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20th sitting, 14 June 2017 (cont.), 10.50 a.m.

20^e séance, 14 juin 2017 (suite), 10 h 50

20.ª sesión, 14 de junio de 2017 (cont.), 10.50 horas

Chairperson: Mr Washington González

Président: M. Washington González

Presidente: Sr. Washington González

Discussion of individual cases (cont.)

Discussion sur les cas individuels (suite)

Discusión sobre los casos individuales (cont.)

Egypt (ratification: 1957)

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

Convention (n° 87) sur la liberté syndicale et la protection
du droit syndical, 1948

Convenio sobre la libertad sindical y la protección
del derecho de sindicación, 1948 (núm. 87)

A Government representative (Mr. SAAFAN) assured the Committee that his Government fully respected its obligations under all the Conventions it had ratified, including the Convention under examination, ratified in 1957. Based on its belief in the importance of trade union freedom for the realization of social peace and stability as well as balanced labour relations, the Ministry of Manpower had issued a statement on the

establishment of trade union freedoms, according legal personality to trade unions and providing for the receipt and deposition of their founding documents. Thus, 1,800 trade unions had been established at the enterprise level, in addition to 63 general trade unions and 24 trade union federations, which did not belong to the Egyptian Trade Union Federation (ETUF). These trade union organizations played their role in defending the rights and interests of their members, engaging in collective bargaining and concluding collective agreements, which had been registered and deposited at the Ministry.

However, judicial decisions passed by administrative judges and the ordinary judiciary as well as decisions by the State Council had not recognized the statement of the Minister of Manpower, as the ministerial decision could not override the Trade Union Act No. 35 of 1976, which only recognized trade union organizations established according to its provisions. Furthermore, the Civil Code, which provided the general legal framework for all labour legislation, did not recognize legal personality other than that established by law, and not by ministerial decision. Therefore, and in spite of the upheavals since 2011, the Government, since June 2013, had been fully determined to improve and correct the state of affairs, including with regard to trade union organizations, and it had thus taken measures to issue a law in this regard. The President himself had thus urged the House of Representatives to expedite the issuance of labour legislation, including the draft Labour Code and the draft law on trade union organizations, which would abrogate the current Trade Union Act No. 35 of 1976 and thus also lift the before-mentioned judicial decisions.

Although the protection of trade union freedoms was already enshrined in the Constitution of 2014, the new law had been drafted in an explicit manner, using the terms of “trade unions and federations” and not “the federation” as in the current law. The new law was to be considered complementary to the Constitution as it undoubtedly granted additional protections and guarantees, while the Constitution itself was inspired by the international human rights treaties and Conventions which Egypt had ratified, including Convention No. 87. Article 76 of the Constitution thus provided that the establishment of trade unions

and federations on the basis of democratic principles was a right guaranteed by law, and that they would possess legal personality, freely conduct their activities, contribute to enhancing the skills of their members and defend their rights and protect their interests. It further provided that the State guaranteed the independence of trade unions and federations, whose governing bodies could not be dissolved other than by a court judgment.

Based on these constitutional provisions and the international Conventions ratified by Egypt, the Government had elaborated a draft law, with due consideration of all comments by the Committee of Experts and the ILO on the current Trade Union Act. The Ministry had released the law on 27 April 2016, submitting it to the House of Ministers, which, in turn, had approved it and passed it to the State Council. A copy of the law had been sent to the Director-General of the ILO to obtain the ILO's views on the provisions of the law. Comments received from the ILO had partly been integrated in the text of the law during its discussion at the State Council, while responses had been provided on other comments. In April 2017, while the law was pending with the House of Representatives, the ILO had transmitted a second set of comments after having received the final version of the law. The Government had then invited a delegation of experts from the ILO Department of International Labour Standards, which indeed visited Cairo in May 2017. An open discussion had thus been held on technical comments, and agreement had been reached on the amendment of some provisions of the law, which demonstrated Egypt's seriousness and its eagerness to move forward.

In the same month, the President of Egypt had urged the House of Representatives to pass the pending labour legislation. Subsequently, the Labour Committee of the House of Representatives had finalized the draft Labour Code on 28 May 2017, while it had commenced its discussion of the draft law on trade union organizations on 23 May 2017, in preparation for its submission to the plenary session of the Parliament for its adoption.

The draft law on trade union organizations enshrined the principle of freedom of association for trade unions and federations, while guaranteeing their democratic nature and

independence. In particular, it enshrined the freedom for workers to establish trade union organizations, and to join such organizations or to withdraw from them. The bill renounced the notion of the existence of a single trade union federation. It also provided explicitly that public authorities were to refrain from any interference that would restrict or impair the legitimate exercise of these rights. Furthermore, the draft law prohibited the dissolution of trade unions or their governing bodies, or the halting of their activities, by administrative authorities or the competent ministry. It also provided that trade unions, regardless of their level, should acquire legal personality, and abolished the unified hierarchical structure.

