003–19).**

### Antigua and Barbuda

*Failure to submit.* The Committee notes with **interest** the ratification on 28 July 2021 by Antigua and Barbuda of eight Conventions: the Protocol of 2014 to the Forced Labour Convention, 1930, 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 Seafarer's 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). The Committee notes that the Government has not, however, provided a reply to its previous observation. 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. **The Committee reiterates its request that the Government specify the dates on which the 14 instruments adopted by the Conference from its 83rd to its 101st Sessions were submitted to the Parliament of Antigua and Barbuda. The Committee also reiterates its request that the Government provide information on the submission to Parliament of the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, and the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session.**

## Armenia

*Submission.* The Committee notes with **satisfaction** the information provided by the Government regarding the submission to the National Assembly of Armenia of the Protocol of 2014 to the Forced Labour Convention, 1930 and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203) on 12 May 2016, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) on 29 April 2019, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) on 29 September 2017, and the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019 on 27 May 2020. **The Committee commends the Government for its efforts in meeting its constitutional obligation of submission.**

## Bahamas

*Serious failure to submit.* The Committee notes with **deep regret** that the Government has again not provided information in response to its previous observation. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee expresses the firm hope, as did the Conference Committee in June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament). The Committee therefore firmly urges the Government to provide information on the submission to Parliament of the 26 instruments adopted by the Conference at 15 sessions held between 1997 and 2019 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

## Bahrain

*Serious failure to submit.* The Committee notes that in a communication of 31 August 2021, the Government: (i) reiterates that it has complied with its constitutional obligations by continuously submitting the instruments adopted by the International Labour Conference to its Council of Ministers, as the competent authority; and (ii) indicates that its new mechanism for submission of the instruments adopted by the Conference requires the revision of the Constitution of Bahrain and of a number of laws which regulate this aspect and which specify the mandate and powers of the Council of Ministers and the National Assembly. The Committee also recalls that, on 22 July 2019, the Government indicated that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), was submitted to the Council of Ministers without specifying the date of submission. The Committee once again points out that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore firmly urges the Government to provide full information on the submission to the National Assembly of the 25 instruments adopted by the Conference at 15 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). Moreover, it once again reiterates its request that the Government specify the date on which Recommendation No. 205 was submitted and reminds the Government of the availability of ILO technical assistance in meeting its submission obligations.**

## Barbados

*Submission.* The Committee notes with **satisfaction** the information provided by the Government regarding the submission to Parliament of 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) and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) on 6 October 2021. **The Committee welcomes the progress made by the Government in complying with its constitutional obligation of submission.**

## Belize

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has again 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 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). **The Committee urges the Government to provide 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 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 regret** that the Government has once again not replied to its previous comments. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee notes that information has not been provided on the submission to the Plurinational Legislative Assembly of 31 instruments adopted by the Conference at 20 sessions between 1993 and 2019. **The Committee firmly urges the Government to provide information on the submission to the Plurinational Legislative Assembly of the 31 instruments adopted by the Conference since 1993 for which submission is still pending. It once again reminds the Government that it may avail itself of ILO technical assistance if it so wishes.**

## Brunei Darussalam

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has once again not replied to its previous comments. 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 therefore firmly urges the Government to provide information on the submission to the competent national authorities, within the meaning of article 19(5) and (6) of the ILO Constitution, of the 12 instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19). The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with**

***its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Central African Republic

***Serious failure to submit.*** The Committee notes with ***deep regret*** that the Government has once again not replied to its previous comments. 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 reiterates its request that the Government provide information on the submission to the National Assembly of the 10 instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).***

## Chad

***Serious failure to submit.*** The Committee notes with ***deep regret*** that the Government has yet again not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once more requests the Government to provide information on the submission to the competent authorities of the 10 instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).***

## Chile

***Submission.*** The Committee notes with ***interest*** the ratification of the 2014 Protocol to the Forced Labour Convention, 1930, on 19 January 2021. The Committee further notes the information provided by the Government regarding the submission of the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, to the National Congress on 18 December 2020. ***The Committee reiterates its request that the Government provide the required information, indicating the date of submission to the National Congress 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).***

## Comoros

***Serious failure to submit.*** The Committee notes with ***deep concern*** that the Government has again not provided the information requested in its previous observation. The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It therefore firmly urges the Government to provide information on the submission to the Assembly of the Union of Comoros of the 46 instruments adopted by the Conference at the 23 sessions held between 1992 and 2019.***

## Congo

***Serious failure to submit.*** The Committee notes with ***deep concern*** that the Government has again not replied to its previous comments. The Committee 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 once again expresses the firm hope, as did the Conference in June***

**2019 and June 2021, that the Government of Congo will comply with its obligations to submit Conventions, Recommendations and Protocols to the competent authorities in the future. The Committee once again reiterates its request that the Government complete the submission procedure in relation to 67 Conventions, Recommendations and Protocols, adopted by the Conference during 32 sessions from 1970 to 2019, which have not yet been submitted to the National Assembly. It reminds the Government of the availability of ILO technical assistance to meet its constitutional submission obligations.**

## Croatia

**Submission.** The Committee welcomes the information provided by the Government regarding the submission of the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session, to the Croatian Parliament on 12 April 2021. **The Committee also firmly urges the Government to provide information on the submission to the Croatian Parliament of the remaining 22 instruments adopted by the Conference at 13 sessions held between 1998 and 2017 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).**

## Democratic Republic of the Congo

**Serious failure to submit.** The Committee notes with **regret** that the Government has not replied to its previous observation. 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 reiterates its request that the Government provide information on the 10 instruments pending submission to Parliament adopted from the 99th Session (2010) to the 108th Session (2019) of the Conference.**

## Dominica

**Failure to submit.** The Committee notes with **deep concern** that the Government has yet again provided no 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore firmly urges the Government to provide information on the submission to the House of Assembly of the 43 instruments adopted by the Conference during 22 sessions held between 1993 and 2019 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions). It once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## El Salvador

**Serious failure to submit.** The Committee notes with **regret** that the Government has yet again 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. In this context, the Committee recalls the information provided by a Government representative before the Conference Committee at its 108th Session in June 2019, indicating that the country welcomed the technical cooperation received from the ILO for the preparation of the Protocol of

Institutional Procedures for the submission of ILO instruments. The Government representative indicated that the Government would soon take the first steps for the submission of the relevant Conventions and Recommendations to the competent authority. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent national authority. The Committee firmly urges the Government to submit to the Legislative Assembly the 61 instruments adopted at the 25 sessions of the Conference held between October 1976 and June 2019. Moreover, it once again reiterates its request that the Government provide information on the submission of the remaining outstanding instruments adopted by the Conference at its 63rd (Convention No. 148 and Recommendations Nos 156 and 157), 67th (Convention No. 154 and Recommendation No. 163), 69th (Recommendation No. 167) and 90th (Recommendations Nos 193 and 194) Sessions.***

***The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Equatorial Guinea

***Serious failure to submit.*** The Committee 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. Accordingly, the Committee firmly urges the Government to provide information on the submission to Parliament of the 37 instruments adopted by the Conference between 1993 and 2019. It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.***

## Eswatini

***Serious failure to submit.*** The Committee notes that, in its communication of 25 October 2021, the Government indicates that: (i) it has availed itself of the technical assistance of the ILO to conduct sensitization workshops and a gap analysis with a view to ensuring full compliance with its outstanding constitutional obligation of submission; and (ii) the submission to Parliament of all international labour standards which have been adopted by the Conference during the 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions has been approved by the Cabinet and will be conducted shortly. 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. ***The Committee therefore trusts that the submission to the House of Assembly of the 10 instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19) will be completed in the near future and requests the Government to provide information on progress made in this regard.***

## Gabon

***Serious failure to submit.*** The Committee notes with ***deep concern*** that the Government has once again provided no 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 firmly expects that the Government will comply with its obligation to submit***

**Conventions, Recommendations and Protocols to the competent authority. The Committee therefore 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.**

## Gambia

*Serious failure to submit.* The Committee notes with **deep regret** that the Government has once again provided no response to its previous comments. 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 therefore once again reiterates its request for the Government to provide information on the submission to the National Assembly of the 10 instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Grenada

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has yet again provided no response to its previous comments. 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. **Referring to its previous observations, the Committee 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 urges the Government to provide information on the submission to Parliament of the 11 instruments adopted at the 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference (2007–19). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Guinea

*Serious failure to submit.* The Committee notes with **deep regret** that the Government has once again provided no response to its previous comments. 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 therefore firmly urges the Government to provide information regarding the submission to the National Assembly of the 31 instruments adopted at 17 sessions held by the Conference between October 1996 and June 2019 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 101st, 103rd, 104th, 106th and 108th Sessions).**

## Guinea-Bissau

*Submission.* The Committee notes with **regret** that the Government has once again provided no response to its previous comments. 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 therefore urges the Government to provide information on the submission to the Assembly of the Republic of the 21 remaining instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 108th Sessions (2001–19). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Guyana

*Serious failure to submit.* The Committee notes with **deep regret** that the Government has once again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again reiterates its request that the Government provide information on the submission to the Parliament of Guyana of the 10 instruments adopted by the Conference at its 96th, 99th, 101st, 103rd, 104th, 106th and 108th Sessions. It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Haiti

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has yet again provided no response to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee therefore firmly urges the Government to provide information with regard to the submission to the National Assembly of the following 65 instruments:**

- **the remaining instruments from the 67th Session (Conventions Nos 154 and 155, and Recommendations Nos 163 and 164);**
- **the instruments adopted at the 68th Session;**
- **the remaining instruments adopted at the 75th Session (Convention No. 168, and Recommendations Nos 175 and 176); and**
- **the instruments adopted at 26 sessions of the Conference held between 1989 and 2019.**

**The Committee reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

## Hungary

*Serious failure to submit.* The Committee notes with **deep regret** that the Government has once again not responded to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee accordingly once again reiterates its request that the Government provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).**

## Iraq

*Failure to submit.* The Committee notes with **deep regret** that the Government has once again provided no response to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. It therefore once again recalls the detailed information provided by the Government in November 2017, including the dates of submission to the Council of Representatives (*Majlis Al-Nuwaab*) of each of the instruments adopted by the Conference at its 88th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions (2000–12). The Committee further recalls the Government's indication that Recommendations submitted to the Council of Representatives were not examined by the Council, but were transmitted to the Ministry of Labour and Social Affairs which, according to the Government's

indication, is the competent authority with respect to Recommendations. The Committee further recalls the information provided by the Government in March 2017, indicating that the Protocol of 2014 to the Forced Labour Convention, 1930, was submitted to the competent authority. It noted in this regard that no information was provided on the date of submission, or on whether the instrument in question was in fact submitted to the Council of Representatives (*Majlis Al-Nuwaab*). The Committee once again recalls that, by virtue of article 19(5) and (6) of the ILO Constitution, each of the Members of the Organization undertakes to submit the instruments adopted by the Conference to the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. In the 2005 memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, the Governing Body indicated that the competent authority is the authority which, under the Constitution of each State, has the power to legislate or to take other action in order to implement Conventions and Recommendations. The competent national authority should normally be the legislature. ***The Committee therefore once again reiterates its request that the Government provide more specific information on the submission to the Council of Representatives of the remaining 12 instruments adopted by the Conference from 2000 to 2015. The Committee also reiterates its request for the Government to provide information on the submission to the Council of Representatives of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, and the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session (June 2019). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.***

## Kazakhstan

*Serious failure to submit.* The Committee notes with **deep regret** 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 urges the Government to provide information on the date of submission of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) to Parliament. Moreover, the Committee once again reiterates its requests for the Government to provide information on the submission to Parliament of the remaining 38 instruments adopted by the Conference between 1993 and 2019, including with respect to the date of submission of each instrument. It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.***

## Kyrgyzstan

*Failure to submit.* The Committee notes with **deep regret** that the Government has yet again failed to reply to its previous comments. The Committee therefore once more refers to the comments it has been formulating since 1994, and recalls that, under article 19 of the ILO Constitution, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee expresses the firm hope, as did the Conference Committee in 2016, 2017, 2018, 2019 and 2021, 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 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 once again 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 with **regret** that the Government has yet again provided no response to its previous comments. It recalls yet again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee recalls once more the information provided by the Government in February 2016, indicating that the Ministry of Labour had submitted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), to the Council of Ministers for consideration, and that the Council of Ministers had decided to establish a special commission to examine the Recommendation. **The Committee once again refers to its previous comments and urges the Government indicate the date on which the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17) were submitted to the National Assembly (Majlis Al-Nuwwab), and to provide information on the submission of the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session (June 2019).**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Liberia

*Serious failure to submit.* The Committee 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 expresses the firm hope, as did the Conference Committee in 2017, 2018, 2019 and 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It also once again reiterates its request that the Government provide information on the submission to the National Legislature of the 25 instruments adopted by the Conference at its 77th, 82nd, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions.**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Libya

*Serious failure to submit.* The Committee 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 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authorities. The Committee therefore once again reiterates its request that the Government provide information on the submission to the competent national authorities (within the meaning of article 19(5) and (6) of the ILO Constitution) of the 37 Conventions, Recommendations and Protocols adopted by the Conference at 19 sessions held between 1996 and 2019.**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the**

### **Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

#### **Malawi**

*Failure to submit.* The Committee notes with **regret** that the Government has yet again 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, adopted by the Conference at its 103rd Session, and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session. In addition, the Government indicated that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), was submitted to the competent authority. The Committee once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. While noting the Government's indication that the President is a member of the Parliament, the Committee wishes to reiterate that the obligation of submission cannot be considered to have been fulfilled until the ILO instruments adopted have reached and been submitted to the legislative body. **The Committee therefore once again requests that the Government provide information on the submission to Parliament, and the dates of submission, of the nine instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).**

#### **Malaysia**

*Serious failure to submit.* The Committee notes that in its communication of 25 March 2021, the Government indicates that it is in the process of submitting the required instruments to the Parliament of Malaysia. In this respect, it recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It reiterates its request that the Government provide information on the submission to the Parliament of Malaysia of the 13 instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2006–19).**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

#### **Maldives**

*Serious failure to submit.* The Committee notes with **regret** that the Government has yet again provided no response to its previous comments. The Committee recalls that the Maldives became a Member of the Organization on 15 May 2009. Subsequently, in accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions. **The Committee once again reiterates its request that the Government provide information on the submission (indicating the dates of submission) to the People's Majlis of the**

*instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).*

*The Committee also recalls once again that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the People's Majlis of the instruments adopted by the Conference.*

## Malta

*Submission.* The Committee notes that in a communication of 29 April 2021, the Government indicated that it was in the process of ratifying the Domestic Workers Convention, 2011 (No. 189). The Committee notes that the Government has not provided the information requested in its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in 2017, 2018, 2019 and 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. Moreover, the Committee reiterates its request that the Government provide information on the submission to the House of Representatives of the instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19).***

*The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.*

The Committee notes with ***interest*** the ratification of Convention No. 189 by Malta on 14 May 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).***

## Marshall Islands

*Serious failure to submit.* The Committee notes with ***regret*** that the Government has yet again provided no response to its previous comments. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee recalls that Marshall Islands became a Member of the Organization on 3 July 2007. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and the Protocol adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19). ***The Committee once again reiterates its request that the Government provide information on the submission to Parliament of the 12 instruments adopted by the Conference between 2007 and 2019.***

*The Committee recalls once more that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.*

## Mexico

*Failure to submit.* The Committee ***regrets*** that the Government has once again provided no reply to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once more reiterates its request that the Government provide information on the submission to the Senate of the***

**Republic of the instruments adopted at the 95th, 96th, 100th, 103rd, 104th and 108th Sessions of the Conference.**

## Mongolia

*Submission.* The Committee notes with **satisfaction** the information provided by the Government regarding the submission to the State Great Hural of the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, 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), the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019 on 9 April 2021. **The Committee commends the efforts made by the Government in meeting its constitutional obligation of submission.**

## Mozambique

*Submission.* The Committee notes with **regret** that the Government has yet again not provided a response to its previous comments. The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **It therefore firmly urges the Government to provide information on the submission to the Assembly of the Republic of the 33 instruments adopted by the Conference at 16 sessions held between 1996 and 2019.**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## North Macedonia

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has yet again 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 firmly urges the Government to provide information concerning the submission to the Assembly of the Republic (Sobranie) of 29 instruments (Conventions, Recommendations and Protocols) adopted by the Conference from October 1996 to June 2019.**

**The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Pakistan

*Submission to Parliament.* The Committee notes with **satisfaction** the Government's indication that the remaining 41 instruments adopted by the Conference at its 20 sessions held between 1994 and 2019 were submitted to Parliament on 15 November 2021. **The Committee welcomes the progress made by the Government in complying with its constitutional obligation of submission.**

## Papua New Guinea

*Serious 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, 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 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

***Submission.*** The Committee 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 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 and 106th and 108th Sessions.***

***The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Rwanda

***Serious failure to submit.*** The Committee notes with ***regret*** that the Government has yet again provided no response to its previous comments. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore firmly urges the Government to provide information on the date of submission to the National Assembly of the 38 Conventions, Recommendations and Protocols adopted by the Conference at 20 sessions held between 1993 and 2019 (80th, 82nd, 83rd, 84th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).***

***The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Saint Lucia

***Serious 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, 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 73 remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980***

to 2019 (66th, 67th (Convention No. 156 and Recommendations Nos 164 and 165), 68th (Convention No. 157 and Protocol of 1982), 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).

