
Committee on the Application of Standards

Statement of the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations, Judge Abdul G. Koroma

Thank you Chairperson.

Let me begin by congratulating you on your appointment to the important function of Chairperson of the Conference Committee on the Application of Standards. I also wish to convey my congratulations to Ms Sonia Regenbogen and Mr Marc Leemans for their appointment respectively as the Employer Vice-Chairperson and the Worker Vice-Chairperson. I had the pleasure to meet both Ms Regenbogen and Mr Leemans in my capacity as Chairperson of the Committee of Experts on the Application of Conventions and Recommendations on the occasion of the special sitting held by the Committee of Experts at its last session in November–December 2017.

Chairperson,

On behalf of the Committee of Experts, I wish to express our appreciation to the Committee on the Application of Standards for having renewed the invitation made to all the Chairpersons of the Committee of Experts since 1993. I feel privileged to participate as an observer in the general discussion of your Committee as well as in its discussion of the General Survey on the instruments relative to working time.

Allow me to announce at the outset certain changes in the composition of the Committee of Experts. Following the retirement of Professor Mario Ackerman, the Governing Body decided to appoint Ms Monica Pinto, Professor of International Law and Human Rights Law and Dean of the University of Buenos Aires Law School, and an eminent jurist. More recently Justice Shah, decided to leave the Committee of Experts for personal reasons but I am confident that the Committee will be able to function with its full membership at its next session later in November 2018. I would like to take this opportunity to thank both Professor Ackerman and Justice Shah for their invaluable and longstanding contribution to the work of the Committee.

Now back to the main subject of my intervention. The special sitting of the Committee of Experts with the two Vice-Chairpersons of the Conference Committee is – together with the participation of the Chairperson of the Committee of Experts in the work of your Committee – the institutional means whereby representatives of the two Committees exchange views on matters of common interest. This constitutes an example of good practice that we are looking forward to maintaining and further enhancing in the future.

A detailed account of the discussion can be found in the general part of the Committee of Experts' Report. I will confine myself to highlighting a few points.

The Committee of Experts has been particularly interested in the suggestions of the two Vice-Chairpersons on ways to strengthen the supervisory mechanism.

The Committee took due note of the concerns expressed by the Employer Vice-Chairperson as to the increase in the number of cases of serious failure to report and her call for an in-depth discussion and specific measures to be considered in the context of the informal tripartite consultations on the working methods of the Conference Committee.

The Committee of Experts shares these concerns and therefore decided to take specific measures paying closer attention to certain serious cases of failure to report and instituting as of its next session in November–December 2018, a practice of launching “urgent appeals” in cases corresponding to the following criteria:

- failure to send first reports for the third consecutive year;
- failure to reply to serious and urgent observations from employers’ and workers’ organizations for more than two years; and
- failure to reply to repetitions relating to draft legislation when developments have intervened.

In such cases, the Committee might inform the governments concerned, in an opening paragraph to the comment, that if they have not supplied a report or answers to the points raised by 1 September of the following year, then it might proceed with the examination of these cases on the basis of the information at its disposal and possibly make a new comment at its next session.

The Committee of Experts also decided to draw these cases more specifically to the attention of the Committee on the Application of Standards so that both Committees could consider not only the failure to report but also the seriousness of the issues raised and the seriously detrimental impact the non-reporting is having on the function of the supervisory bodies aimed at facilitating progress on serious substantive matters. Thus, in these cases, the Committee on the Application of Standards may also call on the governments concerned to appear before it in a separate segment of its consideration of serious reporting failure and be advised that, in the absence of a report, the Committee of Experts might examine the substance of the matter at its next session. The Committee hopes that this may further reinforce the synergies between the two supervisory bodies and build an even closer cooperation between them.

On another matter, the Committee of Experts was informed of the discussions on ways to strengthen the impact of the supervisory mechanism taking place at the Governing Body in the framework of the Standards Initiative. It welcomed these discussions which coincided with its own discussions on working methods. The experts considered that methods such as the thematic grouping of Conventions for reporting purposes and the practice of consolidated comments were positive developments. These methods can further improve the impact of the supervisory mechanism in combination with other measures such as the introduction of an electronic document and information management system for the supervisory bodies, as decided by the Governing Body.

The Committee’s attention was drawn specifically to the Governing Body’s consideration of extending the reporting cycle for technical Conventions from 5 to 6 years. In this regard, the Committee indicated its willingness to consider the manner in which it might broaden the current limited 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. The Committee decided that inspiration in this regard could be drawn from the criteria used for requesting early reports. The Committee is planning to institute this practice as of its next session.

Just like every year, the active participation of employers' and workers' organizations in the work of the Committee of Experts, by making observations on the application of Conventions and Recommendations, has been an important attribute of the supervisory mechanism and an indicator of its vivacity. This year, the number of observations reached new heights, with **1,325** observations received compared to 1,160 last year. Of these, **330** were communicated by employers' organizations (compared to 314 last year) and **995** were communicated by workers' organizations (compared to 846 last year).

In relation to the timely submission of reports, the Committee of Experts reiterated its longstanding concern at the low proportion of reports received by 1 September each year and highlighted once again the fact that this situation disturbs the sound operation of the regular supervisory procedure. The Committee of Experts is planning to examine in more detail the treatment of reports received after the 1st September deadline at its next meeting.

Furthermore, the Committee called on all governments to ensure that copies of reports on ratified Conventions are communicated to the representative employers' and workers' organizations in order to safeguard this important aspect of the supervisory mechanism. This year again, certain governments failed to comply with this fundamental obligation.