With regard to some specific provisions of the draft law on trade union organizations, the speaker explained that sections 1, 4 and 13 provided for the possibility to establish more than one federation, ensuring trade union plurality, and the freedom to join any trade union or federation. Sections 14, 16 and 17 provided for the annulment of provisions on a unified structure. Moreover, the draft law would make it possible for a trade union to establish its own relations if it wished to join a higher organization. Sections 59, 60, 61 and 65 allowed trade union federations to draw up their own financial regulations.

After submission of the draft law on trade union organizations to the House of Representatives and following discussion with the ILO concerning the Committee of Experts comments on the Trade Union Act, and the two sets of comments transmitted by the ILO on the bill, agreement had been reached. Already before the Conference, and during the meeting with ILO representatives in Cairo, the tendency had been to involve the representatives of the independent trade unions in the social dialogue on the draft law taking place in the Ministry of Manpower or in the Labour Committee of the House of Representatives. Moreover, the presidents of the Egyptian trade union federations (ETUF; Egyptian Federation of Independent Trade Unions; Democratic Union of Egyptian Workers) had signed a joint document with the heads of the employers' organizations in Egypt, in which they had identified the provisions agreed upon in the draft law and affirmed their full faith

in the principle of freedom of association as the basic element for the stability of labour relations in Egypt.

In conclusion, the speaker wished to emphasize that: (i) the draft law on trade union organizations had passed through several stages, all with the consensus of the social partners and in full and continuous coordination with the ILO, in all transparency and clarity to ensure its compatibility with international labour standards; (ii) the most important reason behind the delay of its adoption was the absence of an Egyptian Parliament until the beginning of 2016, and the fact that the bill, being complementary to the Constitution, could not be issued by decree; and (iii) the Ministry had not frozen the activities or accounts of the independent trade unions, since it considered it important to give them an opportunity to adjust their conditions and enter under the umbrella of the new law. The new trade unions continued to freely conduct their activities, defend the rights of workers, engage in collective bargaining and conclude collective agreements.

Finally, the speaker questioned the basis and criteria applied for the inclusion of Egypt in the list of individual cases, while reconfirming the Government's seriousness and eagerness to realize social justice for workers, which was not possible without freedom of association, to which the Government was committed through its Constitution and the international Conventions it had ratified. Thus, he reaffirmed that the ongoing cooperation with the ILO had contributed to achieving the progress made in a very short time subframe, and that the Government would continue on this path, in accordance with the Egyptian Constitution and ratified international Conventions.

The Employer members welcomed the information provided and appreciated the recent engagement of the Government with the social partners and the ILO as well as its stated intention to respect the commitment to ensure compliance with the Convention. The Committee of Experts had repeatedly commented on the Labour Code No. 12 of 2003 and had noted the formulation of a new draft Labour Code and the social dialogue taking place in this regard with employers' and workers' organizations. The Employer members

highlighted their diverging view with respect to the Committee of Experts' comments concerning the organization of strike action and restrictions imposed on strikes and other industrial action. Recalling their views on the subject matter, they emphasized that industrial action could be regulated at national level by the Government taking into account national circumstances.

Furthermore, the Employer members made reference to the Committee of Experts' observation that the final draft law on trade union organizations was expected to be finalized soon to replace the Trade Union Act. Emphasizing that the discussions on the bill were ongoing since 2011, the Committee of Experts reiterated its comments on the Trade Union Act, in particular concerning the single trade union system, the control exercised by the ETUF over other trade unions and the prohibition to join more than one trade union. The Employer members noted with interest the steps taken to date by the Government, in particular the completion of the draft law on trade union organizations in April 2016 in a process of social dialogue with the involvement of the workers' and employers' organizations. In August 2016, the Government had received technical comments on the bill from the ILO, which had been discussed by the Council of State and had entailed certain amendments. In April 2017, a second version of the bill had been submitted to the ILO and a mission had been accepted in May 2017 to discuss the additional technical comments from the ILO. In July 2017, the bill would be presented to the stakeholders in a process of social dialogue and would be submitted to Parliament in October 2017.

The Employer members felt encouraged by the concrete steps taken by the Government, which illustrated its commitment towards compliance with the Convention. They urged the Government to continue to bring the discussion forward so as to demonstrate tangible results of its efforts, and invited the Government to continue working with the ILO in cooperation with the social partners so as to ensure that the draft pieces of legislation were in line with the express requirements of the Convention. The Government should provide

up-to-date information on all measures taken in time for its examination by the Committee of Experts.