*The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.*

The Committee notes with **interest** the ratification of the Occupational Safety and Health Convention, 1981 (No. 155) and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 by Saint Lucia on 14 May 2021. **The Committee requests the Government to provide information on the tripartite consultations held prior to the ratifications, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

## Saint Vincent and the Grenadines

*Serious failure to submit.* The Committee 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 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the House of Assembly). It firmly urges the Government to provide information on the submission to the House of Assembly of the 31 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 17 sessions held from 1995 to 2019 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

*The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.*

## Seychelles

*Serious failure to submit.* The Committee notes with **deep regret** that the Government has once again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). It firmly urges the Government to provide the requested information on the submission to the National Assembly of the 22 instruments adopted by the Conference at 13 sessions held from 2001 to 2019.**

*The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.*

## Sierra Leone

*Failure to submit.* The Committee 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 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament). The Committee therefore once again firmly urges the Government to provide information on the submission to Parliament of the 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. The Government is firmly urged to take steps without delay to submit the 95 pending instruments to Parliament.**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

The Committee notes with **interest** the ratification on 25 August 2021 by Sierra Leone of eight instruments: the Protocol of 2014 to the Forced Labour Convention, 1930, the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Labour Administration Convention, 1978 (No. 150), 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 Domestic Workers Convention, 2011 (No. 189). **The Committee requests the Government to provide information on the tripartite consultations held prior to the ratifications, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

## Solomon Islands

*Serious 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, 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 and to provide the information required under Article 19 of the Constitution to the International Labour Office.**

**The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

## Somalia

*Submission.* The Committee notes with **interest** the ratification on 8 March 2021 by Somalia of seven Conventions: 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). The Committee nevertheless notes that the Government has not provided a reply to its previous observations. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore firmly urges the Government to take steps without delay to submit the 51 instruments adopted by the Conference between 1989 and 2019 to the competent national authority 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 ***deep regret*** 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 and June 2019 and June 2021, 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 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 ***regret*** that the Government has yet again not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***It therefore once again reiterates its request that the Government provide information on the submission to the National Parliament of the 10 instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th and 108th Sessions (2010–19).***

***The Committee recalls once more that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Togo

The Committee notes with **satisfaction** the information provided by the Government regarding the submission to the National Assembly on 17 September 2019 of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), as well as the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019. **The Committee commends the efforts made by the Government in meeting its constitutional obligation of submission.**

## Tuvalu

*Serious failure to submit.* The Committee notes with **deep concern** that the Government has yet again provided no response to its previous comments. It recalls that Tuvalu became a Member of the Organization on 27 May 2008. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and the Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19). The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee trusts that the Government will take steps to submit without delay the 10 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.**

## Uruguay

*Submission.* The Committee notes with **satisfaction** the information provided by the Government regarding the submission to the General Assembly of the Violence and Harassment Recommendation (No. 206) on 30 September 2019, the Employment and Decent Work for Peace and Resilience Recommendation (No. 205) on 21 October 2019, the Maritime Labour Convention (MLC, 2006) on 4 November 2019, and the Work in Fishing Convention (No. 188) and its Recommendation (No. 199) on 10 January 2020. **At the same time, the Committee once again reiterates its request that the Government specify the date on which the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (90th Session), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (95th Session), were submitted to the General Assembly.**

## Vanuatu

*Serious failure to submit.* The Committee 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 and June 2021, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament of Vanuatu). The Committee firmly urges the Government to provide information on the submission to the Parliament of Vanuatu of the 18 instruments adopted by the Conference at 12 sessions held between 2003 and 2019 (91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

***The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Yemen

*Serious failure to submit.* The Committee notes with **regret** that the Government has yet again provided no response to its previous comments. It therefore recalls the information provided to the Conference by the Government in June 2018 indicating that it was not able to submit instruments adopted by the Conference to the House of Representatives due to the ongoing conflict in Yemen. ***Noting the complex situation in the country, particularly the ongoing conflict, the Committee trusts that, when national circumstances permit, the Government will be in a position to provide information on the submission to the House of Representatives of the instruments adopted by the Conference at its 90th, 94th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions, as well as on the submission of Recommendations Nos 191, 192, 197 and 198, adopted by the Conference at its 88th, 89th and 95th Sessions.***

***The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Zambia

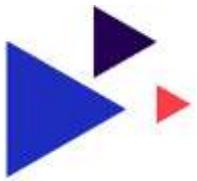
*Serious failure to submit. Date of submission.* The Committee notes with **deep regret** that the Government has yet again provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. It once again recalls the information provided by the Government in September 2010 indicating that 12 instruments adopted by the Conference from 1996 to 2007 had been submitted to the National Assembly. ***The Committee once again reiterates its request that the Government indicate the dates on which the above-mentioned instruments were submitted to the National Assembly. It also urges the Government to provide information on any action taken by the National Assembly in relation to the submissions, as well as with respect to the prior tripartite consultations that took place with the social partners. Moreover, the Committee once again reiterates its request that the Government provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).***

***The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: Afghanistan, Argentina, Austria, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, China, Colombia, Costa Rica, Côte d'Ivoire, Cyprus, Djibouti, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Georgia, Germany, Ghana, Honduras, Islamic Republic of Iran, Ireland, Jamaica, Jordan, Kenya, Lao People's Democratic Republic, Lesotho, Lithuania, Madagascar, Mali, Nepal, Nicaragua, Nigeria, Norway, Oman, Palau, Panama, Paraguay,

*Peru, Qatar, Romania, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Singapore, South Africa, South Sudan, Sri Lanka, Sudan, Suriname, Sweden, Tajikistan, Thailand, Tonga, Tunisia, Turkmenistan, Uganda, Ukraine, United Republic of Tanzania, Bolivarian Republic of Venezuela, Viet Nam, Zimbabwe.*



## Appendices

## **Appendix I. Reports requested on ratified Conventions registered as at 11 December 2021 (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 11 December 2021 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. 100, 105, 111, 138, 140, 141, 142, 144, 182	
<b>Albania</b>	<b>15 reports requested</b>
· 11 reports received: Conventions Nos. 6, 11, 29, 87, 98, 100, 105, 122, 135, 138, 182	
· 4 reports not received: Conventions Nos. 77, 78, 185, (MLC, 2006)	
<b>Algeria</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 6, 29, 77, 78, 98, 105, 122, 138, 182	
<b>Angola</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 6, 29, 100, 105, 138, 182	
<b>Antigua and Barbuda</b>	<b>12 reports requested</b>
· No reports received: Conventions Nos. 11, 29, 87, 98, 105, 122, 135, 138, 144, 151, 154, 182	
<b>Argentina</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 79, 90, 105, 124, 138, 182, MLC, 2006	
<b>Armenia</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 17, 29, 105, 122, 138, 182	
<b>Australia</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 10, 29, 105, 122, 123, 182	
<b>Austria</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 6, 29, 105, 122, 124, 138, 182	
<b>Azerbaijan</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 79, 90, 105, 122, 124, 138, 182	
<b>Bahamas</b>	<b>8 reports requested</b>
· 1 report received: Convention No. MLC, 2006	
· 7 reports not received: Conventions Nos. 29, 87, 105, 138, 144, 182, 185	
<b>Bahrain</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 182	
<b>Bangladesh</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 59, 81, 90, 105, 182, MLC, 2006	
<b>Barbados</b>	<b>17 reports requested</b>
· 3 reports received: Conventions Nos. 11, 29, 81	
· 14 reports not received: Conventions Nos. 87, 90, 97, 100, 102, 105, 111, 122, 128, 135, 138, 144, 172, 182	
<b>Belarus</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 79, 87, 90, 105, 122, 124, 138, 182	
<b>Belgium</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 6, 29, 77, 87, 105, 122, 124, 138, 182, (187)	

<b>Belize</b>	<b>22 reports requested</b>
<ul style="list-style-type: none"> <li>· 7 reports received: Conventions Nos. 11, 19, 105, 135, 141, 150, 151</li> <li>· 15 reports not received: Conventions Nos. 29, 87, 88, 97, 98, 100, 111, 115, 138, 140, 144, 154, 155, 156, 182</li> </ul>	
<b>Benin</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 6, 11, 29, (102), 105, 135, 138, 182	
<b>Bolivia (Plurinational State of)</b>	<b>14 reports requested</b>
<ul style="list-style-type: none"> <li>· 7 reports received: Conventions Nos. 90, 105, 123, 131, 136, 162, 167</li> <li>· 7 reports not received: Conventions Nos. 29, 77, 78, 122, 124, 138, 182</li> </ul>	
<b>Bosnia and Herzegovina</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· 5 reports received: Conventions Nos. 29, 90, 105, 138, 182</li> <li>· 1 report not received: Convention No. 122</li> </ul>	
<b>Botswana</b>	<b>4 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 29, 105, 138, 182</li> </ul>	
<b>Brazil</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 6, 29, 105, 122, 124, 138, 182, (189)	
<b>Brunei Darussalam</b>	<b>2 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. 182</li> <li>· 1 report not received: Convention No. 138</li> </ul>	
<b>Bulgaria</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 6, 29, 77, 78, 79, 105, 122, 124, (131), 138, 182	
<b>Burkina Faso</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 6, 29, 105, 122, 138, 182	
<b>Burundi</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 26, 29, 90, 105, 138, 182	
<b>Cabo Verde</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 182, MLC, 2006	
<b>Cambodia</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 87, 105, 122, 138, 182	
<b>Cameroon</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 87, 94, 105, 122, 138, (144), 158, 182	
<b>Canada</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, (81), 88, 105, 122, 138, 182	
<b>Central African Republic</b>	<b>10 reports requested</b>
<ul style="list-style-type: none"> <li>· 9 reports received: Conventions Nos. 29, 88, 94, 105, 117, 122, 138, 142, 182</li> <li>· 1 report not received: Convention No. 158</li> </ul>	
<b>Chad</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 29, 87, 105, 122, 138, 182</li> </ul>	
<b>Chile</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 2, 29, 105, 122, 138, 140, 159, 182, (MLC, 2006)	
<b>China</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 122, 138, 159, 182, MLC, 2006	

<b>China - Hong Kong Special Administrative Region</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 2, 29, 87, 105, 122, 138, 142, 182	
<b>China - Macau Special Administrative Region</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 88, 105, 122, 138, 182	
<b>Colombia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 2, 29, 88, 98, 105, 138, 159, 182	
<b>Comoros</b>	<b>7 reports requested</b>
· No reports received: Conventions Nos. 29, 87, 98, 105, 122, 138, 182	
<b>Congo</b>	<b>16 reports requested</b>
· No reports received: Conventions Nos. 29, 81, 87, 98, 100, 105, 111, 138, 144, 149, 150, 152, 182, (185), (MLC, 2006), (188)	
<b>Cook Islands</b>	<b>5 reports requested</b>
· 4 reports received: Conventions Nos. 29, 105, (144), (182)	
· 1 report not received: Convention No. (MLC, 2006)	
<b>Costa Rica</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 88, 94, 96, 105, 117, 122, 138, (156), 159, 182	
<b>Côte d'Ivoire</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 96, 105, 133, 138, 159, (170), 182	
<b>Croatia</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 105, 122, 138, 159, 182	
<b>Cuba</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 29, 88, 94, 96, 105, 110, 122, 138, 140, 142, 159, 182	
<b>Cyprus</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 29, 88, 94, 105, 122, 138, 142, 158, 159, 182	
<b>Czechia</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 88, 105, 122, 138, 140, 142, 159, 181, 182, (183)	
<b>Democratic Republic of the Congo</b>	<b>9 reports requested</b>
· No reports received: Conventions Nos. 29, 88, 94, 105, 117, 138, 144, 158, 182	
<b>Denmark</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 88, 94, 105, 122, 138, 142, 159, 182	
<b>Denmark - Faroe Islands</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 29, 105	
<b>Denmark - Greenland</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 105, (111), 122	
<b>Djibouti</b>	<b>26 reports requested</b>
· 1 report received: Convention No. (MLC, 2006)	
· 25 reports not received: Conventions Nos. 12, 17, 18, 19, 24, 29, 37, 38, 71, 81, 87, 88, 94, 96, 98, 100, 105, 108, 111, 122, 125, 126, 138, 144, 182	
<b>Dominica</b>	<b>24 reports requested</b>
· No reports received: Conventions Nos. 11, 12, 14, 19, 22, 26, 29, 81, 87, 94, 95, 97, 98, 100, 105, 108, 111, 135, 138, 144, 147, 150, 169, 182	

<b>Dominican Republic</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 88, 105, 122, 138, 159, 182	
<b>Ecuador</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 29, 87, 88, 95, 98, 105, 117, 122, 131, 138, 142, 159, 182	
<b>Egypt</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 2, 29, 88, 94, 96, 98, 105, 138, 142, 159, 182	
<b>El Salvador</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 88, 105, 122, 138, 142, 144, 159, 182	
<b>Equatorial Guinea</b>	<b>14 reports requested</b>
· No reports received: Conventions Nos. 1, 14, 29, 30, (68), 87, (92), 98, 100, 103, 105, 111, 138, 182	
<b>Eritrea</b>	<b>6 reports requested</b>
· 3 reports received: Conventions Nos. 87, 98, (182) · 3 reports not received: Conventions Nos. 29, 105, 138	
<b>Estonia</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 2, 29, 105, 122, 138, 182	
<b>Eswatini</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 94, 96, 105, 138, 182	
<b>Ethiopia</b>	<b>10 reports requested</b>
· No reports received: Conventions Nos. 2, 29, 88, 105, 138, 158, 159, 181, 182, (MLC, 2006)	
<b>Fiji</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 105, 122, 138, 142, 159, 181, 182	
<b>Finland</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 29, 88, 94, 105, 122, 138, 140, 142, 158, 159, 181, 182	
<b>France</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 29, 82, 88, 94, 98, 105, 122, 138, 140, 142, 158, 159, 181, 182	
<b>France - French Polynesia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 82, 88, 94, 96, 105, 122, 142	
<b>France - New Caledonia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 82, 88, 94, 105, 122, 142, 181	
<b>Gabon</b>	<b>9 reports requested</b>
· No reports received: Conventions Nos. 11, 81, 87, 98, 135, 144, 151, 154, (MLC, 2006)	
<b>Gambia</b>	<b>3 reports requested</b>
· No reports received: Conventions Nos. 87, 98, (MLC, 2006)	
<b>Georgia</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 87, 98, (144), 151	
<b>Germany</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 11, 81, 87, 98, 129, 135, 141, 144	

<b>Ghana</b>	<b>12 reports requested</b>
· 8 reports received: Conventions Nos. 29, 81, 87, 98, 111, 144, 149, 182	
· 4 reports not received: Conventions Nos. 11, 100, 151, MLC, 2006	
<b>Greece</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 11, 81, 87, 98, 135, 141, 144, 151, 154	
<b>Grenada</b>	<b>16 reports requested</b>
· 8 reports received: Conventions Nos. 11, 12, 19, 29, 81, 87, 97, 98	
· 8 reports not received: Conventions Nos. 100, 105, 111, 138, 144, 182, (MLC, 2006), (189)	
<b>Guatemala</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 11, 81, 87, 98, 129, 141, 144, 154	
<b>Guinea</b>	<b>15 reports requested</b>
· 6 reports received: Conventions Nos. 135, 144, 156, (176), (187), (189)	
· 9 reports not received: Conventions Nos. 11, 81, 87, 98, 114, 118, 140, 151, (167)	
<b>Guinea - Bissau</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 6, 17, 26, 45, 81, 88, 98, 138, 182	
<b>Guyana</b>	<b>21 reports requested</b>
· 14 reports received: Conventions Nos. 87, 94, 97, 98, 100, 111, 138, 139, 140, 144, 149, 172, 182, 189	
· 7 reports not received: Conventions Nos. 11, 81, 105, 129, 135, 141, 151	
<b>Haiti</b>	<b>24 reports requested</b>
· No reports received: Conventions Nos. 1, 12, 14, 17, 19, 24, 25, 29, 30, 42, 45, 77, 78, 81, 87, 90, 98, 100, 105, 106, 107, 111, 138, 182	
<b>Honduras</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 81, 87, 98, 111, 144, 169, MLC, 2006	
<b>Hungary</b>	<b>9 reports requested</b>
· No reports received: Conventions Nos. 81, 87, 98, 129, 135, 141, 144, 151, 154	
<b>Iceland</b>	<b>8 reports requested</b>
· 6 reports received: Conventions Nos. 11, 81, 87, 98, 129, 144	
· 2 reports not received: Conventions Nos. (MLC, 2006), (187)	
<b>India</b>	<b>5 reports requested</b>
· No reports received: Conventions Nos. 11, 81, 141, 144, MLC, 2006	
<b>Indonesia</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 81, 87, 98, 144	
<b>Iran (Islamic Republic of)</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 111, MLC, 2006	
<b>Iraq</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 11, 22, 23, 81, (87), 92, 98, 111, 122, 135, 144, 146, 147, 172	
<b>Ireland</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 11, 81, 87, 98, 144, MLC, 2006	
<b>Israel</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 81, 87, 98, 141, 144	

