

Committee on the Application of Standards

CAN/PV.17

Commission de l'application des normes

10.06.24

Comisión de Aplicación de Normas

112th Session, Geneva, 2024

112^e session, Genève, 2024112.^a reunión, Ginebra, 2024

Warning: this document is a draft and may contain omissions or errors. It is made available solely for the purpose of verification and correction. Persons referred to in this document are not to be regarded as bound by statements attributed to them. The ILO declines all responsibility for any errors or omissions which this document may contain, or for any use which may be made of it by third parties.

Avertissement: ce document est un projet, qui peut comporter des omissions ou des erreurs et n'est rendu public qu'à des fins de vérification et de rectification. Les mentions contenues dans ce document provisoire n'engagent pas les personnes dont les propos sont rapportés. La responsabilité du BIT ne saurait être engagée à raison des éventuelles erreurs et omissions entachant ce document, ou de l'utilisation qui pourrait en être faite par des tiers.

Advertencia: el presente documento es un proyecto y puede contener omisiones o errores. Solo se publica a efectos de comprobación y rectificación. Las declaraciones que se atribuyen en el presente documento provisional a las personas citadas en él no comprometen su responsabilidad. La OIT queda exenta de toda responsabilidad respecto de cualquier error u omisión que pudiera figurar en el presente documento o que pudiera derivarse del uso del documento por terceros.

Eighteenth sitting, 10 June 2024, 6.30 p.m.**Dix-huitième séance, 10 juin 2024, 18 h 30****Decimoctava sesión, 10 de junio de 2024, 18.30 horas**

Chairperson: Mr Różycki

Président: M. Różycki

Presidente: Sr. Różycki

Discussion of individual cases (*cont.*)**Discussion des cas individuels (*suite*)****Discusión de los casos individuales (*cont.*)****Eswatini (ratification: 1978)****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)**

Chairperson – Before the beginning of this evening's sitting, I would like to inform that the period for the reception of amendments for verbatim PVs: Tunisia – C.87; and Turkmenistan – C.105 is now over. These PVs are adopted as amended.

(PVs 9 and 10 are adopted, as amended.)

Chairperson – The fourth case on our agenda for today is Eswatini on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

I invite the Government representative, Mr Phila Buthelezi, to take the floor.

Government representative (Mr BUTHELEZI) – I bring to you, your Vice-Chairpersons, and the representative of the Secretary General of the Conference, warm regards from the Government and people of Eswatini. In the same tone, I also congratulate you on your appointment to chair the work of this Committee.

Mr Chairperson, may I apologize upfront that I will be slightly longer in this opening submission, but I have apportioned the time by reducing my last intervention so as to finally be within the total allocated time for my Government.

The last time my Government was called upon to provide information before the Committee on the Convention was during the 105th Session of the International Labour Conference in 2016. It is pleasing to report that most of the recommendations that were made by the Committee have been implemented in full, except for only one which remains pending. All the Bills in respect of which the Government of Eswatini was requested to amend have been duly amended to be in conformity with the Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The completed legislative reforms include the following pieces of legislation:

- The Public Order Act of 1963 which has been repealed and replaced by the Public Order Act, No. 12 of 2017.
- The Suppression of Terrorism Act, 2008 has been amended through the Suppression of Terrorism (Amendment) Act, No. 11 of 2017.
- The Prisons Act, No. 40 of 1964 has been repealed and replaced by the Correctional Services Act, No. 13 of 2017. Part XIII of the new Act provides for the right of Correctional Services Staff or employees to form Staff associations for the purpose of negotiating terms and conditions of service, including wages and hours of work, as well as to represent their members in any proceedings before their employer. It is as a result of this amendment that on the 20 February 2022, the Eswatini Correctional Services Staff Association was duly registered by the Ministry of Labour and Social Security and its name entered into the register of labour market organizations.
- The Civil Service Order No. 16 of 1973 has been repealed and replaced by the Public Service Act No. 5 of 2018.
- A Code of Good Practice for managing Industrial and Protest Actions has been promulgated through Legal Notice No. 202 of 2015 to provide guidelines, procedures and responsibilities for protestors, the Police, Municipalities, and other relevant stakeholders before, during and after any industrial action or protest action. This was with the sole objective to promote peaceful industrial and protest actions in the country as per the recommendations of the Committee.
- A Code of Good Practice for managing Public Gatherings and Events has also been promulgated through Legal Notice No. 201 of 2017 to provide guidelines, procedures and responsibilities to convenors, the Police, Municipalities, and other relevant stakeholders in respect of public gatherings, events, protest actions and strikes held in a public space. This was with a view to ensure that freedom of association is exercised in an environment that is free of intimidation, promote peaceful gatherings and protest actions and to hold

accountable any perpetrators of violence during industrial actions, public gatherings and events, much in line with the recommendations of the Committee made in 2016.