Les membres travailleurs ont souligné que les engagements du gouvernement pris devant la commission en 2013 en faveur du respect de la liberté syndicale n'ont pas été suivis d'effets. Il est vrai que depuis cette date le pays a connu un changement de régime, mais cela ne saurait justifier l'inertie constatée depuis quatre ans, quand des syndicalistes attendent depuis si longtemps que leur pays se conforme à ses engagements internationaux en leur garantissant la liberté syndicale. A cela s'ajoute un contexte général peu favorable, le pays étant de nouveau en état d'urgence depuis le 9 avril, avec des conséquences importantes sur les libertés publiques. En outre, une nouvelle loi sur les organisations non gouvernementales (ONG) a été adoptée. Elle contient des dispositions qui durcissent drastiquement les modalités de leur constitution, ainsi que des sanctions pénales très sévères en cas de violation de la loi. Certaines déclarations du gouvernement laissent craindre que les principes de cette loi soient également appliqués aux syndicats. Plusieurs circulaires qui visent à limiter la liberté d'action des syndicats indépendants ont aussi été édictées. De plus, la commission d'experts mentionne dans son rapport qu'elle a pris connaissance de plusieurs allégations concernant des cas d'arrestation et de harcèlement de syndicalistes. Or, comme elle le rappelle au paragraphe 59 de son étude d'ensemble sur les conventions fondamentales, 2012, qui fait également référence à la résolution concernant les droits syndicaux et leurs relations avec les libertés civiles de 1970, en l'absence d'un ordre démocratique respectant les droits fondamentaux et les libertés publiques, la liberté syndicale ne peut se développer pleinement. Pour qu'il y ait une véritable liberté syndicale, il est indispensable que les droits suivants soient consacrés: i) le droit à la liberté et à la sûreté de la personne, ainsi qu'à la protection contre les arrestations et les détentions arbitraires; ii) la liberté d'opinion et d'expression, en particulier le droit de ne pas être inquiété pour ses opinions, et celui de chercher, de recevoir et de répandre, sans considération de frontière, les informations et les idées par quelque moyen d'expression que ce soit; iii) la liberté de réunion; iv) le droit à un procès équitable

par un tribunal indépendant et impartial et v) le droit à la protection des biens des syndicats. Les organes de contrôle de l'OIT n'ont cessé de relever l'interdépendance entre les libertés publiques et les droits syndicaux, soulignant ainsi l'idée qu'un mouvement syndical réellement libre et indépendant ne peut se développer que dans un climat exempt de violence, de pressions ou de menaces de quelque nature que ce soit à l'encontre des dirigeants et des membres de ces organisations. Le gouvernement est ainsi invité à prendre toutes les mesures nécessaires pour garantir toutes les dimensions de la liberté syndicale énumérées ci-dessus.

S'agissant des aspects législatifs, un projet de loi sur les syndicats est en cours d'élaboration et sera prochainement adopté. Une mission du BIT s'est récemment rendue dans le pays pour donner un avis technique sur ce projet de loi et pour discuter plus généralement de la liberté syndicale. Il convient d'être tout particulièrement vigilant sur les points suivants: i) le projet de loi contient, en son article 2, une disposition qui place la Fédération égyptienne des syndicats (ETUF), le seul syndicat réellement reconnu aujourd'hui, dans une situation plus favorable que les autres organisations syndicales. En effet, ce syndicat conservera sa personnalité juridique avec la nouvelle loi et ne devra accomplir que quelques démarches supplémentaires, tandis que les syndicats indépendants devront accomplir les nouvelles démarches afin d'obtenir la personnalité juridique. Pour prévenir cette différence de traitement entre organisations, la seule solution consiste à ce que les syndicats indépendants soient reconnus dès à présent; ii) sauf pour les exceptions admises à l'article 9 de la convention, la nouvelle loi ne doit pas contenir de dispositions constituant de fait, pour certains travailleurs, une interdiction de s'affilier à une organisation syndicale, en raison, par exemple, de la nationalité ou de la conviction politique. Il en va de même de l'interdiction de s'affilier à plusieurs syndicats; iii) le nouveau texte devra également veiller à ne contenir aucune disposition susceptible d'entraver l'organisation de la gestion et de l'activité des organisations syndicales, contrairement aux dispositions du projet de loi actuel qui prévoient des mesures de contrôle de la gestion financière exercées par la Confédération des syndicats. L'instauration d'un contrôle financier de la comptabilité exercé de manière