<b>Italy</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 11, 81, 87, 98, 129, 135, 141, 144, 151	
<b>Jamaica</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. (189)</li> <li>· 5 reports not received: Conventions Nos. 11, 81, 87, 98, 144</li> </ul>	
<b>Japan</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 81, 87, 98, 144	
<b>Jordan</b>	<b>5 reports requested</b>
<ul style="list-style-type: none"> <li>· 2 reports received: Conventions Nos. 81, 98</li> <li>· 3 reports not received: Conventions Nos. 135, 142, 144</li> </ul>	
<b>Kazakhstan</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 81, 87, 98, 129, 135, 144	
<b>Kenya</b>	<b>9 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 11, 81, 98, 129, 135, 141, 142, 144, MLC, 2006</li> </ul>	
<b>Kiribati</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. 182</li> <li>· 5 reports not received: Conventions Nos. 87, 98, 111, (144), MLC, 2006</li> </ul>	
<b>Kuwait</b>	<b>4 reports requested</b>
<ul style="list-style-type: none"> <li>· 3 reports received: Conventions Nos. 87, 98, 144</li> <li>· 1 report not received: Convention No. 81</li> </ul>	
<b>Kyrgyzstan</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 11, 81, 87, 95, 98, 124, 131, 144, 154	
<b>Lao People's Democratic Republic</b>	<b>4 reports requested</b>
<ul style="list-style-type: none"> <li>· 3 reports received: Conventions Nos. 13, 144, 171</li> <li>· 1 report not received: Convention No. 6</li> </ul>	
<b>Latvia</b>	<b>25 reports requested</b>
All reports received: Conventions Nos. 3, 12, 13, 14, 17, 18, 19, 24, 81, 87, 98, 106, 115, 119, 120, 129, 131, 132, 144, 148, 150, 155, 160, 173, 183	
<b>Lebanon</b>	<b>35 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 1, 14, 17, 19, 29, 30, 45, 52, 81, 88, 89, 95, 98, 100, 105, 106, 111, 115, 120, 122, 127, 131, 136, 138, 139, 142, 148, 150, 159, 170, 172, 174, 176, 182, (MLC, 2006)</li> </ul>	
<b>Lesotho</b>	<b>12 reports requested</b>
<ul style="list-style-type: none"> <li>· 9 reports received: Conventions Nos. 14, 19, 26, 87, 98, 144, 150, 155, 167</li> <li>· 3 reports not received: Conventions Nos. 45, 81, 135</li> </ul>	
<b>Liberia</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 81, 87, 98, 105, 111, 112, 113, 114, 144, 150	
<b>Libya</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>· 13 reports received: Conventions Nos. 1, 14, 81, 87, 95, 98, 102, 103, 118, 121, 128, 130, 131</li> <li>· 2 reports not received: Conventions Nos. 52, 89</li> </ul>	
<b>Lithuania</b>	<b>16 reports requested</b>
All reports received: Conventions Nos. 1, 14, 19, 24, 47, 81, 87, 98, 115, 127, 131, 144, 160, 171, 173, 183	

<b>Luxembourg</b>	<b>36 reports requested</b>
<ul style="list-style-type: none"> <li>· 26 reports received: Conventions Nos. 1, 3, 13, 14, 30, 81, 115, 119, 120, 127, 129, 132, 136, 139, 148, 155, 161, 162, 167, 170, 171, 174, 175, 176, 183, 184</li> <li>· 10 reports not received: Conventions Nos. 12, 19, 26, 87, 98, 102, 121, 130, 150, (169)</li> </ul>	
<b>Madagascar</b>	<b>34 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 12, 13, 14, 19, 26, 29, 81, 87, 88, 95, 98, 100, 105, 111, 117, 118, 119, 120, 122, 127, 129, 132, 138, (143), 144, (151), (154), 159, 171, 173, (181), 182, 185, (189)</li> </ul>	
<b>Malawi</b>	<b>17 reports requested</b>
<ul style="list-style-type: none"> <li>· 6 reports received: Conventions Nos. 45, 87, 98, 100, 111, 144</li> <li>· 11 reports not received: Conventions Nos. 12, 19, 26, 81, 89, 99, 129, 150, (155), (184), (187)</li> </ul>	
<b>Malaysia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 81, 95, 98, 119, 131, 144, MLC, 2006, 187	
<b>Malaysia - Malaysia - Peninsular</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 12, 17, 19, 45	
<b>Malaysia - Malaysia - Sarawak</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 12, 14, 19	
<b>Maldives</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, (MLC, 2006)	
<b>Mali</b>	<b>15 reports requested</b>
All reports received: Conventions Nos. 13, 14, 17, 18, 19, 26, 52, 81, 87, 95, 98, 144, 150, 155, 183	
<b>Malta</b>	<b>20 reports requested</b>
<ul style="list-style-type: none"> <li>· 14 reports received: Conventions Nos. 1, 14, 62, 81, 87, 98, 106, 119, 127, 129, 132, 136, (144), 148</li> <li>· 6 reports not received: Conventions Nos. 12, 13, 19, 42, 95, 131</li> </ul>	
<b>Marshall Islands</b>	<b>1 report requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Convention No. (182)</li> </ul>	
<b>Mauritania</b>	<b>19 reports requested</b>
All reports received: Conventions Nos. 3, 13, 14, 17, 18, 19, 26, 52, 62, 81, 87, 89, 95, 98, 101, 102, 118, (143), (144)	
<b>Mauritius</b>	<b>19 reports requested</b>
All reports received: Conventions Nos. 12, 14, 17, 19, 26, 42, 81, 87, 95, 98, 99, 144, 150, 155, 160, 175, (183), MLC, 2006, 187	
<b>Mexico</b>	<b>27 reports requested</b>
All reports received: Conventions Nos. 12, 13, 14, 17, 19, 30, 42, 45, 52, 87, 95, (98), 102, 106, 115, 118, 120, 131, 144, 150, 153, 155, 160, 161, 167, 170, 173	
<b>Mongolia</b>	<b>8 reports requested</b>
<ul style="list-style-type: none"> <li>· 7 reports received: Conventions Nos. 87, 98, 103, 144, 155, 176, MLC, 2006</li> <li>· 1 report not received: Convention No. 181</li> </ul>	
<b>Montenegro</b>	<b>31 reports requested</b>
<ul style="list-style-type: none"> <li>· 25 reports received: Conventions Nos. 13, 14, 45, 81, 87, 98, 106, 119, 129, 131, 132, 136, 139, 142, 144, 148, (151), 155, 161, 162, 167, 171, 183, MLC, 2006, 187</li> <li>· 6 reports not received: Conventions Nos. 12, 19, 24, 25, 102, 121</li> </ul>	

<b>Morocco</b>	<b>26 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 12, 13, 14, 17, 19, 30, 42, 45, 52, 81, (97), 98, 99, 101, (102), 106, 119, 129, 131, 136, 144, 150, 162, 176, 183, (187)	
<b>Mozambique</b>	<b>13 reports requested</b>
<hr/>	
· 12 reports received: Conventions Nos. 1, 14, 17, 18, 30, 81, 87, 98, 105, 122, 144, (176)	
· 1 report not received: Convention No. 88	
<b>Myanmar</b>	<b>9 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 1, 14, 17, 19, 26, 42, 52, 63, 87	
<b>Namibia</b>	<b>9 reports requested</b>
<hr/>	
All reports received: Conventions Nos. (81), 87, 98, 111, (122), 144, 150, (151), (188)	
<b>Nepal</b>	<b>4 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 14, 98, 131, 144	
<b>Netherlands</b>	<b>30 reports requested</b>
<hr/>	
· 28 reports received: Conventions Nos. 13, 14, 62, 81, 87, 95, 98, 101, 102, 106, 115, 121, 128, 129, 130, 131, 139, 144, 148, 150, 155, 160, 162, 170, 174, 175, 183, (188)	
· 2 reports not received: Conventions Nos. 12, 19	
<b>Netherlands - Aruba</b>	<b>22 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 14, 25, 29, 81, 87, 88, 94, 95, 101, 105, 106, 113, 114, 118, 121, 122, 131, 138, 140, 142, 144, 182	
<b>Netherlands - Caribbean Part of the Netherlands</b>	<b>11 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 12, 14, 17, 25, 42, 81, 87, 95, 101, 106, 118	
<b>Netherlands - Curaçao</b>	<b>12 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 12, 14, 17, 25, 42, 81, 87, 95, 101, 106, 118, 144	
<b>Netherlands - Sint Maarten</b>	<b>15 reports requested</b>
<hr/>	
· 3 reports received: Conventions Nos. 88, 94, 122	
· 12 reports not received: Conventions Nos. 12, 14, 17, 25, 42, 81, 87, 95, 101, 106, 118, 144	
<b>New Zealand</b>	<b>15 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 12, 14, 17, 26, 42, 47, 52, 81, 98, 99, 101, 144, 155, 160, MLC, 2006	
<b>Nicaragua</b>	<b>25 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 1, 3, 12, 13, 14, 17, 18, 19, 24, 25, 30, 45, 63, 87, 88, 95, 98, 111, 115, 119, 127, 131, 136, 139, 144	
<b>Niger</b>	<b>18 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 13, 14, 18, 81, 87, 95, 98, 102, 119, (122), 131, (144), 148, 150, 155, 161, (183), 187	
<b>Nigeria</b>	<b>16 reports requested</b>
<hr/>	
· 13 reports received: Conventions Nos. 26, 81, 87, 88, 94, 95, 98, 100, 111, 144, 155, 159, MLC, 2006	
· 3 reports not received: Conventions Nos. 19, 45, 185	
<b>North Macedonia</b>	<b>30 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 3, 12, 13, 14, 19, 24, 25, 45, 81, 87, 98, 102, 106, 119, 121, 129, 131, 132, 136, 139, (141), 144, 148, 150, 155, 161, 162, (171), 183, 187	
<b>Norway</b>	<b>34 reports requested</b>
<hr/>	
· 32 reports received: Conventions Nos. 12, 14, 19, 26, 30, 42, 47, 81, 87, 95, 98, 102, 115, 118, 120, 128, 129, 130, 132, 139, 144, 148, 150, 155, 160, 162, 167, 168, 170, 176, 183, 187	
· 2 reports not received: Conventions Nos. 13, 119	

<b>Pakistan</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 98, 100, 107, 111	
<b>Palau</b>	<b>1 report requested</b>
· No reports received: Convention No. (182)	
<b>Panama</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 107, 110, 111, 189	
<b>Papua New Guinea</b>	<b>7 reports requested</b>
· 1 report received: Convention No. 138 · 6 reports not received: Conventions Nos. 29, 98, 100, 111, 122, 158	
<b>Paraguay</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 111, 156, 169, 189	
<b>Peru</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 111, 156, 169, (189)	
<b>Philippines</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 97, 100, 110, 111, 143, 149, (187), 189	
<b>Poland</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 149, (188)	
<b>Portugal</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 143, 149, 156, (188), 189	
<b>Qatar</b>	<b>1 report requested</b>
All reports received: Convention No. 111	
<b>Republic of Korea</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 81, 135, 144	
<b>Republic of Moldova</b>	<b>18 reports requested</b>
All reports received: Conventions Nos. 47, 81, 87, 95, 98, 117, 119, 127, 129, 131, 132, 144, 150, 155, 160, 183, 184, 187	
<b>Romania</b>	<b>4 reports requested</b>
· 2 reports received: Conventions Nos. 98, (MLC, 2006) · 2 reports not received: Conventions Nos. 100, 111	
<b>Russian Federation</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 81, 100, (102), 111, 149, 156, (167)	
<b>Rwanda</b>	<b>16 reports requested</b>
· 15 reports received: Conventions Nos. 26, 29, 42, 81, 100, 105, 111, 138, (144), (150), 154, (155), (181), 182, (187) · 1 report not received: Convention No. 123	
<b>Saint Kitts and Nevis</b>	<b>7 reports requested</b>
· 6 reports received: Conventions Nos. 29, 100, 105, 111, 138, 182 · 1 report not received: Convention No. MLC, 2006	
<b>Saint Lucia</b>	<b>17 reports requested</b>
· No reports received: Conventions Nos. 5, 11, 12, 17, 19, 29, 87, 94, 97, 98, 100, 105, 108, 111, 154, 158, 182	
<b>Saint Vincent and the Grenadines</b>	<b>7 reports requested</b>
· 6 reports received: Conventions Nos. 100, 105, 111, 138, 144, 182 · 1 report not received: Convention No. 122	

<b>Samoa</b>	<b>4 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 100, 111, (144), MLC, 2006	
<b>San Marino</b>	<b>15 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 29, 87, 100, 105, 111, 119, 138, 142, 143, 144, 151, 156, 161, 182, (183)	
<b>Sao Tome and Principe</b>	<b>10 reports requested</b>
<hr/>	
· 5 reports received: Conventions Nos. 29, 81, 87, 98, 105	
· 5 reports not received: Conventions Nos. 100, 111, 138, 182, (183)	
<b>Saudi Arabia</b>	<b>2 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 100, 111	
<b>Senegal</b>	<b>5 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 100, 111, 182, (MLC, 2006), (188)	
<b>Serbia</b>	<b>6 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 97, 100, 111, 143, 156, (184)	
<b>Seychelles</b>	<b>4 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 100, 111, 149, MLC, 2006	
<b>Sierra Leone</b>	<b>20 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 17, 19, 22, 26, 29, 32, 45, 81, 94, 95, 99, 100, 101, 105, 111, 119, 125, 126, 138, 182	
<b>Singapore</b>	<b>2 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 100, (155)	
<b>Slovakia</b>	<b>4 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 100, 111, 156, (MLC, 2006)	
<b>Slovenia</b>	<b>6 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 97, 100, 111, 143, 149, 156	
<b>Solomon Islands</b>	<b>3 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 81, 100, 111	
<b>Somalia</b>	<b>12 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 17, 19, 22, 23, 29, 45, 84, 85, 94, 95, 105, 111	
<b>South Africa</b>	<b>3 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 100, 111, 189	
<b>South Sudan</b>	<b>7 reports requested</b>
<hr/>	
· No reports received: Conventions Nos. 29, 98, 100, 105, 111, 138, 182	
<b>Spain</b>	<b>6 reports requested</b>
<hr/>	
All reports received: Conventions Nos. 97, 100, 111, 156, 169, 172	
<b>Sri Lanka</b>	<b>5 reports requested</b>
<hr/>	
· 3 reports received: Conventions Nos. 98, 110, (MLC, 2006)	
· 2 reports not received: Conventions Nos. 100, 111	

<b>Sudan</b>	<b>4 reports requested</b>
· No reports received: Conventions Nos. 100, 111, (175), (MLC, 2006)	
<b>Suriname</b>	<b>3 reports requested</b>
· 1 report received: Convention No. (138) · 2 reports not received: Conventions Nos. 100, 111	
<b>Sweden</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 100, 111, 143, 149, 156, (189)	
<b>Switzerland</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 172, 189	
<b>Syrian Arab Republic</b>	<b>7 reports requested</b>
· No reports received: Conventions Nos. 29, 100, 105, 107, 111, 138, 182	
<b>Tajikistan</b>	<b>22 reports requested</b>
· 1 report received: Convention No. 81 · 21 reports not received: Conventions Nos. 23, 27, 32, 69, 87, 92, 97, 98, 100, 103, 105, 108, 111, 113, 124, 126, 133, 134, 147, 149, 177	
<b>Thailand</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 111, (188)	
<b>Timor-Leste</b>	<b>2 reports requested</b>
· No reports received: Conventions Nos. 100, 111	
<b>Togo</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 111, MLC, 2006	
<b>Trinidad and Tobago</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 125, 147	
<b>Tunisia</b>	<b>6 reports requested</b>
· 4 reports received: Conventions Nos. 100, 111, 113, 114 · 2 reports not received: Conventions Nos. 185, (MLC, 2006)	
<b>Turkey</b>	<b>22 reports requested</b>
All reports received: Conventions Nos. 55, 68, 69, 92, 98, 100, 108, 111, 115, 119, 127, 133, 134, 146, 152, 155, 161, 164, 166, 167, 176, 187	
<b>Turkmenistan</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 105, 111, (144), 185	
<b>Tuvalu</b>	<b>2 reports requested</b>
· No reports received: Conventions Nos. (182), MLC, 2006	
<b>Uganda</b>	<b>16 reports requested</b>
· No reports received: Conventions Nos. 11, 17, 26, 29, 81, 94, 95, 100, 105, 111, 123, 124, 138, 143, 162, 182	
<b>Ukraine</b>	<b>19 reports requested</b>
All reports received: Conventions Nos. 23, 27, 32, 69, 81, 92, 95, 100, 108, 111, 113, 115, 126, 129, 131, 133, 147, 150, 173	
<b>United Arab Emirates</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 100, 111	