- The Police Service Act, No. 22 of 2018 has also been passed into law which repeals the Police Act No. 29 of 1957. The new Police Act contains provisions which promote the exercise of the right to freedom of association without violence against workers, trade unions and employers in that it makes it a disciplinary offence for any Police officer to unlawfully use or abuse authority, including making an unlawful, unnecessary, unjustifiable, or unwarranted arrest. This is contained in Section 49 of the Act.
- The amendment of Section 32 of the Industrial Relations Act to eliminate the discretion of the Registrar of Organizations when registering Trade Unions is still ongoing. By resolution of the tripartite Labour Advisory Board (LAB), this amendment process was delayed in order to give room for a comprehensive and holistic review of the whole legislation. This decision was informed by the realization that the Industrial Relations Act No. 1 of 2000 has been amended several times within a relatively short space of time since 2014, this legislation had already been amended four (4) times - something that was observed to be quite anomalous for a legislation that was enacted in the year 2000 and therefore having a lifespan of only 14 years.
- Moreover, the LAB observed that there were quite a number of other provisions of this Act which required to be reviewed at the interests of stakeholders besides Section 32. It was, therefore, unanimously reckoned that instead of continuing with the “piece-meal” reviews of the Act, it was rather advisable to conduct a holistic review of this legislation in order to align it with the latest jurisprudence in labour law and trends in the labour market.
- It is pleasing to report to the Committee that the holistic review process of the Industrial Relations Act was completed by the LAB in October 2022 subsequent to which and by letter dated 24 November 2022 the Bill was submitted to the ILO for expert commentary.
- My Government is pleased to report that the ILO finalized its consideration of the Industrial Relations Amendment Bill and submitted its detailed Memorandum of Technical Comments in November 2023 and the Memorandum was tabled before the LAB in its meeting held on the 7 and 8 December 2023. Social dialogue discussions of the Office’s Memorandum of Technical Comments are ongoing at the LAB. In this regard, we are happy to report to you that the ILO continues to provide financial and technical support to this law reform process. As a result, and through the support of the ILO, a three-day residential meeting of the LAB has already been approved by the officers of the Board to be held between the 19 to 21 June 2024. The outcome of this process will be provided to the Committee of Experts in 2025, as requested.
- Lastly, and still in compliance with this Committee’s recommendations made in 2016, the Government of Eswatini also warmly arranged and received the direct contact mission sent by the ILO in April 2017.

Throughout the legislative process of amending and promulgating the above highlighted laws, the social partners were consulted by the Government much in line with the Committee’s recommendations as made in 2016. Moreover, through technical assistance received from the ILO, several workshops were held in the country in 2018 and 2019 with the objective of disseminating the Codes of Good Practice for Managing Industrial and Protest Actions, the Public Order Act and the Codes of Good Practice on Gatherings. Participating in these workshops were the police, union leaders, employers, members of parliament and municipalities, amongst others.

The need for resuming with these workshops has been restated by the recommendations of the Independent Investigation Committee which was appointed to investigate the justification of the action of the police denounced by the International Trade Union Confederation (ITUC) in relation to the industrial actions of 2018 and 2019 as detailed in the report of the Independent Investigation Committee. The Independent Investigation Committee, which was appointed through Legal Notice No. 183 of 2019 was chaired by a Principal Magistrate and a panel of experienced labour law practitioners one of whom is now a judge of the Industrial Court of Eswatini.

The Independent Investigation Committee which had been appointed at the request of the Committee on Freedom of Association, submitted its final report to the Government on 1 June 2023 and by letter dated 11 June 2023 the report was transmitted and brought to the attention of the Committee on Freedom of Association. The CFA is yet to examine this report.

In its report, the Independent Investigation Committee made findings that the organizers of gatherings and public protests do not comply with the provisions of the prevailing legal instruments on gatherings and industrial actions and highlighted the compliance gaps. On the basis of these findings, the Independent Investigation Committee therefore proceeded to recommend trainings of all players involved in organising public gatherings, including the police, trade union leaders and marshals.

In its thick and well written report the Independent Investigation Committee extracted and made 11 solid recommendations to ensure that freedom of association can be exercised in a climate free of intimidation and without violence against workers, trade unions and employers. These recommendations are due to be taken into account and included in the Implementation Plan which the Government and the Trade Union Congress of Eswatini (TUCOSWA) have already embarked upon to develop under the technical assistance of the ILO.

The Government had already availed itself and is currently receiving ILO technical assistance to implement the outcomes of the National Voluntary Conciliation Report that both The Government and TUCOSWA agreed to embark upon in 2022 and finished in September 2023 in an effort to resolve a number of complaints that had been reported by TUCOSWA to the CFA. As could be seen from the covering letter when submitting the report of the National Voluntary Conciliation on 25 September 2023, coupled with the follow-up letter that was submitted by the Government on the 25 January 2024, Government requested the ILO to provide technical assistance in developing a time-bound implementation plan in order to ensure effective implementation of the outcomes of the National Voluntary Conciliation process.

This request was made in the spirit of paragraph 10 (on page 31) of the National Voluntary Conciliation report wherein the Government and TUCOSWA agreed that the implementation plan should have a monitoring and evaluation structure. The ILO gladly agreed to provide the requested technical support to Government in an endeavour to follow up on the reports of the national bodies and the comments of the Committee of Experts adopted when examining the country's article 22 reports in November–December 2023.

In fact, in oral agreements and engagements between the Government and the ILO, the reason for delaying the technical mission to February 2024 was strategically to allow the mission to combine its technical assistance by addressing not only the recommendations of the reports of the Independent Investigation Committee and the National Voluntary Conciliation report, but also the comments of the Committee of Experts after examining the country's Article 22 reports on Conventions Nos 87 and 98, respectively.

Therefore, from 22 to 23 February 2024, a first technical mission visited the Kingdom of Eswatini. A mission report prepared by the technical mission, together with a table of recommendations was submitted to the Government and TUCOSWA on the 2 May 2024. As seen from the mission report, the technical mission met with the parties to the complaints and several other institutions and stakeholders, from among Government and social partners, who would be involved in the implementation plan. The mission also met the United Nations' Resident Coordinator to discuss the country's context and the coordinated support to be provided to the Eswatini Government on issues of common interest. Finally, the mission met with myself to report on the mission's findings. The mission report contains an attachment of a summary table of the outstanding issues, together with observations and details of the timetable for the examination by the ILO supervisory bodies and invited the parties to commit to drawing up a time-bound plan for follow-ups. This document would also serve as a road map for resolving outstanding issues on the complaints presented before the CFA.