systématique par les autorités publiques, même par l'entremise d'un organe tel qu'«une confédération des syndicats» ou de la Cour des comptes constitue une violation de la convention; iv) enfin, la nouvelle législation devra garantir aux organisations le droit d'élaborer leurs statuts et règlements administratifs, à l'abri de toute ingérence des pouvoirs publics. Ce droit est garanti à l'article 3 de la convention et fait obstacle à ce que les autorités imposent des exigences qui vont au-delà des conditions de forme généralement admises telles que la nécessité de respecter la forme démocratique ou l'instauration d'un droit de recours aux affiliés. Ces différents éléments font l'objet d'observations dans le rapport de la commission d'experts. En tout état de cause, il serait utile que les remarques émises par le Bureau dans le cadre de son assistance technique soient jointes au projet de loi lors de son examen par le Parlement, afin qu'il en tienne compte. S'agissant des circulaires ministérielles évoquées plus haut, elles limitent la liberté d'action des syndicats indépendants. Ces circulaires interdisent de traiter avec ces syndicats et les privent également de la possibilité de percevoir les cotisations de leurs affiliés. Ceci illustre clairement l'ambiguïté que fait régner le gouvernement égyptien: d'un côté, il déclare vouloir respecter la convention et, de l'autre, il prend des mesures qui vont à l'encontre de celle-ci. En attendant que le nouveau texte entre en vigueur, les syndicats indépendants continuent à tomber sous le coup de ces mesures. Le gouvernement doit sans délai y mettre fin, étant donné que la nouvelle loi ne sera d'application que dans plusieurs mois. Il est urgent de permettre aux organisations syndicales indépendantes de pouvoir exercer librement leurs droits. L'Histoire enseigne que les institutions n'acquièrent de la stabilité que lorsqu'elles reposent sur la justice et sur le respect de la dignité humaine.

The Employer member of Egypt (Mr ESHRAH) indicated that he did not share the view expressed by the Worker members. Egypt enjoyed social stability and peace, and there was good cooperation between the Government and the social partners. An agreement had been signed with the social partners and had been submitted to the ILO for comments. Freedom of association should not necessarily mean a proliferation of trade unions which

would inevitably lead to conflicts. There were 1000 trade unions and 26 federations with 5 million members in the country. The independent trade union counted 166 members and a federation of trade unions could not be formed with such limited number of members. Freedom of association should be guaranteed, but on a clear and well-regulated basis, in order to ensure that trade unions were representative.

The draft law on trade union organizations guaranteed freedom of association for workers as well as for employers. The country was adopting new legislation after a period where Parliament did not exist. The Parliament had started to function again in 2016, and this legislation could not be adopted by way of presidential decree. Egypt had ratified ILO core Conventions and the Government ensured their compliance. The Constitution of Egypt guaranteed the right to freedom of association and tripartism, and the Government did not interfere with the independent unions. The Constitution also protected the right to strike. Steps had to be taken before strike action but if followed, they were the only obligations to be met prior to a strike.

While expressing his respect for the work of the Committee of Experts, the speaker stated that it sometimes exceeded its mandate when addressing the right to strike and other issues under the Convention. The Committee of Experts needed to focus on the application of the Convention. More information and facts could also be brought to the attention of the Conference Committee. In his view, the Worker members had referred to facts that were inaccurate.

Lastly, when a country was selected in the shortlist, it generated reaction in the society. The Committee needed to take into consideration the political and economic situation of the countries concerned and to define clear criteria for the selection of cases. A possibility would be to hear the Employer and Worker members from the country concerned before the adoption.

The Worker member of Egypt (Mr WAHBALLAH) denied that the state of emergency impacted trade unions. It had been adopted to protect citizens given that innocents had been murdered.

The speaker confirmed the engagement of the social partners in the tripartite dialogue as reported by the Government. Delays in the elaboration of the draft law on trade union organizations and its adoption were due to political, social and economic difficulties since June 2013. The Committee was asked to show understanding with the circumstances of the country. A new President and a new Parliament had been elected. Numerous draft laws had been submitted to the new Parliament.

On 23 May 2017, a dialogue between the ETUF and the independent unions had been initiated and had led to the signature of a joint declaration that approved the draft law on trade union organizations. The Government and the employers had been informed of the joint declaration. The ETUF had taken the initiative to negotiate with all trade unions, since the draft law on trade union organizations constituted a major challenge for workers.

The ETUF had submitted to the Government a number of modifications to the draft law that had been accepted. The Government had sent the draft law to Parliament where it was under discussion and would be on the agenda the same year. This draft law was consensual and constituted a new era for industrial relations in the country. It was time to revive the trade unions, in the context of the numerous legislative reforms that required harmonization. Egyptian unions wanted to train leaders to face this challenge and transfer from an old system to a new and modern one that would take into account the changes in labour relations. The workers of Egypt wanted to launch a new movement and elections would take place to form a new trade union.

A memorandum of understanding had been signed between the ETUF, the independent unions, and the Federation of employers. This agreement benefited the country as a whole, the workers, and the employers of Egypt. The draft law had been discussed by the three

relevant stakeholders, and workers in Egypt were determined to watch over the adoption of a law that would protect freedom of association, in line with the Convention and the Constitution of Egypt.

The speaker called upon the Committee to take into account in its conclusions the efforts made by the Government, and in particular the tripartite discussions that had been conducted. The Committee was also called upon to note that the draft Labour Code contemplated the question of a strike, an issue that should not be regulated in the legislation of trade unions. The country had experienced obstacles but the situation had improved, politically, economically and socially.