<b>United Kingdom of Great Britain and Northern Ireland</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 32, 100, 108, 111, (188)	
<b>United Kingdom of Great Britain and Northern Ireland - Anguilla</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 22, 23, 58, 108	
<b>United Kingdom of Great Britain and Northern Ireland - Bermuda</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 108, MLC, 2006	
<b>United Kingdom of Great Britain and Northern Ireland - British Virgin Islands</b>	<b>2 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. (MLC, 2006)</li> <li>· 1 report not received: Convention No. 108</li> </ul>	
<b>United Kingdom of Great Britain and Northern Ireland - Falkland Island</b>	<b>3 reports requested</b>
<ul style="list-style-type: none"> <li>· 2 reports received: Conventions Nos. 32, 108</li> <li>· 1 report not received: Convention No. (MLC, 2006)</li> </ul>	
<b>United Kingdom of Great Britain and Northern Ireland - Gibraltar</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 108, MLC, 2006	
<b>United Kingdom of Great Britain and Northern Ireland - Guernsey</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 22, 32, 56, 69, 108, 114	
<b>United Kingdom of Great Britain and Northern Ireland - Isle of Man</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 32, 108, 126	
<b>United Kingdom of Great Britain and Northern Ireland - Jersey</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 22, 32, 56, 69, 108	
<b>United Kingdom of Great Britain and Northern Ireland - Montserrat</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 58, 108	
<b>United Kingdom of Great Britain and Northern Ireland - St Helena</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 58, 108	
<b>United Republic of Tanzania</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· 2 reports received: Conventions Nos. 12, (185)</li> <li>· 5 reports not received: Conventions Nos. 100, 111, 137, 152, (MLC, 2006)</li> </ul>	
<b>United Republic of Tanzania - Tanganyika</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 45, 81, 101, 108	
<b>United Republic of Tanzania - Zanzibar</b>	<b>1 report requested</b>
· No reports received: Convention No. 58	
<b>United States of America</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 55, 58, 147	
<b>United States of America - American Samoa</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 55, 58, 147	
<b>United States of America - Guam</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 55, 58, 147	
<b>United States of America - Northern Mariana Islands</b>	<b>1 report requested</b>
All reports received: Convention No. 147	
<b>United States of America - Puerto Rico</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 55, 58, 147	
<b>United States of America - United States Virgin Islands</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 55, 58, 147	

<b>Uruguay</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 22, 23, 27, 32, 100, 108, 111, 113, 114, 133, 134, 137, (171)	
<b>Uzbekistan</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. (81), 100, 111, (129), (144)	
<b>Vanuatu</b>	<b>7 reports requested</b>
· No reports received: Conventions Nos. 29, 100, 105, 111, (138), 182, 185	
<b>Venezuela (Bolivarian Republic of)</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 1, 22, 26, 27, 87, 95, 100, 111, 144	
<b>Viet Nam</b>	<b>7 reports requested</b>
· 5 reports received: Conventions Nos. (88), (98), 100, 111, MLC, 2006	
· 2 reports not received: Conventions Nos. 27, (159)	
<b>Yemen</b>	<b>6 reports requested</b>
· No reports received: Conventions Nos. 19, 58, 81, 100, 111, 185	
<b>Zambia</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 148, 176	
<b>Zimbabwe</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 26, 87, 99, 100, 105, 111	

### Grand Total

A total of 1,865 reports (article 22) were requested, of which 1,230 reports (65.95 per cent) were received.

A total of 141 reports (article 35) were requested, of which 127 reports (90.07 per cent) were received.

## Appendix II. Statistical table of reports received on ratified Conventions as at 11 December 2021 (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%	

## Appendix III. List of observations made by employers' and workers' organizations

<b>Albania</b>	
<ul style="list-style-type: none"> <li>• Education International (EI)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> 138, 182 MLC, 2006
<b>Algeria</b>	
<ul style="list-style-type: none"> <li>• General and Autonomous Confederation of Workers in Algeria (CGATA)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> 87, 98 MLC, 2006
<b>Antigua and Barbuda</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Argentina</b>	
<ul style="list-style-type: none"> <li>• Confederation of Workers of Argentina (CTA Autonomous)</li> <li>• Confederation of Workers of Argentina (CTA Workers)</li> <li>• Federation of Energy Workers of the Argentine Republic (FeTERA)</li> <li>• General Confederation of Labour of the Argentine Republic (CGT RA)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> 29, 182 81, 87, 98, 151, 154, 155, 187 87 29, 77, 78, 79, 90, 105, 124, 138, 182, MLC, 2006 MLC, 2006
<b>Armenia</b>	
<ul style="list-style-type: none"> <li>• Republican Union of Employers of Armenia (RUEA)</li> <li>• Confederation of Trade Unions of Armenia (CTUA)</li> </ul>	<b>on Conventions Nos</b> 17, 29, 122, 138, 182 17, 29, 105, 122, 138, 182
<b>Australia</b>	
<ul style="list-style-type: none"> <li>• Australian Council of Trade Unions (ACTU)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> 29, 122 MLC, 2006
<b>Austria</b>	
<ul style="list-style-type: none"> <li>• Federal Chamber of Labour (BAK)</li> <li>• Austrian Federal Economic Chamber (WKO)</li> </ul>	<b>on Conventions Nos</b> 29, 105, 122, 138 122
<b>Bahamas</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Bahrain</b>	
<ul style="list-style-type: none"> <li>• General Federation of Bahrain Trade Unions (GFBTU)</li> </ul>	<b>on Conventions Nos</b> 29, 111
<b>Bangladesh</b>	
<ul style="list-style-type: none"> <li>• Bangladesh Employers' Federation (BEF)</li> <li>• Bangladesh Seafarers Union</li> <li>• International Trade Union Confederation (ITUC)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> 149 MLC, 2006 81 MLC, 2006
<b>Barbados</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Belarus</b>	
<ul style="list-style-type: none"> <li>• Belarusian Congress of Democratic Trade Unions (BKDP)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<b>on Conventions Nos</b> 29, 87, 105, 122 87

<b>Belgium</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Confederation of Christian Trade Unions (CSC); General Labour Federation of Belgium (FGTB); General Confederation of Liberal Trade Unions of Belgium (CGSLB)</li> <li>• General Labour Federation of Belgium (FGTB); Confederation of Christian Trade Unions (CSC); General Confederation of Liberal Trade Unions of Belgium (CGSLB)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>98</p> <p>87</p> <p>MLC, 2006</p>
<b>Belize</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<b>Benin</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<b>Bolivia (Plurinational State of)</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Confederation of Private Employers of Bolivia (CEPB)</li> <li>• International Organisation of Employers (IOE)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>98, 131</p> <p>131</p> <p>131</p>
<b>Bosnia and Herzegovina</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<b>Brazil</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• National Confederation of Workers in Teaching Establishments (CONTEE)</li> <li>• Single Confederation of Workers (CUT)</li> <li>• Single Confederation of Workers (CUT); National Federation of Women Domestic Workers (FENATRAD); International Domestic Workers Federation (IDWF)</li> <li>• Union of retired military and their dependants, women pensioners, wives of military personnel, reserve officers TD soldiers of the Armed Forces – FFAA – (SINDMIL)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>29, 98</p> <p>MLC, 2006</p> <p>98, 154</p> <p>29, 98, 105, 122, 138, 154, 182</p> <p>189</p> <p>42, 95, 98, 100, 111, 154, 159, 168</p>
<b>Bulgaria</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Bulgarian Chamber of Commerce and Industry (BCCI)</li> <li>• Confederation of Independent Trade Unions in Bulgaria (CITUB)</li> <li>• Bulgarian Industrial Capital Association (BICA)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• Union for Private Economic Enterprise (UPEE)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>131</p> <p>6, 29, 79, 105, 122, 131, 182</p> <p>6, 29, 77, 78, 79, 105, 122, 124, 131, 138, 182</p> <p>MLC, 2006</p> <p>6, 29, 77, 78, 79, 105, 122, 124, 131, 138, 182</p>
<b>Burundi</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Trade Union Confederation of Burundi (COSYBU)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>26, 29, 90, 98, 105, 138, 182</p>
<b>Cabo Verde</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<b>Cambodia</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98</p>
<b>Cameroon</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• General Union of Workers of Cameroon (UGTC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 122, 138, 144, 158, 182</p>
<b>Canada</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Canadian Labour Congress (CLC)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>29, 105</p> <p>MLC, 2006</p>

<b>Chile</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• Single Central Organization of Workers of Chile (CUT-Chile)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006  122
<b>China</b>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> 111, 122 MLC, 2006
<b>China - Hong Kong Special Administrative Region</b>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> 87 MLC, 2006
<b>Colombia</b>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> <li>• International Trade Union Confederation (ITUC)</li> <li>• National Employers Association of Colombia (ANDI)</li> <li>• Single Confederation of Workers of Colombia (CUT); Confederation of Workers of Colombia (CTC); General Confederation of Labour (CGT)</li> </ul>	<b>on Conventions Nos</b> 87 87 2, 29, 88, 98, 105, 138, 159, 182 2, 29, 88, 98, 105, 138, 159, 182
<b>Congo</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Cook Islands</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Costa Rica</b>	
<ul style="list-style-type: none"> <li>• Confederation of Workers Rerum Novarum (CTRN)</li> </ul>	<b>on Conventions Nos</b> 29, 105, 117, 122, 182
<b>Croatia</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Cuba</b>	
<ul style="list-style-type: none"> <li>• Independent Trade Union Association of Cuba (ASIC)</li> </ul>	<b>on Conventions Nos</b> 87, 98, 122
<b>Cyprus</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Denmark</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Denmark (Faroe Islands)</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006
<b>Djibouti</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• Labour Union of Djibouti (UDT); General Union of Djibouti Workers (UGTD)</li> </ul>	<b>on Conventions Nos</b> MLC, 2006  87, 95, 98, 144
<b>Dominican Republic</b>	
<ul style="list-style-type: none"> <li>• Autonomous Confederation of Workers' Unions (CASC); National Confederation of Dominican Workers (CNTD); National Confederation of Trade Union Unity (CNUS)</li> </ul>	<b>on Conventions Nos</b> 29, 122, 138, 159, 182

## **Ecuador**

- Public Services International (PSI) in Ecuador

**on Conventions Nos**  
87, 98

## **Egypt**

- Center for Trade Union and Workers Services (CTUWS)
- International Trade Union Confederation (ITUC)

**on Conventions Nos**  
87, 98  
87, 98

## **El Salvador**

- International Trade Union Confederation (ITUC)
- National Business Association (ANEP)
- Single Confederation of Salvadoran Workers (CUTS); National Trade Union Federation of Salvadoran Workers (FENASTRAS); Single Federation of Rural Workers of El Salvador (FUOCA)

**on Conventions Nos**  
144  
144  
144

## **Estonia**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

## **Ethiopia**

- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
87  
MLC, 2006

## **Fiji**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

## **Finland**

- Central Organization of Finnish Trade Unions (SAK); Finnish Confederation of Professionals (STTK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)
- Confederation of Finnish Industries (EK)
- Federation of Finnish Enterprises
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
29, 88, 94, 105, 122, 140, 142, 159  
29, 88, 105, 122, 140, 142, 158, 159  
29, 88, 122, 140, 158, 159  
MLC, 2006

## **France**

- French Democratic Confederation of Labour (CFDT)
- General Confederation of Labour - Force Ouvrière - Work, Employment and Vocational Training (CGT-FO-TEFP); National Confederation of Labour - Work, Employment and Vocational Training (CNT-TEFP); SUD Union - Labour, Social Affairs; National Union of Labour, Employment and Vocational Training (SNTEFP-CGT); Single National Union - Work, Employment, Training and Professional Integration SNU-TEFI (FSU)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Movement of the Enterprises of France (MEDEF)
- French Confederation of Management - General Confederation of Professional and Managerial Employees (CFE-CGC)

**on Conventions Nos**  
98, 158  
81, 129, 188  
  
MLC, 2006  
181  
98, 158

## **France (New Caledonia)**

- Social Dialogue Council - NC (CDS)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
29, 82, 88, 94, 105, 122, 142, 181  
MLC, 2006

## **Gabon**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

## **Gambia**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

## **Georgia**

- Georgian Trade Unions Confederation (GTUC)

**on Conventions Nos**  
87, 98, 144, 151

**Germany**

- Confederation of German Employers' Associations (BDA)
- German Confederation of Trade Unions (DGB)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
87, 98  
87, 98, 135  
MLC, 2006

**Ghana**

- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
182  
MLC, 2006

**Greece**

- Greek General Confederation of Labour (GSEE)
- Hellenic Federation of Enterprises and Industries (SEV)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
29, 81, 87, 98, 100, 111, 144, 156  
87, 98, 144, 149  
MLC, 2006

**Grenada**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Guatemala**

- Autonomous Popular Trade Union Movement; Global Unions of Guatemala
- International Trade Union Confederation (ITUC)

**on Conventions Nos**  
87, 98  
87, 98

**Guinea**

- National Union of Domestic Employees (SYNEM); National Union of Domestic Workers (SYNTRAD)

**on Conventions Nos**  
189

**Honduras**

- Honduran National Business Council (COHEP)
- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
81, 87, 98, 111, 122, 144, 169, 182,  
MLC, 2006  
87, 98, 169  
MLC, 2006

**Hungary**

- Forum for the Co-operation of Trade Unions (SZEFE); Public Collection and Public Culture Worker's Union (KKDSZ)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
98, 151, 154  
MLC, 2006

**Iceland**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**India**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Indonesia**

- Confederation of Indonesian Prosperity Trade Union (KSBSI)
- Confederation of Indonesian Trade Unions (KSPI)
- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
87, 98  
87, 98  
87, 98, 144  
MLC, 2006

**Iran (Islamic Republic of)**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Iranian Merchant Mariners Syndicate (IMMS)

**on Conventions Nos**  
MLC, 2006  
MLC, 2006

<b>Iraq</b>	
<ul style="list-style-type: none"> <li>• General Federation of Iraqi Trade Unions (GFITU)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87</p> <p>111</p>
<b>Ireland</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<b>Italy</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• Italian Confederation of Managers and Other Professionals (CIDA)</li> <li>• Italian General Confederation of Labour (CGIL); Italian Confederation of Workers' Trade Unions (CISL); Italian Union of Labour (UIL)</li> <li>• Italian Union of Labour (UIL)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p> <p>81, 135, 141</p> <p>98, 151</p> <p>11, 81, 87, 98, 129, 135, 141, 151</p>
<b>Jamaica</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<b>Japan</b>	
<ul style="list-style-type: none"> <li>• Apaken Kobe (Casual/Temporary/Part-time Non-regular Workers' Union); Rentai Union Suginami; Rentai Workers' Union, Itabashi-ku Section; Union Rakuda (Kyoto Municipality Related Workers' Independent Union)</li> <li>• Japanese Trade Union Confederation (JTUC-RENGO)</li> <li>• Education International (EI)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• Japan Pensioners' Union (JPU); National Confederation of Trade Unions (ZENROREN)</li> <li>• Labor Union of Migrant Workers (LUM)</li> <li>• National Confederation of Trade Unions (ZENROREN)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98</p> <p>87, 98</p> <p>MLC, 2006</p> <p>102</p> <p>29</p> <p>81, 87, 144</p>
<b>Jordan</b>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>98</p> <p>MLC, 2006</p>
<b>Kazakhstan</b>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>81, 87, 129</p>
<b>Kenya</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<b>Kiribati</b>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>182</p> <p>MLC, 2006</p>
<b>Lao People's Democratic Republic</b>	
<ul style="list-style-type: none"> <li>• Lao Federation of Trade Unions (LFTU)</li> <li>• Lao National Chamber of Commerce and Industry (LNCCI)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>13, 144, 171</p> <p>13, 144, 171</p>
<b>Latvia</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• Employers' Confederation of Latvia (LDDK)</li> <li>• Free Trade Union Confederation of Latvia (FTUCL)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p> <p>3, 12, 13, 14, 17, 18, 19, 24, 81, 87, 98, 106, 115, 119, 120, 129, 131, 132, 144, 148, 150, 155, 160, 173, 183</p> <p>98, 132, 173</p>
<b>Lebanon</b>	
<ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>

**Liberia**

- African Regional Organization of the International Trade Union Confederation (ITUC-Africa)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
87, 98

MLC, 2006

**Lithuania**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Luxembourg**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Madagascar**

- Autonomous Trade Union of Labour Inspectors (SAIT)

**on Conventions Nos**  
81, 87, 98, 100, 129

**Malawi**

- Education International (EI)
- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

**on Conventions Nos**  
87, 98  
111, 184

**Malaysia**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Maldives**

- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Maldives Trade Union Congress (MTUC)

**on Conventions Nos**  
MLC, 2006  
MLC, 2006  
87, 98

**Mali**

- Democratic Federation of Workers of Mali (CDTM)
- National Council of Employers of Mali (CNPM)

**on Conventions Nos**  
87, 98, 144  
14, 26, 52, 87, 144, 150, 155, 183

**Malta**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Marshall Islands**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Mauritius**