In its report, the mission is convinced that the road map of action to follow up on the reports of the national bodies set up in relation to reported complaints will be beneficial to the Government and the stakeholders to take ownership of the policy and regulatory reforms. The mission is also of the opinion that the monitoring of progress relating to compliance with ratified international labour standards will enable all stakeholders to better grasp the interlinkage of these reforms with comments made by the ILO supervisory mechanisms, supported by the Office's technical assistance, towards a peaceful and lasting social dialogue, in conformity with universally recognized freedom of association and collective bargaining rights. In view of the magnitude of the tasks and topics that will fall to the Ministry of Labour and Social Security in ensuring a proper follow-up to the road map and report to the ILO supervisory bodies, the mission recommends that the Ministry should set up a specific monitoring team, to this end, as it would benefit from reinforcements from other relevant institutions in order to carry out its mission successfully.

Having received the mission report on 2 May 2024, the parties were already working on making arrangements to have a meeting where they would jointly go through the mission report, in particular by checking any missing recommendation or outcome from the reports of national bodies as well as populating the last two columns of the draft implementation plan in terms of fixing timelines and expected results, accordingly. Other pressing commitments from both ends could not allow the Government and TUCOSWA to secure time of discussing the first technical mission report before departure to this Conference. Otherwise, earnest attempts were made and having considered all dates in May, both parties mutually reckoned that it is impossible to secure time before departure for the ILC. Other dates will obviously be considered immediately after the Conference.

Suffice it to underscore that this is the first technical mission activity which was understood by the parties that it will be followed by a second technical mission to finalize and validate the implementation plan.

It remains important to recall that both national processes were pitched at the highest level by the Government as demonstrated by the fact that the Independent Investigation Committee was chaired by a Principal Magistrate, sitting with a panel of experienced industrial relations practitioners, one of whom is now a Judge of the Industrial Court. The Government treats the findings of the Independent Investigation Committee in a very serious light and is committed to implementing them fully. On the other hand, the National Voluntary Conciliation process was chaired by the Judge President of the Industrial Court of Appeal who was selected in agreement of both parties; sitting with him were two senior Commissioners of the Conciliation, Mediation and Arbitration Commission, an independent labour dispute resolution

institution in Eswatini, established by the Industrial Relations Act, No. 1 of 2000. The Government provided full financial support to the process, catering for all expenses, including those of members of the National Voluntary Conciliation process which was composed of seven officials or representatives from each side.

In the previous two annual meetings of the Southern African Development Community (SADC) Ministers of Labour and Employment and Social Partners, otherwise known as the SADC ELS, which is held under the auspices of the Southern Africa Development Community, that regional integration structure has a robust agenda where we discuss even the status of implementation of international labour standards among the SADC Member countries. My Government is on record to have demonstrated the highest level of openness to engage with our social partners even at a regional level, by extending an invitation to the Southern Africa Trade Union Coordination Council (SATUCC) on two consecutive occasions, for engagements on the issues that were contained in the SATUCC Report as presented to the meeting for noting and we also requested the ILO to assist in coordinating that that meeting should take place.

As observed by the ILO technical mission, the relations between the Government and our social partners are very healthy. The massive gains obtained from the optional Voluntary Conciliation process are evidence of a healthy social partnership. Having already availed ourselves and already receiving ILO technical assistance, we should be allowed to resolve any emerging issues at a national level as part of the Action Plan that is being developed to implement the outcomes of the national bodies, coupled with the comments of the Committee of Experts.

On the issues bordering on civil liberties and trade union rights and the issue of alleged harassment in the education sector involving the President of the Swaziland National Association of Teachers (SNAT), I must hasten to state that I am afraid to enter into the merits of these matters, especially the SNAT President disciplinary matter and the Sticks Nkambule matter because these are still pending in court. Mr Mbongwa Dlamini is challenging his dismissal by the Teaching Service Commission which was issued in August, last year. Otherwise, the Employer has instituted disciplinary proceedings against him based on charges of perennial unauthorized absenteeism. The outcome of this disciplinary process is still being contested by the parties in court and we have been advised that the date set to argue the review application that has been filed by the TSC is the 26 June, this year, ten days from now, at the High Court of Eswatini.

The same applies to the Sticks Nkambule matter who was charged *nomino officio* for contempt of an Order of Court that was issued by the Industrial Court of Appeal on 9 December 2022 under Case No. 398 of 2022, declaring an industrial action he had called with his union for 13 and 14 December 2022 to be un-procedural and therefore unlawful. They violated this Order of Court by proceeding with the unlawful strike action despite the existence of a valid Court Order, and the Government instituted contempt of court proceedings against Mr Nkambule and the Union. This matter has not been finalised and it is still pending in court. Mr Nkambule is legally represented by a competent admitted attorney in the court proceedings. The Government is not aware of the reasons why Mr Nkambule is now in hiding.

For us, our system of law does not allow other forums to adjudicate or commentate on the merits or demerits of a matter that is still pending in court under the principle of sub judice, lest you find yourself to be in contempt of court. It suffices, however, to mention that these two issues in particular had not as yet been officially brought to the attention of the Government by our social partners, as requiring our engagements and resolution, I guess, that is simply because of the same reason that these matters are still pending in court.

As I conclude, allow me to point out that the discussion of Eswatini by this Committee is rather premature in light of the elaborate magnitude of what the Government has done since 2016 and continues to do even at this present moment, in consultation with social partners, in an effort to improve the implementation of the Convention.

Chairperson – I give the floor to Ms Clare Middlemas, Worker spokesperson to make her statement.