La membre gouvernementale de la Suisse (M^{me} MEYLAN) a regretté l'absence d'effet donné par le gouvernement aux demandes répétées de mettre la loi sur les syndicats en conformité avec la convention et a souligné l'importance qui s'attache à l'indépendance des syndicats et à leur diversité. La pluralité syndicale assure une représentation de toutes les tendances. Exprimant l'espoir que le gouvernement mettra fin aux discriminations antisyndicales, l'oratrice l'a encouragé à modifier le Code du travail, en accord avec les partenaires sociaux, afin de mettre en œuvre les commentaires de la commission d'experts. Elle a également rappelé que la négociation collective doit pouvoir s'exercer à tous les niveaux et réitéré l'espoir que le gouvernement mettra rapidement la loi sur les syndicats en conformité avec la convention.

An observer representing the International Trade Union Confederation (ITUC) (Mr MAHMOUD FATHALLA) expressed concern about the draft law on trade union organizations proposed by the Government, which repressed freedom of association and violated several provisions of the Convention. Although the information provided by the Government was a step forward, the core fundamental problem remained unaddressed. The draft law imposed a model of trade unionism which replicated the current model. Particularly, section 13 provided for three types of trade union organizations: trade union committees, general unions, and national federations. The draft law also imposed conditions

with regard to the number of council members, membership requirements, election rules and procedures, as well as the objectives and activities of the unions. Moreover, the draft law differentiated between the ETUF and other unions. While the former retained its recognized legal personality, the latter would need to be re-registered, in violation of Articles 2 and 11 of the Convention. The Supreme Constitutional Court of Egypt and an Administrative Court had recognized the right to freedom of association as a constitutional right, which entailed the right for unions to establish their own constitutions and the prohibition of interference by the Government or its administrative bodies. Instead of complying with the rulings of the courts, the Government relied on the State Council Advisory Opinion of 21 December 2016, which had instructed the Ministry of Manpower and Immigration not to register independent trade union organizations and had been widely used to attack independent trade unions. In particular, several unions had been instructed by employers and the authorities to stop their activities and vacate their premises, and could no longer collect the monthly contributions of the workers.

La miembro gubernamental de Cuba (Sra. LAU VALDÉS) tomó nota de la información proporcionada por el Gobierno según la cual: i) el nuevo proyecto de ley sobre organizaciones sindicales tiene en cuenta los comentarios de la Comisión de Expertos sobre la necesidad de asegurar la conformidad de la legislación nacional con las disposiciones del Convenio, y ii) el comité legislativo establecido en el seno del Ministerio de la Mano de Obra y Migración ha finalizado la preparación de un nuevo proyecto de Código del Trabajo y sesiones de diálogo se están realizando con organizaciones de empleadores y de trabajadores, así como con organizaciones de la sociedad civil para discutir dicho proyecto. La oradora alentó al Gobierno a que continúe tomando medidas en cumplimiento de los compromisos contraídos.

The Worker member of Germany (Ms BÖNING), speaking also on behalf of the Worker members of Finland, France, Italy, Spain and Sweden, stated that security forces in Egypt were operating with the utmost harshness. Despite the reprisals, local strikes had

occurred in the recent past. Examples included: in May 2016, a shipyard protest in Alexandria where 20 strikers had been arrested by the military police and brought before a military court; in December 2016, a strike in the chemical industry where 200 strikers had been arrested by the police and released after a few hours; and in February 2017, a partial strike of the nursing staff in a hospital where 36 persons had been suspended and subject to an arrest warrant for “work obstruction”. Their only offence was that they had attempted to organize freely outside the state system of control and had demanded higher wages in the face of rising inflation. Furthermore, the speaker highlighted that the state-controlled and supervised ETUF was an extended arm of the Government, supervised by the Minister of Labour in terms of organizational, financial and personnel matters. The ITUC, the European Trade Union Confederation (ETUC) and the German Confederation of Trade Unions (DGB) did not cooperate with the ETUF as it was not considered to be a free trade union. While ETUF enjoyed a state-assured monopoly, the formation of independent and free unions was systematically hampered. The envisaged legislation on the registration and recognition of trade unions would not only perpetuate but also exacerbate the situation. The already registered ETUF would be recognized, whereas all other unions would, in light of the excessive requirements, be de facto deprived of their right to exist. She called on the Government to put an end to the constant legal and practical impediments to free trade unions and eventually fulfil its obligations under the Convention.