I will not indulge further into a detailed presentation of the content of the Committee of Experts' Report. This Report provides your Committee with an analysis of the extent to which member States have fulfilled their obligations under the ILO Constitution in relation to standards and the extent to which their legislation and practice are in conformity with ratified Conventions. I would like to draw your Committee's attention in particular to the cases in which, in view of the seriousness of the issues addressed, the Committee of Experts has requested governments to provide full particulars to the Conference (known as "double-footnoted" cases). As always, serious consideration was given by the Committee as a whole in identifying these cases, which are contained in paragraph 50 of its General Report.

Let me finish this statement with the General Survey which concerns, as the representative of the Secretary-General mentioned, the important area of working time. This year's General Survey was particularly ambitious in its scope as it covered nine Conventions, one Protocol and six Recommendations on working time. It is therefore an all-encompassing study on all the working time aspects regulated by ILO instruments: hours of work, weekly rest, annual leave, night work and part-time work. On several previous occasions, different aspects of working time had been the subject of General Surveys, for instance, the last one in 2005 which focused on hours of work. The 2018 survey builds on the previous surveys and explores new developments as well as current trends and practices on issues such as flexitime, time banking or time-saving accounts and modern practices as zero-hour contracts and the gig economy.

Based on a thorough analysis of the wealth of information contained in the reports received from member States, the General Survey identified both positive developments and issues and challenges. I will highlight a number of these in my introduction today.

With respect to positive developments, the Committee has found that statutory normal weekly limits to the hours of work are in many countries between 40 and 48 hours of work, thereby conforming to the provisions of the corresponding ILO Conventions Nos 1 and 30. A second positive development is that the principle of weekly rest (the right of workers to 24 consecutive hours of rest every seven days) is recognized in most national legislations, in conformity with the requirements of the relevant ILO instruments (Conventions Nos 14 and 106).

A third positive finding concerns paid annual holidays (that is the period during which workers are given time away from their work while continuing to receive an income and to be entitled to social protection). The principle of paid annual leave is broadly accepted in

national legislation and the duration of holidays often complies with the requirements of Convention No. 132 (three working weeks for one year of service). The Committee has also found that in many countries, efforts were being made to promote and regulate part-time work (despite the low rate of ratification of Convention No. 175, which has only received 17 ratifications). Finally, the Committee noted the important role of social dialogue at the national level in the design of working-time policies. For instance, in many countries, collective agreements provide a framework for working-time arrangements, including on issues such as limits and compensation for overtime.

That being said, the General Survey has also identified in national laws and practices a number of challenging issues. One of the main issues highlighted by the General Survey is that of long working hours. In fact, while statutory weekly limits are in general in line with ILO Conventions, in the absence of regulation of daily limit, of overtime and of averaging period, the number of hours actually worked is very high and goes beyond the limits set by the Conventions and by national legislations. In some regions, the total number of hours worked (normal hours and overtime) exceeds 60 hours per week. The Committee has emphasized the impact that long hours of work may have on the health and well-being of workers. The Committee has also noted that in many cases, exceptions to weekly rest schemes were allowed and that there was a tendency to provide for financial compensation in lieu of time off, which contradicts the main purpose of the weekly rest principle.

The Committee has also observed a tendency to fix long qualifying periods of service for workers to be entitled to annual leave with pay, as well as a tendency to divide annual holidays into too many parts and/or to postpone leave for too long periods of time. In this respect, the Committee has emphasized the importance of ensuring that workers benefit in practice from a period of rest and recovery every year in order to protect their physical and mental health. When looking at protection in the context of night work, the Committee has noted that the necessary measures, such as limits to overtime, correct compensation, the right to undergo health assessments without charge, measures of maternity protection and social services, were not frequently reflected in national legislation. In this sense, the Committee has noted that a number of research projects on the effects of night work on workers suggest that night work could have an impact on workers' health and safety, work-life balance and productivity, depending on the manner in which night work is organized. In the case of part-time workers, the General Survey has highlighted the need to improve equality in employment conditions and social protection coverage.

Before concluding, I would like to briefly draw the Conference Committee's attention to the emerging challenges that are being examined in the General Survey. They include: the increased use of on-call work, including extreme forms such as zero-hours contracts; the impact that information and communication technologies have on the organization of work and on the length and arrangement of working time, including: telework and the development of the platform economy (the gig economy). While recognizing that these working arrangements may offer advantages for both workers and employers, the Committee has observed that they were also associated with: the encroachment of work on non-working time and rest periods, the unpredictability of working hours, income insecurity and the stress associated with the perceived need to be constantly connected to work.

Finally, the General Survey emphasized the importance of collective bargaining and social dialogue being possible at all levels, and of developing a system established by common agreement between the parties, in order to ensure that collective bargaining as well as social dialogue continues to play an active role in the implementation of the ILO Conventions on working time. It is also important to ensure that effective mechanisms are in place to secure compliance with working-time provisions, primarily through labour inspection and the application of dissuasive penalties for non-compliance.

Chairperson, distinguished members of the Committee on the Application of Standards, allow me to assure you that my Committee is firmly engaged in the path of meaningful dialogue with your Committee and all the other ILO supervisory bodies, in the interest of an authoritative and credible ILO supervisory system and ultimately for the cause of international labour standards and social justice worldwide. With these thoughts in mind, I look forward to listening carefully again this year to your discussions.