Worker members – This is the 16th time that the Committee has examined the application of the Convention by the Government of Eswatini. Our latest examination was in 2016. Since then, the environment for the exercise of trade union rights in the country has severely deteriorated. In the last three years, in particular, the Government has further increased its repression against workers and has suppressed democratic freedoms and civil liberties. The Workers' group expresses its deep concern at the prevalence of anti-union violence and state repression in Eswatini where trade union leaders and human rights activists are persecuted and murdered.

The Workers' group mourns the death of Thulani Maseko, a human and trade union rights lawyer. From 2012 to 2015, Thulani Maseko had defended the rights of TUCOSWA following its de-registration by the Government. Subsequently, he had provided legal advice to the Eswatini trade union movement. He was also the chair of the Multi-Stakeholder Forum (MSF) that represented progressive groups working for democracy in Eswatini following the banning of political parties. Thulani was shot dead in front of his family on 21 January 2023 at his home in Manzini. We recall that in 2015 and 2016, the Committee had discussed the unjust imprisonment of Thulani Maseko, who had been sentenced to a two-year prison term in March 2014 for having criticized the judiciary while acting for TUCOSWA in court. In 2009, Thulani had already been charged with sedition for his May Day speech. Despite the threats and persecution of the authorities, Thulani Maseko had continued his fight for democracy and workers' rights through dialogue. Thulani's brutal murder was widely condemned by the global community. Despite calls including from the SADC governments for investigations into his death, to date, no arrest has been made. Thulani's family are under surveillance. It appears that Thulani's death was orchestrated by the instigators to have a chilling effect on human and labour rights. Combined with the current repression on trade unions, we are deeply concerned that an environment of fear is taking hold. We call on the Government of Eswatini to take immediate measures to investigate, prosecute and convict the perpetrators and instigators of this crime. Justice must be done for Thulani Maseko's memory and for his family.

The climate for the exercise of labour and trade union rights in Eswatini is dangerous. Persecution, threats and physical attacks of trade unionists are common practice, leaving them no choice but to flee the country. Sticks Nkambule, General Secretary of the Swaziland Transport, Communication and Allied Workers' Union (SWATCAWU), was forced into exile after being the victim of an assassination attempt on 28 December 2022. The day after, armed police raided his village and harassed his family. His crime was to call for a "job stay-away" to demand better working conditions. The Government did not stop there, on 11 January 2023, his name was published by police as a wanted person for alleged criminal conduct. He now faces a baseless contempt charge, while the staff of the union he belongs to are under constant surveillance by the police who regularly raid their offices.

In January 2023, Mbongwa Dlamini, President of the Swaziland National Association of Teachers (SNAT), was also forced into exile after receiving death threats. Since his election as union president, Mbongwa has been persecuted by the authorities. In April 2022, his home was attacked by security forces with live bullets. Following a call for a strike by his union, the

authorities harassed him with misconduct charges, leading to decisions of suspension of pay and transfer. Despite a decision of the Industrial Court dated May 2023, the authorities have still failed to pay him and have appealed the court decision. He has now been dismissed from his duties by his public employer, the Teaching Service Commission (TSC).

The TSC is now threatening the General Secretary of Swaziland National Association of Teachers (SNAT), Mr Lot Mduduzi Vilakati, for defending the president and SNAT members. In addition, in 2023, the Government stopped the collection and remittance of trade union fees for SNAT members and refused a check-off system for SNAT's newly recruited members, in a bid to reduce the membership of the union below the required threshold so that it can deregister the union.

Civil liberties in Eswatini have been drastically curtailed by the authorities and workers are prevented from exercising their right to peaceful assembly, a fundamental freedom. Trade union gatherings and protest actions were banned by the Government in October 2021. Despite a court ruling banning the lifting in 2022, the Government of Eswatini continues to prohibit and ruthlessly crackdown on gathering and protests. In July 2023, the Government allegedly relaxed the ban and allowed municipal councils to issue permits for gatherings not exceeding ten people. This excessive limitation is a clear violation of the right of trade unions to organize their activities, as protected by Article 3 of the Convention. We recall that under the Public Order Act, 2017, gatherings of not more than 50 people are permitted without notice requirements, a number which is already extremely low. This new limitation virtually annihilates the capacity of trade unions to organize gatherings. The situation is akin to an undeclared state of emergency. The situation is akin to an undeclared state of emergency.

Furthermore, security forces deployed around the country use brutal force against citizens and workers. More than 80 people are reported to have lost their lives because of the police crackdown on protests that demanded democracy and wage increases. In their 2024 comments, the Committee of Experts recalled that the rights of workers' organizations can only develop in a climate free of violence, threats and pressure, and that it is for the Government to guarantee these rights can be exercised normally. We echo the Committee of Experts' call and urge the Government of Eswatini to take all necessary measures to ensure in law and practice that trade unions fully enjoy the right to hold public meetings enshrined in the Convention, and therefore to repeal any text the application of which would considerably limit the possibilities of trade unions to hold large-scale public meetings to defend and advance the rights and interests of their members.

We take further note with deep concern of the pervasive anti-union climate fostered by the authorities in Eswatini and its stifling impact on the capacity of trade unions to freely function and carry out their activities. In November 2022, armed security forces disrupted a TUCOSWA workshop and confiscated participants' mobile phones and laptops. The teachers' union SNAT continues to be the victim of a union-bashing campaign as the state attacks the union, including through disciplinary sanctions against leaders, union members and officers, police surveillance and the vilification of SNAT members in the media.

The Workers' group strongly denounces the State repression and escalating physical violence and threats against workers and their representatives and the curtailment of democratic freedoms in the country. We are deeply concerned that the climate of fear and violence maintained by the authorities is aimed at preventing workers and trade unionists from exercising their rights.

The Government of Eswatini must put an end to the ongoing intimidation, extrajudicial killings, threats of arrests, raids and unprovoked brutal beatings of workers and trade unionists.