El miembro gubernamental de la República Bolivariana de Venezuela (Sr. RIVERO) indicó que valoraba el compromiso del Gobierno a continuar cumpliendo con los convenios de la OIT ratificados. En su informe de 2017, la Comisión de Expertos ha tomado nota con interés del proyecto final de ley sobre organizaciones sindicales, el cual fue aprobado por el Consejo de Ministros y sometido al Parlamento para su adopción. El orador apreció lo expresado por el representante gubernamental con respecto al hecho de que en dicho proyecto se han tomado en cuenta los comentarios de la Comisión de Expertos y confió en que el Gobierno continúe adoptando ulteriores medidas para cumplir con el Convenio,

teniendo presente el espíritu de pluralismo que incluso se refleja en la participación de la delegación tripartita acreditada en esta Conferencia Internacional del Trabajo. Asimismo, estimó que la Comisión debería tener presente la buena disposición y esfuerzos del Gobierno hacia el cumplimiento del Convenio. Por último, confió en que las conclusiones de la Comisión sean objetivas y equilibradas para que el Gobierno pueda considerarlas y valorarlas en el marco de la aplicación del Convenio.

An observer representing the International Transport Workers' Federation (ITF) (Mr SUBASINGHE) recalled the statement of the Worker members that the draft law on trade union organizations did not come close to ensuring full freedom of association rights. The lack of consultation with the independent unions during the drafting process had rendered any semblance of genuine social dialogue void. The new provisions appeared to ensure that those trade unions that were already recognized would continue in their status, while new independent unions would have to go through a fresh registration process. Real trade union pluralism could not be achieved with those provisions, especially given the onerous membership requirements included in the draft proposals for forming unions. The ITF affiliates in Egypt continued to face difficulties. A recent letter from the Government had confirmed that public sector employees were banned from dealing financially and administratively with trade unions, federations, or independent committees not affiliated to the only recognized national union federation. The letter specified that independent unions were illegal for the purpose of the Trade Union Act. In a subsequent letter, the Minister of Labour and the Public Transit Authority had called on the Minister of Local Development to issue the necessary instructions to all sectors under its purview to not accept the stamp of the independent unions on any official documents or national identification documents. As a result, ITF affiliates had reported consistent state interference in their activities, which had prevented them from collecting membership fees, and thus threatened their very existence. The leader of the Dock Workers' Federation had been deducted five days' pay because of a social media post calling for the reinstatement of a statutory monetary supplement. Real

trade unions representing the real interests of the workers needed to be able to function in full freedom. The Government was urged to comply with the observations of the Committee of Experts and to urgently bring its legislation into conformity with the Convention.

The Government member of Mauritania (Mr. BOWBE) stated that the information provided by the Government had proven that progress was under way despite the political challenges currently faced by the country. Following the parliamentary elections, the new draft law on trade union organizations had been prepared in consultation with the social partners and had been sent to the ILO for comments. In April 2017, the Government had sent the final version of the draft law to the ILO. Moreover, according to the Parliamentary committee, another round of consultations would be held next July 2017, and the draft law would be adopted in October 2017.

Another observer representing the International Trade Union Confederation (ITUC) (Ms LAHRECH) indicated that the Egyptian Democratic Labour Congress had been established on 28 January 2014 and had submitted its accreditation to the Ministry of Manpower. However, Circular No. 6-4-2014 from the Council of Ministries had been issued calling all the governmental institutions and administrations to stop the collaboration with any independent union, and to recognize only the Confederation of Trade Unions that was supported by the Government. All related information could be found in the complaint that had been submitted to the ILO in 2013. She also stated that many independent trade unions had been harassed and unionists had been persecuted or threatened, such as the unionists of the Maritime Union who had been convicted by military courts under Case No. 2759/2016. Lastly, the speaker indicated that in the course of this International Labour Conference, 32 persons had been arrested and had lost their right to be paid because of being accused to be calling upon workers to strike.

The Government member of Algeria (Mr KHIAT) welcomed the information provided by the Government on the measures taken to ensure compliance with the Convention. These measures included the preparation of a draft law on trade union

organizations, consultations in this regard with the social partners, as well as the consideration of the relevant technical comments of the ILO. All those steps illustrated the commitment of the Government. With this new draft law, the Government sought to address the discrepancies between the Trade Union Act and the Convention, in particular with regard to the principles of non-interference in the internal affairs of trade unions and trade union pluralism. The Government and the social partners should therefore be encouraged to continue to move forward and avail themselves of the technical assistance of the ILO.

The Government member of Sudan (Ms KHIR ELSEED) commended the important steps taken by the Government despite the difficult situation in the country that experienced political challenges. Labour legislative reforms had been conducted by the Government, in particular with regard to the drafting of a labour law on trade union organizations. The draft legislation had been submitted to the ILO for comments. The speaker welcomed the social dialogue initiated by the Government which was an indication of its respect of freedom of association. The Committee should take into account the positive steps taken by the Government.

Le membre employeur de l'Algérie (M. MEGATELI) a affirmé que le gouvernement, qui avait coopéré avec le BIT et fait d'énormes progrès en matière de réforme législative, devait être encouragé et soutenu. Il convient aussi d'appuyer les mesures prises par le gouvernement, en concertation avec les partenaires sociaux, afin de lever les points qui posaient problème dans le projet de loi sur les syndicats et mettre en place une législation conforme aux conventions de l'OIT ratifiées. Toutes les initiatives prises par les autorités égyptiennes sont des avancées importantes qui méritent soutien et encouragement.