- Confederation of Free Trade Unions ; State and Other Employees Federation
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
87, 98, MLC, 2006  
MLC, 2006

**Mexico**

- IndustriALL Global Union (IndustriALL)
- National Union of Workers (UNT)
- Authentic Workers' Confederation of the Republic of Mexico (CAT)
- Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)
- Confederation of Employers of the Mexican Republic (COPARMEX)
- Confederation of Workers of Mexico (CTM)
- International Confederation of Workers (CIT)
- Regional Confederation of Mexican Workers (CROM)

**on Conventions Nos**  
87, 98  
87  
12, 13, 14, 17, 19, 30, 42, 45, 52, 87, 95, 98, 102, 106, 115, 118, 120, 131, 144, 150, 153, 155, 160, 161, 167, 170, 173  
45, 87, 95, 115, 131, 150, 155, 160, 161, 167, 170  
170  
12, 13, 14, 17, 19, 30, 42, 45, 52, 87, 95, 98, 102, 106, 115, 118, 120, 131, 144, 150, 153, 155, 160, 161, 167, 170, 173  
45, 87, 95, 98, 131, 150, 155, 160, 161, 167, 170  
12, 13, 14, 17, 19, 30, 42, 45, 52, 87, 95, 98, 102, 106, 115, 118, 120, 131, 153, 160, 161, 167, 173

**Mongolia**

- Education International (EI)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
87, 98  
MLC, 2006

### Montenegro

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Union of Free Trade Unions of Montenegro (UFTUM)

**on Conventions Nos**

MLC, 2006

87, 98, 132

### Morocco

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**

MLC, 2006

### Mozambique

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

**on Conventions Nos**

122

122

### Myanmar

- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**

87

MLC, 2006

### Namibia

- International Trade Union Confederation (ITUC)

**on Convention No.**

111

### Netherlands

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Netherlands Trade Union Confederation (FNV)
- Netherlands Trade Union Confederation (FNV); National Federation of Christian Trade Unions (CNV)
- Netherlands Trade Union Confederation (FNV); National Federation of Christian Trade Unions (CNV); Trade Union Federation for Professionals (VCP)
- Dutch Fisheries Council

**on Conventions Nos**

MLC, 2006

29, 105

81, 87, 98, 102, 128, 130, 131,

139, 155, 162, 170, 174, 175, 183

121

188

### Netherlands (Caribbean Part of the Netherlands)

- Central Dialogue St. Eustatius (CDS)

**on Conventions Nos**

14, 81, 87, 101, 106

### Netherlands (Curaçao)

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**

MLC, 2006

### Netherlands (Sint Maarten)

- International Organisation of Employers (IOE); Sint Maarten Hospitality & Trade Association (SHTA)

**on Conventions Nos**

87, 88, 144

### New Zealand

- Business New Zealand
- Education International (EI)
- International Organisation of Employers (IOE); Business New Zealand
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- New Zealand Council of Trade Unions (NZCTU)

**on Conventions Nos**

12, 14, 47, 81, 144, 155, 160,  
MLC, 2006

98

98

MLC, 2006

12, 14, 17, 26, 42, 47, 52, 81, 98,

101, 144, 155, 160, MLC, 2006

### Nicaragua

- International Organisation of Employers (IOE)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**

87, 144

MLC, 2006

### Nigeria

- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**

87

MLC, 2006

### North Macedonia

- Confederation of Free Trade Unions of Macedonia (KSS)

**on Conventions Nos**

87, 98

### Norway

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**

MLC, 2006

**Palau**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Panama**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- National Confederation of United Independent Unions (CONUSI)
- National Council of Organized Workers (CONATO)

**on Conventions Nos**  
MLC, 2006  
100, 107, 110, 111, 189  
117, 144

**Paraguay**

- Central Confederation of Workers Authentic (CUT-A)
- Union of Women Domestic Workers of Paraguay – Legitimate (SINTRADOP-L); Union of Women and Men Domestic and Allied Workers of Itapúa (SINTRADI); Union of Women Workers in Domestic Service of Paraguay (SINTRADESPY)

**on Conventions Nos**  
169, 189  
189

**Peru**

- General Confederation of Workers of Peru (CGTP); Confederation of Workers of Peru (CTP); Autonomous Workers' Confederation of Peru (CATP); Single Confederation of Workers of Peru (CUT-Perú)
- General Confederation of Workers of Peru (CGTP); National Federation of Women and Men Domestic Workers of Peru (FENTTRAHOP)
- National Confederation of Private Business' Institutions (CONFIEP)

**on Conventions Nos**  
100, 111, 156, 189  
189  
100, 111, 169, 189

**Philippines**

- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
87  
MLC, 2006

**Poland**

- Independent and Self-Governing Trade Union "Solidarnosc"
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
100, 111, 149  
MLC, 2006

**Portugal**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Confederation of Portuguese Business (CIP)
- General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)
- General Workers' Union (UGT)

**on Conventions Nos**  
MLC, 2006  
97, 100, 111, 143  
97, 100, 111, 143, 156, 189  
149, 188

**Republic of Korea**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Federation of Korean Trade Unions (FKTU)
- Korean Confederation of Trade Unions (KCTU)
- Korea Employers' Federation (KEF)

**on Conventions Nos**  
MLC, 2006  
81, 135  
81, 135  
81, 135, 144

**Republic of Moldova**

- National Confederation of Trade Unions of Moldova (CNSM)

**on Conventions Nos**  
81, 129

**Romania**

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); European Transport Workers' Federation (ETF)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
98  
98  
87, 98  
MLC, 2006

**Russian Federation**

- Confederation of Labour of Russia (KTR)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Federation of Independent Trade Unions of Russia (FNPR)

**on Conventions Nos**  
81, 100, 102, 111, 156  
MLC, 2006  
102

### **Saint Kitts and Nevis**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

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

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **Samoa**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **Senegal**

- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
182  
MLC, 2006

### **Serbia**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **Seychelles**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **Sierra Leone**

- Sierra Leone Employers Federation (SLEF)

on Conventions Nos  
17, 19, 26, 95, 99

### **Singapore**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **Slovakia**

- Confederation of Trade Unions of the Slovak Republic (KOZ SR)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
111, 138, 144  
MLC, 2006

### **Slovenia**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **South Africa**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- National Economic Development and Labour Council (NEDLAC)

on Conventions Nos  
MLC, 2006  
111

### **Spain**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Trade Union Confederation of Workers' Commissions (CCOO)
- General Union of Workers (UGT)
- Spanish Confederation of Employers' Organizations (CEOE)

on Conventions Nos  
MLC, 2006  
97, 100, 111, 156, 169, 172  
97, 100, 169  
97, 100, 111, 156, 172

### **Sri Lanka**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **Sudan**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

### **Sweden**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

on Conventions Nos  
MLC, 2006

**Switzerland**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Tajikistan**

- International Trade Union Confederation (ITUC)

**on Convention No.**  
81

**Thailand**

- International Transport Workers' Federation (ITF)
- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- National Congress of Thai Labour (NCTL)

**on Conventions Nos**  
188  
MLC, 2006  
  
100,188

**Togo**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Tunisia**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Turkey**

- Confederation of Public Employees' Trade Unions (KESK)
- Turkish Confederation of Employers' Associations (TISK)
- Association of Turkish Shipowners (TAS)
- Confederation of Turkish Trade Unions (TÜRK-İS)

**on Conventions Nos**  
98, 111, 155  
98, 111, 115, 119, 127, 155, 161, 167, 176, 187  
55, 68, 69, 73, 92, 108, 133, 134, 146, 164, 166  
98, 100, 111

**Turkmenistan**

- International Trade Union Confederation (ITUC)

**on Conventions Nos**  
105

**Tuvalu**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**Ukraine**

- Confederation of Free Trade Unions of Ukraine (KVPU)
- Federation of Trade Unions of Ukraine (FPU)

**on Conventions Nos**  
81, 95, 100, 111, 129, 131, 173  
92, 95, 100, 115, 131, 133, 173

**United Kingdom of Great Britain and Northern Ireland**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)
- Trades Union Congress (TUC)

**on Conventions Nos**  
MLC, 2006  
  
100, 111

**United Kingdom of Great Britain and Northern Ireland (Bermuda)**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**United Kingdom of Great Britain and Northern Ireland (British Virgin Islands)**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**United Kingdom of Great Britain and Northern Ireland (Cayman Islands)**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

**United Kingdom of Great Britain and Northern Ireland (Falkland Islands (Malvinas))**

- International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)

**on Conventions Nos**  
MLC, 2006

<p><b>United Kingdom of Great Britain and Northern Ireland (Gibraltar)</b></p> <hr/> <ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<p><b>United Kingdom of Great Britain and Northern Ireland (Isle of Man)</b></p> <hr/> <ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<p><b>United Republic of Tanzania</b></p> <hr/> <ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p>
<p><b>Uruguay</b></p> <hr/> <ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE); National Chamber of Commerce and Services of Uruguay (CNCS); Chamber of Industries of Uruguay (CIU)</li> </ul>	<p><b>on Convention No.</b></p> <p>98</p>
<p><b>Uzbekistan</b></p> <hr/> <ul style="list-style-type: none"> <li>• International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>100, 111</p>
<p><b>Venezuela (Bolivarian Republic of)</b></p> <hr/> <ul style="list-style-type: none"> <li>• Confederation of Workers of Venezuela (CTV); Independent Trade Union Alliance Confederation of Workers (CTASI); Federation of University Teachers' Associations of Venezuela (FAPUV)</li> <li>• Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS)</li> <li>• Federation of University Teachers' Associations of Venezuela (FAPUV); Federation of Higher Education Workers of Venezuela (FETRAESUV); National Federation of Administrative Professionals and Technicians of the Universities of Venezuela (FENASIPRUV); National Federation of Labour Unions of Higher Education of Venezuela (FENASOESV); Unions of Non-federated University Workers</li> <li>• Independent Trade Union Alliance Confederation of Workers (CTASI)</li> <li>• MOV7 The Voice of Alcasa</li> <li>• Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>26, 87, 95, 100, 111, 144</p> <p>26, 87, 144</p> <p>26, 87, 98</p> <p>26, 87, 95, 111</p> <p>26, 87, 144</p> <p>1, 26, 87, 95, 100, 111, 144</p>
<p><b>Viet Nam</b></p> <hr/> <ul style="list-style-type: none"> <li>• International Transport Workers' Federation (ITF); International Chamber of Shipping (ICS)</li> <li>• Vietnam Chamber of Commerce and Industry (VCCI)</li> <li>• Viet Nam General Confederation of Labour (VGCL)</li> <li>• Vietnam Cooperative Alliance (VCA)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>MLC, 2006</p> <p>98</p> <p>98</p> <p>98</p>
<p><b>Zimbabwe</b></p> <hr/> <ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 105</p>

## Appendix IV. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7 that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specific time period. Under the same provisions, the governments of Member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities.

In accordance with article 23 of the Constitution, a summary of the information communicated by Member States in accordance with article 19 is submitted to the Conference.

At its 267th Session (November 1996), the Governing Body approved new measures to rationalize and simplify proceedings. As a result, the summarized information is presented in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The following summary contains the most recent information on the submission to the competent authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted at the 103rd Session of the Conference (June 2014), the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted at the 104th Session of the Conference (June 2015), as well as the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session (June 2017), and the Violence and Harassment at Work Convention (No. 190), and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.

The summarized information includes communications that were forwarded to the Director-General of the International Labour Office after the closure of the 109th Session of the Conference (June 2021) and which could not therefore be laid before the Conference at that session.

**Armenia.** The Government 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), on 12 May 2016. In addition, the Government submitted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) on 29 April 2019, and the Employment for Peace and Resilience Recommendation, 2015 (No. 205), on 29 September 2017. Subsequently, the Government submitted the Violence and Harassment at Work Convention, (No. 190) and Recommendation (No. 206), 2019 on 27 May 2020.

**Australia.** The Government submitted Convention No. 190 and Recommendation No. 206 to Parliament on 11 December 2020.

**Austria.** The Government submitted Recommendation No. 203 to the National Council of the Austrian Parliament on 3 July 2019 and the Protocol of 2014 to the Forced Labour Convention, 1930, on 12 September 2019.

**Barbados.** The Government submitted the Protocol of 2014 to the Forced Labour Convention, 1930, Recommendation No. 203, Recommendation No. 204 and Recommendation No. 205 to Parliament on 6 October 2021.

**Chile.** The Government submitted Convention No. 190 and Recommendation No. 206 to the National Congress of Chile on 18 December 2020.

**Colombia.** The Government submitted Convention No. 190 and Recommendation No. 206 to the Congress of the Republic on 18 March 2021.

**Cook Islands.** The Government submitted Convention No. 190 and Recommendation No. 206 to Parliament on 17 June 2021.

**Croatia.** The Government submitted Convention No. 190 and Recommendation No. 206 to Parliament on 12 April 2021.

**Cuba.** The Government submitted Convention No. 190 and Recommendation No. 206 to the National Assembly of the People's Power on 26 April 2021.

**Czechia.** The Government submitted Convention No. 190 and Recommendation No. 206 to the Chamber of Deputies of the Parliament on 11 March 2021, and to the Senate of the Parliament on 12 March 2021.

**Fiji.** The Government submitted the following instruments to the Parliament of the Republic of Fiji on 22 March 2021: the Protocol of 2014 to the Forced Labour Convention, 1930, Recommendation No. 203, Recommendation No. 204, Recommendation No. 205, Convention No. 190 and Recommendation No. 206.

**France.** The Government submitted Convention No. 190 and Recommendation No. 206 to the Parliament on 2 June 2021.

**Germany.** The Government submitted Recommendation No. 203 on 18 March 2019, as well as the Protocol of 2014 to the Forced Labour Convention, 1930 on 19 June 2019 to the Parliament of the Federal Republic of Germany (*Deutscher Bundestag*). In addition, the Government submitted Convention No. 190 and Recommendation No. 206 on 4 August 2021 to Parliament.

**Greece.** The Government submitted Recommendation No. 206 to the Hellenic Parliament on 4 June 2021.

**India.** The Government submitted Convention No. 190 and Recommendation No. 206 to the Parliament of India on 17 March 2021.

**Italy.** The Government submitted Convention No. 190 and Recommendation No. 206 to the Parliament of Italy (Chamber of Deputies and Senate) on 29 November 2019.

**Mauritania.** The Government submitted Recommendation No. 205, Convention No. 190 and Recommendation No. 206 to the National Assembly on 27 July 2021.

**Mauritius.** The Government submitted Convention No. 190 and Recommendation No. 206 to the National Assembly of Mauritius on 11 February 2021.

**Mongolia.** The Government submitted the following instruments to the State Great Khural on 9 April 2021: the Protocol of 2014 to the Forced Labour Convention, 1930, Recommendation No. 203, Recommendation No. 204, Recommendation No. 205, Convention No. 190 and Recommendation No. 206.

**Montenegro.** The Government submitted Convention No. 190 and Recommendation No. 206 to Parliament on 26 December 2019.

**Netherlands.** The Government submitted Convention No. 190 and Recommendation No. 206 to Parliament on 11 January 2021.

**Pakistan.** The Government submitted the Protocol of 2014 to the Forced Labour Convention, 1930, Recommendation No. 203, Recommendation No. 204, Recommendation No. 205, Convention No. 190 and Recommendation No. 206 to Parliament on 15 November 2021.

**Philippines.** The Government submitted Convention No. 190 and Recommendation No. 206 to the Congress of the Philippines on 3 December 2019.

**Portugal.** The Government submitted Convention No. 190 and Recommendation No. 206 to the Assembly of the Republic on 21 December 2020.

**Republic of Korea.** The Government submitted Convention No. 190 and Recommendation No. 206 to the National Assembly on 6 September 2021.

**Serbia.** The Government submitted Convention No. 190 and Recommendation No. 206 to the National Assembly on 22 June 2021.

**Spain.** The Government submitted Convention No. 190 to the Cortes Generales on 14 September 2021.

**Togo.** The Government submitted Convention No. 190 and Recommendation No. 206 to the National Assembly on 17 September 2019.

**Uruguay.** The Government submitted Recommendation No. 206 on 30 September 2019 and Recommendation No. 205 on 21 October 2019 to the General Assembly.