We reiterate that workers and trade unions calling for democracy is in line with the legitimate expectations of the Government's obligations under the Convention. We urge the Government to engage in meaningful dialogue with trade unions to address the pressing issues that face the country.

Chairperson – I now give the floor to Mr Kaizer Moyane, Employer Vice-Chairperson, to make his statement.

Employer members – This case is about the application in law and in practice of the fundamental Convention No. 87 by Eswatini, which the Government ratified in 1978. This is a long-standing case before the Committee in which the Committee of Experts has made observations 25 times since 1990 and was discussed in the Committee 15 times since 1996, the last examination being in 2016.

We thank the Government for the written and oral information submitted, which we have noted. The Committee of Experts has made several observations in this case, and I will go through them.

The first relates to civil liberties and trade union rights, especially alleged anti-union repression involving serious allegations of persecution and murders of trade unionists and excessive violence against strikers that increased in 2022 and 2023, with allegedly more than 80 people reported to have lost their lives because of police crackdown on protests that demanded democracy and wage increases. In this respect, the Committee of Experts requested the Government to provide copies of court decisions against public transport workers who were charged with assault during the protests, as well as information on the outcome of police investigations into alleged violence by the security forces during protests.

The second one relates to harassment in the education sector, where the Committee of Experts noted with deep concern the serious allegations of violations of trade union rights in the education sector, in particular against the Swaziland National Association of Teachers (SNAT), including its President Mr Mbongwa Dlamini, who allegedly faced harassment through dismissal from work, as well as threats to his life. The complaints include allegations of a concerted effort by the Government to undermine and possibly deregister SNAT.

The third relates to a ban on trade union gatherings by administrative order. The allegations are that the Ministry of Housing and Urban Development's October 2021 administrative order effectively suspended the laws regulating gatherings by limiting the number of people who may demonstrate or march together to deliver petitions in urban areas and towns. Although the Government countermanded the administrative order by raising the limit of gatherings to ten people, the number still fell short of the permitted 50 people in terms of the Public Order Act of 2017.

The fourth area of observations relates to police violence against industrial actions. The Committee of Experts took note of the findings of the independent Investigation Committee into allegations of police violence against peaceful industrial actions made in September 2018 and September 2019. The Investigation Committee had made recommendations including: (i) training of lower-ranked police officers, the union leadership and marshals, and the public at large in trade union rights and the handling of industrial actions; (ii) that both the police and union leadership should commit to upholding the law during industrial actions and develop a culture of cooperation; (iii) that video recording of industrial actions should be considered for

review purposes; and (iv) that an independent monitor (whether an individual or an organization) should be involved in the preparation and during the industrial action.

From the Government's written and oral information, the Employers' group notes the various encouraging developments in this case:

First, the Government and TUCOSWA had agreed during 2023 to submit to a national voluntary conciliation process to address the various complaints submitted to the Committee on Freedom of Association, which also formed the basis of some of the Committee of Experts' observations on anti-union repression.

Second, the Government requested and is receiving technical assistance from the ILO to address the various concerns and observations. Both the report of the national voluntary conciliation process and the report of the independent investigation commission will be considered to generate a time-bound implementation plan, with ILO technical assistance.

Third, the ILO technical mission visited the country in February and delivered its report to the parties on 2 May this year, with a draft action plan.

The Employers' group commends both the Government and the trade union federation in their demonstrated cooperation at national level and encourages the Government to continue social dialogue with the social partners to resolve the outstanding concerns.

Where trade union rights, including the right to gather in large numbers to protect or promote the occupational interests of their members, are unduly limited by administrative action, the Employers encourage the Government to remove such administrative action or take appropriate measures to protect such rights.

With regard to the codes of good practice and legislation on protests and industrial action, which aim to ensure proper management of these actions and prevent confrontations and violence between protestors and members of the law enforcement agencies, we encourage the Government, in collaboration with social partners, to disseminate these as part of its capacity-building strategy for all relevant stakeholders. We also encourage the Government to expedite the ongoing police investigations into the violence and deaths that occurred between 2021 and 2023 and to provide all outstanding information to the Committee of Experts as requested in 2025. Finally, we encourage the Government to continue with the ILO technical assistance to finalize all outstanding matters.

Chairperson – There are 30 speakers registered to take the floor, in this regard I would like to inform all delegates that the officers of the Committee have decided to reduce the speaking time for individual members of the Committee from five to three minutes. Now I give the floor to Mr Bhekie Mamba, Workers' delegate from Eswatini.

Worker member, Eswatini (Mr MAMBA) – On behalf of the workers of Eswatini, I concur with the opening statement of our spokesperson. Having faced a series of sustained attacks since 2018, our federation filed a complaint to the Committee on Freedom of Association on 22 March 2022 which is recorded as Case No. 3425. The Committee recommended to the parties to undertake a National Voluntary Conciliation process.

TUCOSWA reaffirms its belief in dialogue as the only means to resolution of any challenges related to compliance with the international labour standards as set out through various ILO Conventions. The Trade Union Congress never hesitated to take the opportunity for a voluntary mediation process as was presented as an option by the Committee on Freedom of Association. The National Voluntary Conciliation process was however not smooth sailing and it nearly collapsed as the Eswatini Water Services, a State-owned enterprise was refusing to

release the Deputy President of the Federation Mr Nicholas Nkomondze to attend the voluntary conciliation meetings despite his name being gazetted in a legal notice as part of the Federation's representatives. To date, he is denied release to attend any Federation activities as his employer alleges not to recognize the Federation. The mediation was concluded in July 2023. No resolutions were found on very fundamental complaints that threaten the very existence of trade unions and the rights guaranteed by the Convention. These are the following issues:

The administrative instruction issued by the Minister of Housing and Urban Development on the 21 October 2021 prohibiting municipal councils from issuing compliance certificates remains in force. In the administration of that order only three persons were permitted to gather in a public place. During the mediation process, the Minister in a press statement alleged to be relaxing the instructions by communicating that the municipal councils can now permit only ten persons to assembly. On the 2 November 2023 the Federation took part in a gathering organized by its affiliate the Swaziland Democratic Nurses Union to deliver a petition on the acute shortage of medical drugs in hospitals. The Union had followed all the requirements of the Public Order Act and in terms of the Act the gathering was legal. The police, however, violently dispersed the gathering on claims that the gathered people were exceeding the ten prescribed by the Minister, many workers were injured and hospitalized.