The Government member of Libya (Mr. TAMTAM) stated that the Government had proved its commitment to fully apply the Convention by amending its legislation on trade unions. The new draft law on trade union organizations offered the adequate protection framework to workers, particularly as it had been drafted in collaboration with the ILO. The speaker expressed nonetheless his surprise at the inclusion of the Government in the list of

cases to be discussed before the Committee, given the positive steps already taken by the Government. He urged the Committee to take into account the Government's commitment to fully comply with the Convention.

The Government member of the Russian Federation (Mr KALININ), expressed his deep gratitude to the Government representative for the exhaustive information provided on the steps taken to achieve full compliance with the Convention. He expressed satisfaction with regard to the tripartite social dialogue in Egypt. The cooperation of the Government with the ILO and the efforts to take into account the comments of the ILO on the draft law on trade union organizations were commended. This had led to notable and visible progress, despite the multiple challenges faced by the Government, and this progress would certainly continue. The discussion before the Committee had to be used to express approval and encouragement for the efforts made by the Government to comply with international labour standards, in particular in the area of freedom of association.

The Worker member of Italy (Ms CAPPuccio), speaking also on behalf of the Worker members of Belgium, Spain and the United Kingdom, recalled that the mutilated body of Giulio Regeni had been found near Cairo on 3 February 2016. He had been a 28-year-old student in sociology at the University of Cambridge, whose research had focused on the organization of unions in Egypt. His family still did not know who had ordered his abduction, torture and murder nor the reason. Much uncertainty remained due to the absence of cooperation between the Egyptian and the Italian authorities. There was evidence that Mr Regeni had been tortured for seven days and that he had had a slow death. The Italian paper "La Repubblica" had reported that officers from the National Security Agency had been directly implicated in the murder. As a result, the Public Prosecutor of Rome had requested to the Prosecutor of Cairo the possibility of questioning these agents. This solicitation had remained unanswered. That case was not isolated. For the past three years, non-governmental organizations had reported 1,124 killings, in addition to cases of deaths in detention, individual and collective torture, medical negligence in detention, and other forms

of state violence. Despite the evidence to the contrary, the Government denied the involvement in these crimes and refused to address them. The murder of Giulio Regeni had pointed at a serious deficit in Egypt, which had also been the engine of Tahrir Square: the fundamental human right of workers to organize in order to change their status, become free, and achieve in peace a more just society. The case of Mr Regeni had become a symbol for all Italians and the Government should be aware that justice would be pursued.

The Government member of Ghana (Mr NARH KORLETEY) recalled that the Government was undertaking a review of new draft legislation. The major stakeholders, including workers, employers, civil society and the ILO had been included in the review, which had taken into consideration the comments made by the Committee of Experts with regard to consolidating the provisions on freedom of association, ensuring trade union pluralism and including under the scope of the new draft Labour Code certain vulnerable categories of workers, such as domestic workers. The speaker hoped that the Government would progress without delay on this review to ensure compliance with the Convention.

The Government member of Zimbabwe (Ms HANGA) stated that the Government's comprehensive presentation had helped shed light on the case. From the submissions of the Employer and Worker members of Egypt, it was clear that all tripartite partners were involved in the ongoing reforms. The parties had been consulted and were in agreement with regard to the draft law on trade union organizations. The tripartite partners were therefore encouraged to continue their collaboration on the matter. The speaker agreed with the submission of the Government representative questioning the criteria for listing countries to appear before the Committee. The Government had demonstrated its commitment and willingness to give effect to ratified Conventions and to engage, despite difficult circumstances. The Employer and Worker members of Egypt had acknowledged that social dialogue existed in the country. The Office was called upon to continue offering technical assistance, which would be instrumental in expediting the labour law reform.

The Worker member of the Syrian Arab Republic (Mr ALHALBONI) expressed support for the draft law on trade union organizations, which would soon be brought before the Egyptian Parliament. He commended the comments made by the Office on the draft law and requested the Committee to take into consideration the complex situation in Egypt in recent years. The ILO should continue to provide technical assistance to countries, like Egypt, which had achieved tangible progress towards compliance with the Convention.

The Government representative (Mr. SAAFAN) wished to clarify, with regard to doubts expressed by the Worker members in relation to some of the achievements highlighted, that some of the comments appeared to relate to the Trade Union Act, or an earlier version of the draft law on trade union organizations, which had been revised in the meantime, in light of ILO comments. It was important to recall that since 2011, Egypt had undergone major upheavals and it had been able to make progress only after the calm since mid-2013, with achievements such as the holding of presidential elections, the adoption of the Constitution and the resumption of work by the House of Representatives, the body mandated to adopt legislation. Many interventions appeared to have been based on hearsay only, and not on a study of the actual situation.