## Appendix V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities (31st to 109th Sessions of the International Labour Conference, 1948–2021)

*Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. The Protocols are indicated by the letter "P" followed by the number of the corresponding Convention. When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as submitted.*

*Account has been taken of the date of admission or readmission of member States to the ILO for determining the sessions of the Conference whose texts are taken into consideration.*

*The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972), 73rd Session (June 1987), 93rd Session (June 2005), 97th Session (June 2008), 98th Session (June 2009), 102nd Session (June 2013), 105th Session (June 2016), 107th Session (June 2018) and 109th Session (June 2021).*

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
<b>Afghanistan</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
<b>Albania</b>	79-81, 82 (C176, R183), 83, 84 (C178, P147, R186), 85, 87, 88, 90 (P155), 91, 94, 95 (C187, R197)	78, 82 (P081), 84 (C179, C180, R185, R187), 86, 89, 90 (R193, R194), 92, 95 (R198), 96, 99-101, 103, 104, 106, 108
<b>Algeria</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
<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
<b>Antigua and Barbuda</b>	68-72, 74-82, 83 (C177), 84, 85 (C181), 87, 89 (C184), 90 (P155), 91, 94, 95 (C187), 96 (C188), 100, 103 (P029)	83 (R184), 85 (R188), 86, 88, 89 (R192), 90 (R193, R194), 92, 95 (R197, R198), 96 (R199), 99, 101, 103 (R203), 104, 106, 108
<b>Argentina</b>	31-56, 58-72, 74-90, 92, 94-96, 99-101, 103, 108 (C190)	91, 104, 106, 108 (R206)
<b>Armenia</b>	80-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Australia</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
<b>Austria</b>	31-56, 58-72, 74-92, 94-96, 99, 101, 103	100, 104, 106, 108
<b>Azerbaijan</b>	79-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Bahamas</b>	61-72, 74-84, 87, 91, 94	85, 86, 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Bahrain</b>	63-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Bangladesh</b>	58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Barbados</b>	51-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Belarus</b>	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Belgium</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Belize</b>	68-72, 74-76, 84, 87, 88, 94	77-83, 85, 86, 89-92, 95, 96, 99-101, 103, 104, 106, 108
<b>Benin</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Bolivia (Plurinational State of)</b>	31-56, 58-72, 74-79, 80 (C174), 81 (C175), 82 (C176), 83 (C177), 84 (C178, C179, C180), 85 (C181), 87, 88 (C183), 89 (C184), 91, 100	80 (R181), 81 (R182), 82 (P081, R183), 83 (R184), 84 (P147, R185, R186, R187), 85 (R188), 86, 88 (R191), 89 (R192), 90, 92, 94-96, 99, 101, 103, 104, 106, 108
<b>Bosnia and Herzegovina</b>	80-92, 94-96, 99-101, 103, 104, 106	108
<b>Botswana</b>	64-72, 74-92, 94-96, 99, 100	101, 103, 104, 106, 108

	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>Brazil</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Brunei Darussalam</b>		96, 99-101, 103, 104, 106, 108
<b>Bulgaria</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 106	104, 108
<b>Burkina Faso</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104	103 (R203), 106, 108
<b>Burundi</b>	47-56, 58-72, 74-92, 95, 96, 99-101, 103, 104, 106	94, 108
<b>Cabo Verde</b>	65-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Cambodia</b>	53-56, 58-72, 74-92, 94-96, 99-101, 103 (R203), 104	103 (P029), 106, 108
<b>Cameroon</b>	44-56, 58-72, 74-92, 94-96, 101, 108	99, 100, 103, 104, 106
<b>Canada</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Central African Republic</b>	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Chad</b>	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Chile</b>	31-56, 58-72, 74-82, 84 (C178, C179, C180, P147), 87, 94, 95 (C187, R197), 100, 103 (P029), 108	83, 84 (R185, R186, R187), 85, 86, 88-92, 95 (R198), 96, 99, 101, 103 (R203), 104, 106
<b>China</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
<b>Colombia</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 108	104, 106
<b>Comoros</b>	
65-72, 74-78, 87, 103 (P029)	79-86, 88-92, 94-96, 99-101, 103 (R203), 104, 106, 108
<b>Congo</b>	
45-53, 54 (C131, C132), 55, 56, 58 (C138, R146), 59, 60 (C142, R150), 61, 62, 63 (C148, C149, R157), 64-66, 67 (C154, C155, C156), 68 (C158), 71 (C160, C161), 74, 75 (C167, C168), 76, 84, 87, 91, 94, 96	54 (R135, R136), 58 (C137, R145), 60 (C141, C143, R149, R151), 63 (R156), 67 (R163, R164, R165), 68 (C157, P110, R166), 69, 70, 71 (R170, R171), 72, 75 (R175, R176), 77-83, 85, 86, 88-90, 92, 95, 99-101, 103, 104, 106, 108
<b>Cook Islands</b>	
104, 106, 108	
<b>Costa Rica</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Côte d'Ivoire</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Croatia</b>	
80-85, 87, 91, 94, 108	86, 88-90, 92, 95, 96, 99-101, 103, 104, 106
<b>Cuba</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Cyprus</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Czechia</b>	
80-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Democratic Republic of the Congo</b>	
45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Denmark</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

	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>Djibouti</b>	64-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Dominica</b>	68-72, 74-79, 87, 100 (C189)	80-86, 88-92, 94-96, 99, 100 (R201), 101, 103, 104, 106, 108
<b>Dominican Republic</b>	31-56, 58-72, 74-92, 94, 95, 99, 100	96, 101, 103, 104, 106, 108
<b>Ecuador</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104, 108 (C190)	103 (R203), 106, 108 (R206)
<b>Egypt</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>El Salvador</b>	31-56, 58-61, 63 (C149), 64, 67 (R164, R165, C155, C156), 69 (R168, C159), 71, 72, 74-81, 87, 90 (P155)	62, 63 (R156, R157, C148), 65, 66, 67 (R163, C154), 68, 69 (R167), 70, 82-86, 88, 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Equatorial Guinea</b>	67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Eritrea</b>	80-92, 94-96, 99-101	103, 104, 106, 108
<b>Estonia</b>	79-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Eswatini</b>	60-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Ethiopia</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Fiji</b>	59-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Finland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
<b>France</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Gabon</b>	45-56, 58-72, 74-81, 82 (C176), 83 (C177), 84, 85 (C181), 87, 89 (C184), 91, 94	82 (P081, R183), 83 (R184), 85 (R188), 86, 88, 89 (R192), 90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Gambia</b>	82-92, 94-96	99-101, 103, 104, 106, 108
<b>Georgia</b>	80-92, 94-96, 99-101	103, 104, 106, 108
<b>Germany</b>	34-56, 58-72, 74-76, 77 (C170, R177), 78-92, 94-96, 99-101, 103, 104, 106, 108	77 (C171, P089, R178)
<b>Ghana</b>	40-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106, 108
<b>Greece</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Grenada</b>	66-72, 74-92, 94, 95, 100 (C189)	96, 99, 100 (R201), 101, 103, 104, 106, 108
<b>Guatemala</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Guinea</b>	43-56, 58-72, 74-83, 87, 95 (R197, C187), 100	84-86, 88-92, 94, 95 (R198), 96, 99, 101, 103, 104, 106, 108
<b>Guinea - Bissau</b>	63-72, 74-88, 94, 106	89-92, 95, 96, 99-101, 103, 104, 108
<b>Guyana</b>	50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101, 103, 104, 106, 108

	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>Haiti</b>	31-56, 58-66, 67 (C156, R165), 69-72, 74, 75 (C167), 87	<b>67 (C154, C155, R163, R164), 68, 75 (C168, R175, R176), 76-86, 88-92, 94-96, 99-101, 103, 104, 106, 108</b>
<b>Honduras</b>	38-56, 58-72, 74-92, 94-96, 99-101, 103, 104	<b>106, 108</b>
<b>Hungary</b>	31-56, 58-72, 74-92, 94-96	<b>99-101, 103, 104, 106, 108</b>
<b>Iceland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>India</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Indonesia</b>	33-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Iran (Islamic Republic of)</b>	31-56, 58-72, 74-92, 94-96, 100, 101, 103, 104, 106, 108	<b>99</b>
<b>Iraq</b>	31-56, 58-72, 74-87, 88 (C183), 89, 90 (P155), 91, 94, 95 (C187, R197), 96 (C188), 100 (C189)	<b>88 (R191), 90 (R193, R194), 92, 95 (R198), 96 (R199), 99, 100 (R201), 101, 103, 104, 106, 108</b>
<b>Ireland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Israel</b>	32-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Italy</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Jamaica</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
<b>Japan</b>	35-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Jordan</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
<b>Kazakhstan</b>	82 (C176, R183), 87, 88, 91	80, 81, 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Kenya</b>	48-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Kiribati</b>	88-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Kuwait</b>	45-56, 58-72, 74-76, 78, 79, 80 (C174), 81-85, 87, 88, 90, 91	77, 80 (R181), 86, 89, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Kyrgyzstan</b>	87, 89, 103 (P029)	79-86, 88, 90-92, 94-96, 99-101, 103 (R203), 104, 106, 108
<b>Lao People's Democratic Republic</b>	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100, 103	82 (P081), 101, 104, 106, 108
<b>Latvia</b>	79-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Lebanon</b>	32-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Lesotho</b>	66-72, 74-92, 94-96, 100, 101, 103 (P029), 104	99, 103 (R203), 106, 108
<b>Liberia</b>	31-56, 58-72, 74-76, 77 (C170, C171, R177, R178), 78-81, 82 (C176, R183), 83-87, 91, 94	77 (P089), 82 (P081), 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Libya</b>	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103, 104, 106, 108

	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>Lithuania</b>	79-92, 94-96, 99-101, 103, 104, 106	108
<b>Luxembourg</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Madagascar</b>	45-56, 58-72, 74-91, 94-96, 100, 103 (P029)	92, 99, 101, 103 (R203), 104, 106, 108
<b>Malawi</b>	49-56, 58-72, 74-92, 94-96, 103 (P029)	99-101, 103 (R203), 104, 106, 108
<b>Malaysia</b>	41-56, 58-72, 74-92, 94, 95 (C187, R197)	95 (R198), 96, 99-101, 103, 104, 106, 108
<b>Maldives</b>		99-101, 103, 104, 106, 108
<b>Mali</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Malta</b>	49-56, 58-72, 74-92, 94, 95, 100 (C189), 103 (P029)	96, 99, 100 (R201), 101, 103 (R203), 104, 106, 108
<b>Marshall Islands</b>		99-101, 103, 104, 106, 108
<b>Mauritania</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Mauritius</b>	53-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Mexico</b>	31-56, 58-72, 74-92, 94, 95 (R198), 99, 100 (C189), 101, 106	95 (C187, R197), 96, 100 (R201), 103, 104, 108
<b>Mongolia</b>	52-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
<b>Montenegro</b>	
96, 99-101, 103, 104, 106, 108	
<b>Morocco</b>	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Mozambique</b>	
61-72, 74-82, 87, 94, 103 (P029), 104, 106	<b>83-86, 88-92, 95, 96, 99-101, 103 (R203), 108</b>
<b>Myanmar</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Namibia</b>	
65-72, 74-92, 94-96, 99-101, 103 (P029), 104, 106, 108 (C190)	<b>103 (R203), 108 (R206)</b>
<b>Nepal</b>	
51-56, 58-72, 74-92, 94-96, 99-101	<b>103, 104, 106, 108</b>
<b>Netherlands</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>New Zealand</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Nicaragua</b>	
40-56, 58-72, 74-92, 94-96, 99-101, 103	<b>104, 106, 108</b>
<b>Niger</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Nigeria</b>	
45-56, 58-72, 74-92, 94, 95, 100, 104	<b>96, 99, 101, 103, 106, 108</b>
<b>North Macedonia</b>	
80-83, 85, 87, 88, 95 (C187, R197)	<b>84, 86, 89-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108</b>
<b>Norway</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>

	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>Oman</b>	81-92, 95 (R197, R198), 99	<b>94, 95 (C187), 96, 100, 101, 103, 104, 106, 108</b>
<b>Pakistan</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Palau</b>		<b>101, 103, 104, 106, 108</b>
<b>Panama</b>	31-56, 58-72, 74-87, 88 (R191), 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99-101, 103, 104, 106	<b>88 (C183), 89 (C184), 90 (P155), 91, 95 (C187), 96 (C188), 108</b>
<b>Papua New Guinea</b>	61-72, 74-87	<b>88-92, 94-96, 99-101, 103, 104, 106, 108</b>
<b>Paraguay</b>	40-56, 58-72, 74-92, 94-96, 99-101, 103, 104	<b>106, 108</b>
<b>Peru</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029)	<b>103 (R203), 104, 106, 108</b>
<b>Philippines</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Poland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Portugal</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Qatar</b>	58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Republic of Korea</b>	79-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Republic of Moldova</b>	79-91, 95 (C187, R197), 104	<b>92, 94, 95 (R198), 96, 99-101, 103, 106, 108</b>

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
<b>Romania</b>	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Russian Federation</b>	
37-56, 58-72, 74-88, 91, 94, 95 (C187, R197), 103, 104	89, 90, 92, 95 (R198), 96, 99-101, 106, 108
<b>Rwanda</b>	
47-56, 58-72, 74-79, 81, 85, 87, 95 (C187, R197)	80, 82-84, 86, 88-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108
<b>Saint Kitts and Nevis</b>	
84, 87, 94	83, 85, 86, 88-92, 95, 96, 99-101, 103, 104, 106, 108
<b>Saint Lucia</b>	
67 (C154, C155, R163), 68 (C158, R166), 87, 90 (P155)	66, 67 (C156, R164, R165), 68 (C157, P110), 69-72, 74-86, 88, 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Saint Vincent and the Grenadines</b>	
84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101, 103, 104, 106, 108
<b>Samoa</b>	
94-96, 99-101, 103, 104, 106	108
<b>San Marino</b>	
68-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Sao Tome and Principe</b>	
68-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Saudi Arabia</b>	
61-72, 74-92, 94-96, 99-101, 103 (P029)	103 (R203), 104, 106, 108
<b>Senegal</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Serbia</b>	
89-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Seychelles</b>	
63-72, 74-88, 94	89-92, 95, 96, 99-101, 103, 104, 106, 108

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>Sierra Leone</b>	
45-56, 58-61, 62 (C145, C147, R153, R155), 64 (C150), 67 (C155), 85 (C181), 95 (C187), 100 (C189), 103 (P029)	62 (C146, R154), 63, 64 (C151, R158, R159), 65, 66, 67 (C154, C156, R163, R164, R165), 68-72, 74-84, 85 (R188), 86-92, 94, 95 (R197, R198), 96, 99, 100 (R201), 101, 103 (R203), 104, 106, 108
<b>Singapore</b>	
50-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106, 108
<b>Slovakia</b>	
80-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Slovenia</b>	
79-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Solomon Islands</b>	
74, 87	70-72, 75-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<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)
<b>South Africa</b>	
81, 82 (C176, R183), 83-92, 94-96, 99-101	103, 104, 106, 108
<b>South Sudan</b>	
	101, 103, 104, 106, 108
<b>Spain</b>	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108 (C190)	108 (R206)
<b>Sri Lanka</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Sudan</b>	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Suriname</b>	
61-72, 74-92, 94-96, 99-101, 103	104, 106, 108
<b>Sweden</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108

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>Switzerland</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Syrian Arab Republic</b>	
31-56, 58-65, 67, 68, 69 (C159, R167), 71, 72, 74-76, 77 (C170, R177), 84, 87-89, 90 (P155), 94	66, 69 (R168), 70, 77 (C171, P089, R178), 78-83, 85, 86, 90 (R193, R194), 91, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Tajikistan</b>	
81-92, 94-96, 99-101, 103 (P029)	103 (R203), 104, 106, 108
<b>Thailand</b>	
31-56, 58-72, 74-92, 94-96, 99, 100 (R201), 101, 103, 104	100 (C189), 106, 108
<b>Timor-Leste</b>	
92, 94-96	99-101, 103, 104, 106, 108
<b>Togo</b>	
44-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Tonga</b>	
	106, 108
<b>Trinidad and Tobago</b>	
47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Tunisia</b>	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Turkey</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Turkmenistan</b>	
81-92, 94-96, 99-101, 103, 104, 106	108
<b>Tuvalu</b>	
	99-101, 103, 104, 106, 108
<b>Uganda</b>	
47-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108

	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>Ukraine</b>	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>United Arab Emirates</b>	58-72, 74-92, 95, 96	94, 99-101, 103, 104, 106, 108
<b>United Kingdom of Great Britain and Northern Ireland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>United Republic of Tanzania</b>	46-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>United States of America</b>	66-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Uruguay</b>	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108	90 (P155), 95 (C187)
<b>Uzbekistan</b>	80-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Vanuatu</b>		91, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Venezuela (Bolivarian Republic of)</b>	41-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
<b>Viet Nam</b>	79-92, 94-96, 99-101, 103, 104	106, 108
<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
<b>Zambia</b>	49-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Zimbabwe</b>	66-72, 74-92, 94-96, 99-101, 103, 104, 106	108

## Appendix VI. Overall position of Member States with regard to the submission to the competent authorities of the instruments adopted by the Conference (as at 11 December 2021)

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	1	3	<b>149</b>
<b>72nd</b> (June 1986)	145	0	4	<b>149</b>
<b>74th</b> (October 1987)	147	0	2	<b>149</b>
<b>75th</b> (June 1988)	144	2	3	<b>149</b>
<b>76th</b> (June 1989)	142	0	5	<b>147</b>
<b>77th</b> (June 1990)	136	3	8	<b>147</b>
<b>78th</b> (June 1991)	140	0	9	<b>149</b>
<b>79th</b> (June 1992)	145	1	10	<b>156</b>
<b>80th</b> (June 1993)	151	2	14	<b>167</b>
<b>81st</b> (June 1994)	157	1	13	<b>171</b>
<b>82nd</b> (June 1995)	150	8	15	<b>173</b>
<b>83rd</b> (June 1996)	151	3	20	<b>174</b>
<b>84th</b> (October 1996)	156	3	15	<b>174</b>
<b>85th</b> (June 1997)	150	5	19	<b>174</b>
<b>86th</b> (June 1998)	145	0	29	<b>174</b>
<b>87th</b> (June 1999)	173	0	1	<b>174</b>
<b>88th</b> (June 2000)	146	4	25	<b>175</b>
<b>89th</b> (June 2001)	140	5	30	<b>175</b>
<b>90th</b> (June 2002)				