Ms Maureen Nkambule, the then General Secretary of SESMAWU an energy union organized in a state-owned enterprise remain dismissed for allegedly allowing herself to be interviewed by the media on matters pertaining to the activities of the union.

Cases of union officials who had long been abandoned by State Prosecutors were resuscitated in response to our mediation demand that they be quashed as they were victimization cases. Mr Mcolisi Ngcampalala the Deputy Secretary of the Swaziland National Association of Teachers was isolated from a group of people in the Manzini City as he was going to a union meeting, arrested and charged with jaywalking.

Mr Kwazi Simelane, a Chairperson of the Federation's Young Workers Forum was heavily assaulted by the police in Manzini for wearing the Federation's beret and was later charged for allegedly singing an inciting song. These cases were never prosecuted for more than two years until revived when they were raised during the mediation. The Union Officials are to date being prosecuted without finalization of their cases.

The President of SNAT Mr Mbongwa Dlamini, an employee of the Government remains dismissed notwithstanding court judgments declaring his dismissal null and void.

Officials of the Amalgamated Trade Union of Swaziland (ATUSWA) were assaulted by members of another union favoured by the Employer as they were recruiting workers. The police, instead of arresting the perpetrators of the violence arrested the ATUSWA Officials and they went through a prolonged and very costly exercise defending themselves only to be acquitted by the courts in April 2023. Notwithstanding that finding, the perpetrators of the violence were never arrested for their criminal activity.

Over 400 workers who were retrenched by a wood and pulp multinational company were not paid their terminal benefits in accordance with an existent collective agreement, this is despite numerous Parliament Select Committee Resolutions which found that they were unfairly treated. Another Parliamentary Select Committee was established and finished its work in August 2023, Parliament was however dissolved in September without having adopted the report.

Ms Xolile Mnisi Sacolo, the Chairperson of the Limkokwing Branch of the National Workers Union of Higher Institutions (NAWUSHI), was wrongfully dismissed without a hearing after she approached the Industrial Court to intervene on a predetermined disciplinary action clearly targeting her as a union official on claims that she was causing a delay on the hearing, notwithstanding her constitutional right to approach the court for redress on such matters. The conduct of dismissing trade union officials without affording them an opportunity to be heard has become prevalent as even in the case of the SNAT President Mbongwa Dlamini it was the same, he was dismissed without a hearing.

All the were mediated and remain unresolved at the mediation, there are no processes that have been put in place even for resolution in the near future. Any claims that may be designed to insinuate that there are internal processes for their resolution would be misinformation.

Meanwhile, the Secretary General of the SWATCAWU, Mr Sticks Nkambule, is now living in exile in the neighbouring countries following the issuance of a warrant for his arrest. He was individually targeted for a collective decision of his Union which had sanctioned an industrial action in defence of occupational rights and interests of its members.

It is important to state at this stage that there was never a gathering that was convened by the Federation or its affiliates which had not followed the law. The police brutality against public sector workers in October 2022 occurred despite that they were carrying a certificate of compliance issued by the Municipal Council of Mbabane. This was before the ban which happened in the same month. The workers were brutalized whilst they were inside buses where tear smoke canisters were thrown inside the bus and the workers were beaten and shot at with rubber bullets. They never at any point and stage burned tyres, blocked the roads or engaged in any violent or disorderly act as they were ambushed by the police before they disembark and brutalized.

The space for the operation of independent trade unions and the exercise of their rights in Eswatini is generally clouded with fear of reprisal. The numerous incidents, I have mentioned above, and those mentioned by our spokesperson, make it clear to the Committee that our Government is violating the Convention.

Chairperson – I give the floor to Mr Nathi Dlamini, Employers' delegate from Eswatini.

Employer member, Eswatini (Mr DLAMINI) – As I take the floor I do so on behalf of Business Eswatini, which is an apex private sector representative body of employers in the country. Together with their workers under TUCOSWA, Business Eswatini is responsible for over 90 per cent of the private sector contribution to the national Gross domestic product. The Government and TUCOSWA have been, and still are, viable and indispensable social partners with whom Business Eswatini have achieved incredible feats.

Not too long ago, the Trade Union Congress and Business Eswatini convened a landmark Bipartite Jobs Summit to dialogue on how we can leverage our partnership in order to expand the footprint of businesses in the country and create the jobs desperately needed by our people. In the same meeting challenges standing in the way of progress were identified and a formal report prepared and subsequently submitted to the Government for her scrutiny. In the same report was an express request for a full tripartite dialogue to advance the resolutions of the Bipartite Dialogue between Labour and the Private Sector. However, while awaiting the Government's response to the request, Business Eswatini proceeded to convene a fruitful Business-to-Government engagement a few weeks ago whose aim was also to litigate issues that stand in the way of attracting investments and creating jobs. I highlight the

aforementioned achievements in order to demonstrate to this house, that tripartism in Eswatini is still alive and well, and that there is a conducive space for open dialogue and constructive engagement.