Egypt had made progress with the draft law on trade union organizations so as to address flaws in the current law. The new law was based on trade union freedom and had been prepared through tripartite engagement and with the acceptance of many ILO comments. The draft law abolished any distinction between different trade union organizations, and the Government would take all measures needed to finalize the law so as to provide protection to trade unions.

In response to the statement made by the Worker member of Italy, the speaker noted that the incident referred to had also shaken the Egyptian people. Although the statement concerned a criminal offence which should not be discussed before the Committee, he stated that procedures were under way between the public prosecutor in Egypt and his counterpart in Italy, and that a coordination meeting had been held on 17 May together with a judicial

investigation team from Rome. The speaker also referred to the case of an Egyptian citizen who had become a victim of a crime in Italy, and in relation to which similar investigations and coordination were taking place.

Finally, the speaker wished to emphasize that Egypt saw no obstacles to achieving freedom of association and aimed at adopting the draft law on trade union organizations, with the technical support and cooperation from the ILO. The Government had put in place procedures to achieve a system of free and strong trade union organizations by the end of the year. The support of the ILO over the past few years had helped to accelerate the achievements made, in a transparent and open manner. The law would be adopted and serve the public interest of Egypt, in full conformity with its Constitution and the international Conventions ratified by Egypt.

Les membres travailleurs, tout en remerciant le représentant gouvernemental pour les explications et précisions apportées, ont réagi à certains points. Ils ne considèrent pas que l'émission du mouvement syndical soit une bonne chose, mais entre le syndicat unique (comme c'est le cas en Egypte actuellement) et l'émission dont a parlé le représentant gouvernemental, le chemin est long. Il est admis que sur la base de la convention des seuils de représentativité puissent être instaurés si ces seuils sont raisonnables, mais là n'est pas le débat. Les circulaires ministérielles déjà évoquées ont été édictées suite à l'avis du Conseil d'Etat. Cet avis considère qu'au titre de la législation actuelle les syndicats indépendants sont illégaux. Or, de l'aveu même du gouvernement, cette législation est contraire à la convention.

Le gouvernement prétend que la législation en question a connu des modifications et que les remarques des membres travailleurs ne seraient plus valables. Il est toutefois regrettable qu'il n'ait pas jugé utile de transmettre à la présente commission le projet de texte dans sa dernière version, afin que ses membres soient pleinement éclairés.

Le respect total et inconditionnel de la liberté syndicale implique de prendre des mesures concrètes pour respecter et faire respecter cette liberté: i) à court terme, il appartient au gouvernement de retirer les circulaires ministérielles qui reviennent à interdire les syndicats indépendants. Un Etat qui souhaite réellement garantir la liberté syndicale n'a pas besoin qu'une loi soit votée pour en assurer l'exercice. Il suffit de s'abstenir de prendre des mesures qui entraînent sa limitation; ii) à moyen terme, la loi en préparation devra être conforme à toutes les dispositions de la convention et remédier aux critiques concernant la législation actuelle. Plus particulièrement, cela implique que la nouvelle législation garantisse l'expression d'un pluralisme syndical, en veillant à ce qu'aucun syndicat ne puisse être favorisé au détriment des autres. En outre, elle devra garantir la liberté des travailleurs de s'affilier à l'organisation de leur choix, sans qu'aucun critère ou restriction non admis par la convention ne leur soient imposés. Le gouvernement devrait s'abstenir de prendre des dispositions ayant pour conséquence de porter atteinte à l'indépendance et à l'autonomie financière des organisations, telles que l'instauration d'un contrôle sur leur comptabilité. Il en va de même du respect du droit à l'élaboration des statuts et règlements administratifs, sans ingérence de la part des autorités.

A cette fin, le gouvernement pourrait continuer à solliciter l'assistance technique du BIT. Enfin, compte tenu des différentes informations portées à la connaissance de la commission d'experts et relayées dans cette enceinte, une mission de contacts directs est fortement recommandée.

The Employer members highlighted their commitment to freedom of association as it related to both employers' and workers' organizations. Freedom of association was the foundation for democracy and crucial for a climate of stable labour relations conducive to investment. Taking into account the importance of the issues raised, the discussion before the Committee had contributed to a better understanding of the case at hand. They appreciated the Government's commitment and believed that the Committee's conclusions should focus on supporting processes aiming at the drafting and adoption of a final law on

trade unions. The Employer members encouraged the Government to continue to involve the social partners in social dialogue and to report on its efforts to the Committee of Experts so that it could acknowledge progress. They were supportive of processes in which the Government engaged with the ILO with regard to the finalization of the draft law on trade union organizations in line with the Convention.

The sitting closed at 1 p.m.
La séance est levée à 13 heures.
Se levantó la sesión a las 13 horas.

(...)

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