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of ILO Member States at the time of the session
	All the instruments have been submitted	Some of the instruments have been submitted	None of the instruments have been submitted	
<b>90th</b> (June 2002)	137	8	30	<b>175</b>
<b>91st</b> (June 2003)	148	0	28	<b>176</b>
<b>92nd</b> (June 2004)	136	0	41	<b>177</b>
<b>94th</b> (February 2006)	152	0	26	<b>178</b>
<b>95th</b> (June 2006)	133	17	28	<b>178</b>
<b>96th</b> (June 2007)	130	3	45	<b>178</b>
<b>99th</b> (June 2010)	119	0	64	<b>183</b>
<b>100th</b> (June 2011)	124	7	52	<b>183</b>
<b>101st</b> (June 2012)	118	0	67	<b>185</b>
<b>103rd</b> (June 2014)	101	17	67	<b>185</b>
<b>104th</b> (June 2015)	101	0	85	<b>186</b>
<b>106th</b> (June 2017)	81	0	106	<b>187</b>
<b>108th</b> (June 2019)	55	6	126	<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>  <b>Observations on Conventions Nos 100, 111, 138, 182</b>  <i>Direct requests on Conventions Nos 105, 111, 138, 140, 141, 142, 144, 182</i>  <i>Direct request on submission</i></p>
<b>Albania</b>	<p><b>General observation</b>  <b>Observations on Conventions Nos 87, 98, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 100, 105</i>  <b>Observation on submission</b></p>
<b>Algeria</b>	<p><b>Observations on Conventions Nos 6, 29, 98, 105, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 77, 78, 105, 182</i></p>
<b>Angola</b>	<p><b>Observations on Conventions Nos 105, 182</b>  <i>Direct requests on Conventions Nos 12, 17, 18, 19, 29, 100, 105, 138, 182</i>  <b>Observation on submission</b></p>
<b>Antigua and Barbuda</b>	<p><b>General observation</b>  <b>Observations on Conventions Nos 138, 144, 151</b>  <i>Direct requests on Conventions Nos 87, 122, 135</i>  <b>Observation on submission</b></p>
<b>Argentina</b>	<p><i>Direct request on submission</i></p>
<b>Armenia</b>	<p><b>Observations on Conventions Nos 17, 138</b>  <i>Direct requests on Conventions Nos 29, 138, 182</i>  <b>Observation on submission</b></p>
<b>Austria</b>	<p><b>Observation on Convention No. 29</b>  <i>Direct request on Convention No. 29</i>  <i>Direct request on submission</i></p>
<b>Azerbaijan</b>	<p><b>Observations on Conventions Nos 29, 105, 138</b>  <i>Direct requests on Conventions Nos 77, 78, 79, 105, 124, 182</i>  <i>Response received to direct requests on Conventions Nos. 90, 138</i></p>
<b>Bahamas</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 87, 138</b>  <i>Direct requests on Conventions Nos 87, 105, 138, 144, 182, MLC</i>  <b>Observation on submission</b></p>
<b>Bahrain</b>	<p><b>Observations on Conventions Nos 29, 105</b>  <i>Direct request on Convention No. 29</i>  <b>Observation on submission</b></p>
<b>Bangladesh</b>	<p><b>Observations on Conventions Nos 29, 59, 81, 105, 182</b>  <i>Direct requests on Conventions Nos 29, 81, 105, 182</i>  <i>Direct request on submission</i></p>
<b>Barbados</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 87, 97, 100, 111, 182</b>  <i>Direct requests on Conventions Nos 29, 81, 87, 97, 100, 102, 105, 111, 122, 128, 144, 182</i>  <b>Observation on submission</b></p>

<b>Belarus</b>	<b>Observation on Convention No. 87</b> <i>Direct request on submission</i>
<b>Belgium</b>	<i>Direct requests on Conventions Nos 29, 87, 187</i>
<b>Belize</b>	<i>General direct request</i> <b>Observations on Conventions Nos 87, 98, 105, 115, 155, 182</b> <i>Direct requests on Conventions Nos 29, 88, 97, 100, 105, 111, 138, 140, 144, 150, 151, 154, 156, 182</i> <b>Observation on submission</b>
<b>Benin</b>	<b>Observations on Conventions Nos 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <i>Direct request on submission</i>
<b>Bolivia (Plurinational State of)</b>	<b>Observations on Conventions Nos 29, 77, 78, 124, 131, 136, 138, 162, 182</b> <i>Direct requests on Conventions Nos 29, 122, 138, 167, 182</i> <b>Observation on submission</b>
<b>Bosnia and Herzegovina</b>	<b>Observations on Conventions Nos 90, 122, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <i>Direct request on submission</i>
<b>Botswana</b>	<b>General observation</b> <b>Observations on Conventions Nos 105, 182</b> <i>Direct requests on Conventions Nos 29, 138, 182</i> <i>Direct request on submission</i>
<b>Brazil</b>	<i>Direct request on Convention No. 98</i> <i>Direct request on submission</i>
<b>Brunei Darussalam</b>	<i>Direct requests on Conventions Nos 138, 182</i> <b>Observation on submission</b>
<b>Bulgaria</b>	<i>Direct requests on Conventions Nos 29, 77, 78, 105, 124, 131</i> <i>Response received to direct requests on Conventions Nos. 6, 79</i> <i>Direct request on submission</i>
<b>Burkina Faso</b>	<b>Observations on Conventions Nos 29, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 182</i> <i>Direct request on submission</i>
<b>Burundi</b>	<b>Observations on Conventions Nos 26, 29, 105, 138, 182</b> <i>Direct requests on Conventions Nos 12, 17, 29, 42, 105, 138, 182</i> <i>Direct request on submission</i>
<b>Cabo Verde</b>	<i>Direct request on submission</i>
<b>Cambodia</b>	<b>Observation on Convention No. 87</b> <i>Direct request on Convention No. 87</i> <i>Direct request on submission</i>
<b>Cameroon</b>	<b>Observations on Conventions Nos 87, 94, 105, 138, 182</b> <i>Direct requests on Conventions Nos 29, 182</i> <i>Direct request on submission</i>
<b>Central African Republic</b>	<b>Observations on Conventions Nos 29, 94, 138, 182</b> <i>Direct requests on Conventions Nos 29, 88, 105, 158, 182</i> <b>Observation on submission</b>

<b>Chad</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 29, 87, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 87, 105, 122, 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>Chile</b>	<p><b>Observation on Convention No. 182</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 138, 182, MLC</i></p> <p><b>Observation on submission</b></p>
<b>China</b>	<p><b>Observations on Conventions Nos 111, 122, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 111, 122, 138, 182, MLC</i></p> <p><i>Direct request on submission</i></p>
Hong Kong Special Administrative Region	<p><b>Observations on Conventions Nos 87, 105</b></p> <p><i>Direct request on Convention No. 105</i></p>
<b>Colombia</b>	<p><b>Observations on Conventions Nos 29, 98, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 98, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Comoros</b>	<p><b>Observations on Conventions Nos 98, 122, 138</b></p> <p><i>Direct requests on Conventions Nos 29, 87, 98, 105, 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>Congo</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 29, 81, 87, 100, 111, 138, 150, 152, 182, MLC</b></p> <p><i>Direct requests on Conventions Nos 29, 98, 100, 105, 111, 138, 144, 149, 182, 185, MLC, 188</i></p> <p><b>Observation on submission</b></p>
<b>Cook Islands</b>	<i>General direct request</i>
<b>Costa Rica</b>	<p><b>Observation on Convention No. 182</b></p> <p><i>Direct requests on Conventions Nos 138, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Côte d'Ivoire</b>	<p><b>Observations on Conventions Nos 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 170, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Croatia</b>	<p><i>Direct request on Convention No. MLC</i></p> <p><b>Observation on submission</b></p>
<b>Cyprus</b>	<p><i>Direct requests on Conventions Nos 29, 94</i></p> <p><i>Direct request on submission</i></p>
<b>Czechia</b>	<i>Direct request on Convention No. 144</i>
<b>Democratic Republic of the Congo</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 29, 94, 105, 138, 144, 158, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 88, 105, 117, 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>Djibouti</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 19, 24, 37, 38, 87, 94, 122, 138, 144, 182</b></p> <p><i>Direct requests on Conventions Nos 17, 18, 29, 71, 81, 87, 88, 96, 98, 100, 105, 111, 138, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Dominica</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 29, 81, 87, 94, 138, 147, 150</b></p> <p><i>Direct requests on Conventions Nos 12, 14, 19, 26, 29, 94, 95, 97, 100, 105, 111, 135, 144, 147, 169, 182</i></p> <p><b>Observation on submission</b></p>

<b>Dominican Republic</b>	<i>Direct request on submission</i>
<b>Ecuador</b>	<b>Observations on Conventions Nos 87, 98, 182</b> <i>Direct requests on Conventions Nos 87, 88, 131, 138, 182</i> <i>Response received to a direct request on Convention No. 95</i> <i>Direct request on submission</i>
<b>Egypt</b>	<b>Observations on Conventions Nos 29, 98, 105, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <i>Direct request on submission</i>
<b>El Salvador</b>	<b>Observation on Convention No. 144</b> <b>Observation on submission</b>
<b>Equatorial Guinea</b>	<b>General observation</b> <b>Observations on Conventions Nos 1, 14, 30, 87, 98, 103</b> <i>Direct requests on Conventions Nos 29, 68, 92, 100, 105, 111, 138, 182</i> <b>Observation on submission</b>
<b>Eritrea</b>	<b>Observations on Conventions Nos 29, 87, 98, 105, 138</b> <i>Direct requests on Conventions Nos 29, 87, 98, 105, 138, 182</i> <i>Direct request on submission</i>
<b>Eswatini</b>	<b>Observation on submission</b>
<b>Ethiopia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 105, 138, 181, 182</b> <i>Direct requests on Conventions Nos 29, 88, 105, 138, 158, 159, 182</i> <i>Direct request on submission</i>
<b>Fiji</b>	<b>Observations on Conventions Nos 105, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 181, 182</i>
<b>Finland</b>	<i>Direct request on Convention No. 29</i>
<b>France</b>	<b>Observation on Convention No. 94</b> <i>Direct requests on Conventions Nos 98, 149</i> <i>Direct request on Convention No. 149</i> <i>Direct requests on Conventions Nos 94, 188</i>
French Polynesia	
New Caledonia	
<b>Gabon</b>	<b>General observation</b> <b>Observations on Conventions Nos 87, MLC</b> <i>Direct requests on Conventions Nos 87, 98, 144, 151, MLC</i> <b>Observation on submission</b>
<b>Gambia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 87, 98</b> <i>Direct request on Convention No. 87</i> <b>Observation on submission</b>
<b>Georgia</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct request on Convention No. 122</i> <i>Direct request on submission</i>
<b>Germany</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 81, 122, 129, 135</i> <i>Direct request on submission</i>
<b>Ghana</b>	<b>Observations on Conventions Nos 87, 98, 111, 182</b> <i>Direct requests on Conventions Nos 29, 111, 144, 182, MLC</i> <i>Direct request on submission</i>

<b>Greece</b>	<b>Observation on Convention No. 98</b> <i>Direct request on Convention No. 87</i>
<b>Grenada</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 87, 144</b> <i>Direct requests on Conventions Nos 81, 87, 97, 100, 105, 111, 138, 182</i> <b>Observation on submission</b>
<b>Guatemala</b>	<b>Observations on Conventions Nos 81, 87, 98, 110, 129, 141, 149</b> <i>Direct requests on Conventions Nos 81, 87, 129, 149, 154</i>
<b>Guinea</b>	<b>General observation</b> <b>Observations on Conventions Nos 87, 118, 156</b> <i>Direct requests on Conventions Nos 98, 118, 121, 140, 156, 176, 187</i> <b>Observation on submission</b>
<b>Guinea - Bissau</b>	<b>Observations on Conventions Nos 26, 98</b> <i>Direct requests on Conventions Nos 17, 98</i> <b>Observation on submission</b>
<b>Guyana</b>	<b>Observations on Conventions Nos 98, 100, 111, 138</b> <i>Direct requests on Conventions Nos 87, 94, 97, 100, 111, 139, 182</i> <b>Observation on submission</b>
<b>Haiti</b>	<b>General observation</b> <b>Observations on Conventions Nos 1, 12, 14, 17, 24, 25, 30, 42, 77, 78, 81, 87, 98, 106, 182</b> <i>Direct requests on Conventions Nos 19, 29, 81, 100, 111, 138, 182</i> <b>Observation on submission</b>
<b>Honduras</b>	<b>Observations on Conventions Nos 81, 87, 98, 169</b> <i>Direct requests on Conventions Nos 81, 111, 169, MLC</i> <i>Direct request on submission</i>
<b>Hungary</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 87, 98, 129</b> <i>Direct requests on Conventions Nos 81, 129, 144, 154</i> <b>Observation on submission</b>
<b>Iceland</b>	<i>General direct request</i> <i>Direct requests on Conventions Nos 81, 129, 144</i>
<b>India</b>	<i>General direct request</i> <b>Observations on Conventions Nos 81, 122</b> <i>Direct requests on Conventions Nos 81, 141, 144, MLC</i>
<b>Iran (Islamic Republic of)</b>	<b>Observation on Convention No. 111</b> <i>Direct request on Convention No. MLC</i> <i>Direct request on submission</i>
<b>Iraq</b>	<b>Observations on Conventions Nos 98, 111</b> <i>Direct requests on Conventions Nos 22, 23, 81, 87, 92, 111, 135, 146, 147</i> <b>Observation on submission</b>
<b>Ireland</b>	<i>Direct requests on Conventions Nos 81, 98, MLC</i> <i>Direct request on submission</i>
<b>Israel</b>	<i>Direct requests on Conventions Nos 81, 144</i> <i>Response received to a direct request on Convention No. 87</i>
<b>Italy</b>	<b>Observation on Convention No. 87</b> <i>Direct request on Convention No. 151</i>

<b>Jamaica</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 81, 87, 122, 144, 149, MLC</i></p> <p><i>Direct request on submission</i></p>
<b>Japan</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct request on Convention No. 144</i></p>
<b>Jordan</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 81, 98, 135</b></p> <p><i>Direct requests on Conventions Nos 81, 122, 144</i></p> <p><i>Direct request on submission</i></p>
<b>Kazakhstan</b>	<p><b>Observations on Conventions Nos 81, 87, 98, 129</b></p> <p><i>Direct requests on Conventions Nos 81, 129</i></p> <p><b>Observation on submission</b></p>
<b>Kenya</b>	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 98, 140, 142, 144, MLC</i></p> <p><i>Direct request on submission</i></p>
<b>Kiribati</b>	<p><i>General direct request</i></p> <p><b>Observation on Convention No. 182</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 182, MLC</i></p>
<b>Kuwait</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 87, 144</i></p>
<b>Kyrgyzstan</b>	<p><b>Observation on Convention No. 87</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 160</i></p> <p><b>Observation on submission</b></p>
<b>Lao People's Democratic Republic</b>	<p><i>Direct requests on Conventions Nos 13, 171</i></p> <p><i>Direct request on submission</i></p>
<b>Latvia</b>	<p><b>Observation on Convention No. 183</b></p> <p><i>Direct requests on Conventions Nos 13, 81, 87, 98, 115, 119, 120, 122, 129, 150, 155, 160</i></p> <p><i>Response received to direct requests on Conventions Nos. 106, 132, 148</i></p>
<b>Lebanon</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 17, 19, 29, 81, 98, 100, 111, 115, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 1, 29, 30, 52, 81, 88, 89, 95, 100, 105, 106, 111, 115, 120, 122, 127, 131, 136, 138, 139, 142, 148, 150, 159, 170, 172, 174, 176, 182</i></p> <p><b>Observation on submission</b></p>
<b>Lesotho</b>	<p><b>Observations on Conventions Nos 87, 98, 155</b></p> <p><i>Direct requests on Conventions Nos 14, 19, 26, 45, 87, 144, 150, 155, 167</i></p> <p><i>Direct request on submission</i></p>
<b>Liberia</b>	<p><b>Observations on Conventions Nos 87, 98, 112, 113, 114</b></p> <p><i>Direct requests on Conventions Nos 81, 111, 150</i></p> <p><b>Observation on submission</b></p>
<b>Libya</b>	<p><i>Direct requests on Conventions Nos 52, 87, 89, 98</i></p> <p><b>Observation on submission</b></p>
<b>Lithuania</b>	<p><i>Direct requests on Conventions Nos 87, 98, 122, 181</i></p> <p><i>Response received to a direct request on Convention No. 159</i></p> <p><i>Direct request on submission</i></p>
<b>Luxembourg</b>	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 1, 30, 81, 87, 102, 115, 127, 129, 148, 155, 159, 161, 162, 167, 174, 176, 183, 184</i></p> <p><i>Response received to direct requests on Conventions Nos. 13, 14, 171</i></p>