There are only two sides to a story precisely because the third is always overlooked. And I appreciate the privilege today to be the third voice that bears witness to these things. Let me say this upfront though, on behalf of the employer community in Eswatini, we respectfully request that this Committee consider the substantial progress made by our Government and social partners in upholding the principles of the Convention. To this end, we wish to underscore the following points for your special consideration:

1. The context of 2021 and 2022 events: The issues at the core of the complaints today arise mainly from the events of 2021 and 2022, a period marked by unprecedented social unrest and the COVID-19 pandemic. These events conspired, to create unprecedented challenges for all social partners in Eswatini, the deleterious effects of which continue to impact us to this day as a business community.
2. During the social unrest, the scale of which was unparalleled in the long and peaceful history of the kingdom, many businesses suffered incalculable losses due to arson attacks, looting, and other exigencies, costing employers millions of US dollars in rebuilding efforts.
3. This situation was exacerbated by the prolonged pandemic, during which employers continued to pay salaries despite lockdowns and business closures. During the same period the private sector funded vaccination logistics for private sector employees and as a result many lives were saved as workers got the protection they desperately needed.
4. Mitigation measures: it had taken considerable effort from both the Government and social partners to make significant strides. In response to these crises, however, the Government showed her zeal to supporting affected businesses and workers via various intervention processes as measures were eventually taken to restore law and order.
5. Dialogue mentioned earlier: Business Eswatini and TUCOSWA or alternatively workers' and employers' federations jointly convened the inaugural bipartite dialogue on jobs, which we sense has significantly contributed to the restoration of industrial harmony, at least at the enterprise level. The ILO was on the ground to witness this ground-breaking concept of which both federations are still most proud.
6. Commitment to constructive dialogue: Both the Government and social partners have shown a strong commitment to constructive dialogue to resolve issues by participating in the inaugural Voluntary Conciliation. Through this process, social partners have been able to settle a number of issues, including consulting employers on the implementation of recommendations. Business Eswatini acknowledges that there are outstanding issues that were not completely resolved in this process owing to time constraints and other unforeseen exigencies or disruptions, but we strongly believe that, from the commitment shown by both parties to date, more time to engage and dialogue will definitely yield positive outcomes.
7. Legal reforms: It would be blatantly remiss of Business Eswatini to dispute the Government's commitment to legal reforms, in collaboration with social partners. We have seen the implementation of the Decent Work Priorities for Eswatini which were agreed upon in tripartite forums. These include important legislation such as the Industrial Relations Amendment Bill 2022, the Employment Bill 2023, the Occupational

Safety and Health Policy 2023, and other ongoing reforms, all of which bear the fingerprints, they do bear the fingerprints, of active participation by all social partners.

8. Utilization of ILO technical assistance: As the Minister has said, the Government has utilized the ILO's technical assistance and is making credible efforts in addressing issues identified by the Committee of Experts and the Committee on Freedom of Association, with a clear road map and an implementation plan in place.

In light of the above, as I conclude, we therefore believe without an inkling of any doubt that the ongoing efforts, and particularly the commitment demonstrated by all stakeholders in Eswatini, deserve recognition and support. It is on these grounds that I, on behalf of Business Eswatini, hereby move that we allow for progress to continue uninterrupted – but only expeditiously this time around, without the additional pressure of international scrutiny, whose peripheral ramifications could potentially attract unintended consequences on economic development and the country's external trade relations.

Chairperson – I now give the floor to Mr Severino Cassanga, the representative of Angola, speaking on behalf of the Southern African Development Community.

Interpretation from Portuguese: **Government member, Angola (Mr CASSANGA)** – The Government of the Republic of Angola, on behalf of all **SADC Member States**, and in its capacity as the Chairperson of the SADC employment and labour sector, takes note of the issues brought to the attention of the Committee concerning the application by the Kingdom of Eswatini of Convention No.87.

As the Committee is aware, the SADC has a very vibrant and robust tripartite structure within which governments and social partners deliberate on a range of employment and labour issues, including the implementation of international labour standards at country level. We are pleased to inform the Committee that this mechanism has consistently been utilized to deliberate on all issues of interest to our tripartite constituents, including finding solutions to contentious issues.

In this context, during the SADC Ministers of Employment and Labour and Social Partners meeting held in March 2024 in the Republic of Angola, the Government of the Kingdom of Eswatini informed the tripartite constituents of the steps being taken through dialogue at the country level to address various issues of concern to workers relating to the Convention. The Government also made a commitment to work very closely with the regional trade union organization in the SADC, the Southern Africa Trade Union Coordination Council (SATUCC) to address these issues.

We are very encouraged by the Kingdom of Eswatini's response to the Committee. It has reiterated its continuing willingness to receive technical assistance from the ILO and to work with the ILO supervisory bodies to fully meet its obligations under the Convention.

We urge the Committee, therefore, to recognize the commitment and strides made by the Kingdom of Eswatini and hereby request the Office to continue strengthening the capacity of the constituents in the country and at the regional level to resolve any outstanding issues of concern through social dialogue.

Chairperson – Thank you very much and now I give the floor to Ms Elise Lizin, the representative of Belgium, speaking on behalf of the European Union.

Government member, Belgium (Ms LIZIN) – I have the honour to speak on behalf of the **European Union (EU) and its Member States**. The candidate countries **North Macedonia, Montenegro, Albania, Republic of Moldova and Ukraine** and the EFTA country **Norway**, member of the European Economic Area, align themselves with this statement.

The EU and its Member States are committed to the respect, protection and fulfilment of human rights, including labour rights. We promote universal ratification and effective implementation of fundamental ILO Conventions and support the ILO in developing and promoting international labour standards and supervising their application.