<b>Madagascar</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 81, 87, 98, 100, 105, 111, 119, 120, 122, 127, 129, 138, 144, 182</b></p> <p><i>Direct requests on Conventions Nos 12, 13, 14, 26, 29, 81, 88, 95, 100, 111, 117, 129, 132, 159, 171, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Malawi</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 111, 155, 184, 187</b></p> <p><i>Direct requests on Conventions Nos 45, 81, 87, 98, 100, 111, 129, 150, 158, 159</i></p> <p><b>Observation on submission</b></p>
<b>Malaysia</b>	<p><b>Observations on Conventions Nos 81, 98</b></p> <p><i>Direct requests on Conventions Nos 81, 98, 119, 144, MLC, 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>Peninsular</b>	<i>Direct requests on Conventions Nos 19, 45</i>
<b>Sarawak</b>	<p><b>Observation on Convention No. 14</b></p> <p><i>Direct request on Convention No. 19</i></p>
<b>Maldives</b>	<p><b>Observations on Conventions Nos 87, 98, MLC</b></p> <p><i>Direct request on Convention No. MLC</i></p> <p><b>Observation on submission</b></p>
<b>Mali</b>	<p><b>Observations on Conventions Nos 98, 183</b></p> <p><i>Direct requests on Conventions Nos 13, 14, 26, 52, 81, 87, 95, 144, 150, 155, 183</i></p> <p><i>Response received to a direct request on Convention No. 19</i></p> <p><i>Direct request on submission</i></p>
<b>Malta</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><b>Observation on submission</b></p>
<b>Marshall Islands</b>	<p><i>General direct request</i></p> <p><b>Observation on submission</b></p>
<b>Mauritania</b>	<p><b>Observations on Conventions Nos 26, 81, 87, 102</b></p> <p><i>Direct requests on Conventions Nos 3, 13, 14, 62, 81, 89, 98, 102, 118, 122, 143, 144</i></p> <p><i>Response received to direct requests on Conventions Nos. 52, 101</i></p>
<b>Mauritius</b>	<p><b>Observations on Conventions Nos 12, 17, 19, 81, 87, 98</b></p> <p><i>Direct requests on Conventions Nos 14, 81, 87, 95, 144, 150, 155, 159, 183, MLC, 187</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 99, 175</i></p>
<b>Mexico</b>	<p><b>Observations on Conventions Nos 87, 102, 150, 155</b></p> <p><i>Direct requests on Conventions Nos 14, 17, 30, 45, 87, 95, 98, 102, 106, 115, 118, 131, 150, 153, 155, 161, 167, 170</i></p> <p><b>Observation on submission</b></p>
<b>Mongolia</b>	<p><b>Observations on Conventions Nos 100, 111</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 100, 103, 111, 155, 176, 181, MLC</i></p> <p><b>Observation on submission</b></p>
<b>Montenegro</b>	<p><b>Observations on Conventions Nos 81, 87, 98, 129</b></p> <p><i>Direct requests on Conventions Nos 13, 45, 81, 88, 98, 119, 129, 132, 139, 148, 151, 155, 159, 161, 162, 167, 171, 183, MLC, 187</i></p> <p><i>Response received to direct requests on Conventions Nos. 14, 106, 136</i></p>
<b>Morocco</b>	<p><i>General direct request</i></p> <p><b>Observation on Convention No. 94</b></p> <p><i>Direct requests on Conventions Nos 12, 13, 17, 19, 30, 42, 98, 119, 122, 131, 136, 144, 150, 158, 162, 176, 183</i></p>

<b>Mozambique</b>	<b>Observations on Conventions Nos 14, 81, 87, 98</b> <i>Direct requests on Conventions Nos 1, 17, 18, 30, 81, 87, 88, 98, 176</i> <b>Observation on submission</b>
<b>Myanmar</b>	<b>Observation on Convention No. 87</b> <i>Direct request on Convention No. 63</i>
<b>Namibia</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 111, 158</i>
<b>Nepal</b>	<i>Direct request on submission</i>
<b>Netherlands</b>	<b>Observation on Convention No. 98</b> <i>Direct requests on Conventions Nos 87, 160</i>
Aruba	<i>Direct requests on Conventions Nos 14, 29, 81, 88, 94, 95, 105, 106, 121, 182</i> <i>Response received to a direct request on Convention No. 87, 138</i>
Caribbean Part of the Netherlands	<i>Direct request on Convention No. 87</i>
Curaçao	<i>Direct requests on Conventions Nos 14, 81, 95, 106, 172</i>
Sint Maarten	<i>General direct request</i> <b>Observation on Convention No. 87</b> <i>Direct requests on Conventions Nos 14, 101, 106, 144</i>
<b>New Zealand</b>	<b>Observation on Convention No. 98</b> <i>Direct request on Convention No. 144</i>
<b>Nicaragua</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct request on Convention No. 122</i> <i>Direct request on submission</i>
<b>Niger</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 87, 142</i>
<b>Nigeria</b>	<b>Observations on Conventions Nos 26, 81, 87, 95, 98, 100, 111</b> <i>Direct requests on Conventions Nos 19, 45, 81, 94, 111, 155, MLC</i> <i>Direct request on submission</i>
<b>North Macedonia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 13, 81, 87, 98, 129</b> <i>Direct requests on Conventions Nos 3, 14, 81, 106, 119, 129, 131, 132, 136, 139, 144, 148, 150, 155, 161, 162, 183, 187</i> <b>Observation on submission</b>
<b>Norway</b>	<i>Direct requests on Conventions Nos 30, 81, 115, 120, 129, 139, 155, 160, 162, 167, 170, 176, 187</i> <i>Response received to direct requests on Conventions Nos. 14, 132, 148</i> <i>Direct request on submission</i>
<b>Oman</b>	<i>Direct request on submission</i>
<b>Pakistan</b>	<b>Observation on Convention No. 98</b> <b>Observation on submission</b>
<b>Palau</b>	<i>General direct request</i> <i>Direct request on submission</i>
<b>Panama</b>	<b>Observation on Convention No. 107</b> <i>Direct requests on Conventions Nos 107, 111</i> <i>Direct request on submission</i>

<b>Papua New Guinea</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 98, 100, 111, 138, 158</b></p> <p><i>Direct requests on Conventions Nos 29, 111, 122, 138</i></p> <p><b>Observation on submission</b></p>
<b>Paraguay</b>	<p><i>Direct request on submission</i></p>
<b>Peru</b>	<p><b>Observations on Conventions Nos 100, 111, 169</b></p> <p><i>Direct requests on Conventions Nos 100, 111, 156, 169</i></p> <p><i>Direct request on submission</i></p>
<b>Philippines</b>	<p><b>Observation on Convention No. 87</b></p>
<b>Poland</b>	<p><b>Observation on Convention No. 111</b></p> <p><i>Direct requests on Conventions Nos 100, 111</i></p>
<b>Portugal</b>	<p><b>Observation on Convention No. 100</b></p> <p><i>Direct requests on Conventions Nos 97, 100, 111, 143, 156, 188</i></p>
<b>Qatar</b>	<p><i>Direct request on submission</i></p>
<b>Republic of Korea</b>	<p><b>Observation on Convention No. 135</b></p> <p><i>Direct request on Convention No. MLC</i></p>
<b>Republic of Moldova</b>	<p><b>Observations on Conventions Nos 47, 81, 95, 98, 129</b></p> <p><i>Direct requests on Conventions Nos 47, 87, 88, 119, 122, 132, 150, 155, 183, 184, 187</i></p> <p><i>Response received to direct requests on Conventions Nos. 127, 131</i></p> <p><b>Observation on submission</b></p>
<b>Romania</b>	<p><b>Observations on Conventions Nos 98, 111, 122</b></p> <p><i>Direct requests on Conventions Nos 100, 111, 122, MLC</i></p> <p><i>Direct request on submission</i></p>
<b>Rwanda</b>	<p><i>Direct requests on Conventions Nos 122, 154</i></p> <p><b>Observation on submission</b></p>
<b>Saint Kitts and Nevis</b>	<p><i>Direct request on Convention No. MLC</i></p>
<b>Saint Lucia</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 17, 87, 98, 100</b></p> <p><i>Direct requests on Conventions Nos 5, 19, 29, 100, 108, 111, 154, 158, 182</i></p> <p><b>Observation on submission</b></p>
<b>Saint Vincent and the Grenadines</b>	<p><b>Observations on Conventions Nos 100, 111, 182</b></p> <p><i>Direct requests on Conventions Nos 100, 105, 111, 122, 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>Samoa</b>	<p><i>General direct request</i></p> <p><i>Direct request on Convention No. MLC</i></p> <p><i>Direct request on submission</i></p>
<b>San Marino</b>	<p><i>General direct request</i></p> <p><b>Observation on Convention No. 160</b></p> <p><i>Direct requests on Conventions Nos 100, 111, 143, 148, 156</i></p> <p><i>Direct request on submission</i></p>
<b>Sao Tome and Principe</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 98, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 29, 81, 87, 100, 111, 138, 182</i></p> <p><i>Direct request on submission</i></p>

<b>Saudi Arabia</b>	<b>Observation on Convention No. 111</b> <i>Direct request on Convention No. 100, 111</i> <i>Direct request on submission</i>
<b>Senegal</b>	<b>Observations on Conventions Nos 100, 111, 182</b> <i>Direct requests on Conventions Nos 100, 111, 182, MLC, 188</i>
<b>Serbia</b>	<i>General direct request</i> <i>Direct requests on Conventions Nos 97, 156</i>
<b>Seychelles</b>	<i>Direct requests on Conventions Nos 100, 111, MLC</i> <b>Observation on submission</b>
<b>Sierra Leone</b>	<b>Observations on Conventions Nos 17, 29, 81, 94, 119, 138</b> <i>Direct requests on Conventions Nos 26, 29, 32, 45, 81, 95, 99, 100, 101, 105, 111, 125, 126, 138, 182</i> <b>Observation on submission</b>
<b>Singapore</b>	<i>General direct request</i> <b>Observation on Convention No. 100</b> <i>Direct request on Convention No. 100</i> <i>Direct request on submission</i>
<b>Slovenia</b>	<i>General direct request</i> <b>Observations on Conventions Nos 111, 156</b> <i>Direct requests on Conventions Nos 97, 100, 111, 143, 149, 156</i>
<b>Solomon Islands</b>	<i>General direct request</i> <b>Observation on Convention No. 182</b> <i>Direct requests on Conventions Nos 29, 42, 105, 138, 182</i> <b>Observation on submission</b>
<b>Somalia</b>	<i>General direct request</i> <i>Direct request on Convention No. 29</i> <b>Observation on submission</b>
<b>South Africa</b>	<i>Direct request on submission</i>
<b>South Sudan</b>	<b>General observation</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 97, 111, 156, 172</b> <i>Direct requests on Conventions Nos 97, 100, 111, 156</i> <i>Response received to a direct request on Convention No. 169</i>
<b>Sri Lanka</b>	<b>Observations on Conventions Nos 98, 100, 111</b> <i>Direct requests on Conventions Nos 100, 111, MLC</i> <i>Direct request on submission</i>
<b>Sudan</b>	<i>General direct request</i> <i>Direct requests on Conventions Nos 100, 111</i> <i>Direct request on submission</i>
<b>Suriname</b>	<i>General direct request</i> <i>Direct requests on Conventions Nos 100, 111, 138</i> <i>Direct request on submission</i>
<b>Sweden</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 100, 111, 143, 156</i> <i>Direct request on submission</i>

<b>Switzerland</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 100, 111, 189</i> <i>Response received to a direct request on Convention No. 172</i>
<b>Syrian Arab Republic</b>	<b>General observation</b> <b>Observations on Conventions Nos 29, 100, 105, 138, 182</b> <i>Direct requests on Conventions Nos 29, 100, 105, 107, 111, 182</i> <b>Observation on submission</b>
<b>Tajikistan</b>	<i>General direct request</i> <b>Observations on Conventions Nos 47, 81, 95, 97, 100, 111</b> <i>Direct requests on Conventions Nos 14, 32, 47, 52, 81, 87, 97, 98, 103, 105, 106, 111, 149, 160, 177</i> <i>Direct request on submission</i>
<b>Thailand</b>	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 100, 111, 188</i> <i>Direct request on submission</i>
<b>Timor-Leste</b>	<i>General direct request</i> <i>Direct requests on Conventions Nos 100, 111</i> <b>Observation on submission</b>
<b>Togo</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 100, 111, MLC</i> <b>Observation on submission</b>
<b>Tonga</b>	<i>Direct request on submission</i>
<b>Trinidad and Tobago</b>	<b>Observations on Conventions Nos 100, 111, 125</b> <i>Direct requests on Conventions Nos 100, 111, 144, 147</i>
<b>Tunisia</b>	<b>General observation</b> <b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 100, 111, 185</i> <i>Direct request on submission</i>
<b>Turkey</b>	<b>Observations on Conventions Nos 98, 115, 119, 127, 155, 161, 167, 176, 187</b> <i>Direct requests on Conventions Nos 55, 68, 69, 92, 108, 115, 119, 127, 133, 134, 146, 152, 155, 161, 164, 166, 167, 176, 187</i>
<b>Turkmenistan</b>	<b>Observation on Convention No. 105</b> <i>Direct requests on Conventions Nos 100, 105, 111, 185</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>General observation</b> <b>Observations on Conventions Nos 26, 81, 95, 105, 122, 138, 162, 182</b> <i>Direct requests on Conventions Nos 17, 29, 81, 94, 100, 111, 123, 124, 138, 143, 182</i> <i>Direct request on submission</i>
<b>Ukraine</b>	<b>Observations on Conventions Nos 81, 95, 100, 129, 131, 173</b> <i>Direct requests on Conventions Nos 23, 27, 32, 69, 81, 92, 100, 108, 111, 115, 126, 129, 133, 147, 150</i> <i>Direct request on submission</i>
<b>United Arab Emirates</b>	<b>Observations on Conventions Nos. 100, 111</b> <i>Direct requests on Conventions Nos 100, 111</i>
<b>United Kingdom of Great Britain and Northern Ireland</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 32, 100, 108, 111</i>

Anguilla	<i>Direct requests on Conventions Nos 22, 23, 108</i>
Bermuda	<i>Direct requests on Conventions Nos 108, MLC</i>
British Virgin Islands	<i>Direct request on Convention No. 108</i>
Falkland Islands (Malvinas)	<i>General direct request</i>
Gibraltar	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 100, 108, MLC</i>
Guernsey	<i>Direct request on Convention No. 114</i>
Jersey	<i>Direct request on Convention No. 22</i>
<b>United Republic of Tanzania</b>	<i>General direct request</i> <b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 100, 111, 137, 152, 185</i> <i>Direct request on submission</i>
United Republic of Tanzania.Tanganyika	<i>Direct requests on Conventions Nos 45, 81, 101</i>
United Republic of Tanzania.Zanzibar	<i>General direct request</i>
<b>United States of America</b>	<i>Direct requests on Conventions Nos 55, 147</i>
American Samoa	<i>Direct requests on Conventions Nos 55, 147</i>
Guam	<i>Direct requests on Conventions Nos 55, 147</i>
Puerto Rico	<i>Direct requests on Conventions Nos 55, 147</i>
United States Virgin Islands	<i>Direct requests on Conventions Nos 55, 147</i>
Northern Mariana Islands	<i>Direct request on Convention No. 147</i>
<b>Uruguay</b>	<b>Observation on Convention No. 100</b> <i>Direct requests on Conventions Nos 23, 32, 100, 108, 111, 113, 134, 137, 171</i> <b>Observation on submission</b>
<b>Uzbekistan</b>	<i>General direct request</i> <b>Observation on Convention No. 111</b> <i>Direct request on Convention No. 111</i>
<b>Vanuatu</b>	<b>General observation</b> <i>Direct request on Convention No. 182</i> <b>Observation on submission</b>
<b>Venezuela (Bolivarian Republic of)</b>	<b>Observations on Conventions Nos 26, 87, 95, 100, 111, 144</b> <i>Direct requests on Conventions Nos 22, 100, 111</i> <i>Response received to a direct request on Convention No. 1</i> <i>Direct request on submission</i>
<b>Viet Nam</b>	<i>General direct request</i> <b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 27, 98, 100, 111, MLC</i> <i>Direct request on submission</i>
<b>Yemen</b>	<b>General observation</b> <i>Direct requests on Conventions Nos 100, 111</i> <b>Observation on submission</b>
<b>Zambia</b>	<b>Observations on Conventions Nos 100, 111</b> <i>Direct requests on Conventions Nos 100, 111, 148, 176</i> <b>Observation on submission</b>
<b>Zimbabwe</b>	<b>Observations on Conventions Nos 87, 105</b> <i>Direct requests on Conventions Nos 26, 99, 105</i> <i>Direct request on submission</i>