We are deeply concerned about the serious allegations regarding the deteriorating state of trade-union rights, the excessive violence of the police forces against gatherings and marches organized by trade unions, the persecution, harassment and death threats against union leaders, and the murder in January 2023 of Mr Thulani Maseko, a human rights and trade union rights defender. We recall that the rights of workers' and employers' organizations can only be exercised in a climate free of violence, threats and pressure. We underline the importance of investigations and appropriate convictions in order to combat impunity and we ask the Government to report on these issues. We echo the request of the Committee of Experts to the Government to provide copies of the court decisions against the five public transport workers charged with assault, as well as information on the outcome of the police investigations.

We also note with deep concern the serious allegations of violations of trade union rights in the education sector. Alongside the Committee of Experts, we request the Government to provide comments about the Acts, denounced by trade unions, of anti-union discrimination, harassment and death threats towards Mr Mbongwa Dlamini, President of the SNAT, now in hiding outside of Eswatini, and the threats against the Secretary-General, Mr Lot Mduduzi Vilakati.

We note that the alleged Government actions to weaken SNAT are understood by the trade unions as leading to an increased intimidation, a decrease in SNAT membership, an increase in conflicts and grievances in schools, incapacitated leadership leading to a fear of assuming union positions, and low turnout in union activities. Therefore, we urge the Government to indicate any measures taken to enable SNAT to develop its activities in the education sector without threats against its leadership or interference and to provide information about the present status of Mr Mbongwa Dlamini.

We are concerned about the information from trade unions on suspension of the laws regulating gatherings by an administrative order of October 2021 of the Ministry of Housing and Urban Development, which extended the ban on demonstrations, marches and petition deliveries and we regret that trade union gatherings remain banned in Eswatini. We urge the Government to take all necessary measures to ensure in law and in practice that representative organizations fully enjoy the right to hold public meetings, and therefore to repeal any text limiting considerably the possibilities of representative organizations to hold large-scale public meetings.

We welcome the ILO technical assistance provided to the Government regarding police violence against industrial actions. While we acknowledge the tangible measures taken by the Government in 2022 and 2023, we expect the Government to take additional measures without delay, in consultation with the social partners, for the dissemination of codes of good practices so that trade union rights to engage in protest and industrial action are indeed protected, both in law and practice. We encourage further technical assistance from the ILO in this regard.

We request the Government to report fully on the progress made and to provide information on violations identified and penalties imposed regarding disciplinary action against abuse of power by members of the police.

We note that a first technical mission took place in February 2024 and we encourage the Government to further engage with the ILO in order to address all the outstanding issues regarding freedom of association. The EU and its Member States will continue to closely monitor the situation in Eswatini.

Chairperson – I give the floor to Ms Sarah Koestler, Government representative of Canada, speaking on behalf of a group of countries.

Government member, Canada (Ms KOESTLER) – I am speaking on behalf of **Canada and the United Kingdom of Great Britain and Northern Ireland**. We thank the Government of Eswatini for the recent information provided on the implementation of the Convention. We have been deeply concerned about reports of the deteriorating state of trade union rights and allegations of violence during gatherings and marches organized by trade unions. We were profoundly saddened by the loss of life of at least 43 and possibly more than 70 individuals involved during civil unrest in 2021 and 2022, including members of the trade union movement, and remain concerned that the deaths of most of those killed during this period are unresolved to this day. We were likewise shocked by the assassination of Mr Thulani Maseko, an advocate of peaceful engagement and protest. We are dismayed that no arrest in connection with the murder of Mr Maseko has been made to date, and we trust that the investigations currently underway are comprehensive, transparent and objective and will be concluded expeditiously. We are nevertheless encouraged by the Government's substantive recent cooperation with the ILO to address the past and present observations of the Committee of Experts and Committee on the freedom of association, including through technical assistance and several missions, and the recent development of a road map. We will give the road map our thorough consideration as soon as it becomes available.

To realize fully the recommendations of the Committee of Experts, as well as Eswatini's Independent Investigation Committee and National Voluntary Conciliation, we encourage the Government of Eswatini to develop further its engagement and dialogue with social partners, and continue its close collaboration with the Office, including by availing itself of additional technical assistance, in order to promote the trust and cooperation that will most effectively serve the interests of Eswatini.

We welcome the Government's commitment already to supply information concerning several outstanding issues to the Committee of Experts in 2025. We sincerely hope that the Government's next report to the Committee of Experts will not only highlight the progress made in resolving long-standing disputes but also identify further steps to ensure that all workers and employers across the Kingdom of Eswatini may exercise the rights accorded to them under the Convention.

Chairperson – I give the floor to Mr Zechariah Luhanga, the representative of Zambia.

Government member, Zambia (Mr LUHANGA) – Chairperson, as the Zambian Government is taking the floor for the first time since you started presiding over the affairs of this Committee, I wish to join the previous speakers in congratulating you on your election as Chairperson of this Committee that undoubtedly forms the bedrock of the effective regulatory mechanism for international labour standards. Zambia also wishes to extend its warmest regard to the entire Bureau.

The Government of the Republic of Zambia undoubtedly appreciates the fundamental role that the Committee of Experts continues to play in formulating its annual report which ultimately forms the basis for the sittings of this Committee. To that end, Zambia notes the information supplied by the Kingdom of Eswatini relating to the various observations and recommendations of the Committee of Experts on the Convention.

Zambia has also noted that the Kingdom of Eswatini had availed itself and is receiving technical assistance from the ILO to address the recommendations contained in the Report of the Independent Investigation Committee. Zambia has equally observed that the Report of this Committee which was appointed to investigate the justification for the action of the police denounced by ITUC in relation to industrial actions of 2018 and 2019 has not been examined by the Committee on Freedom of Association.

Of note, however, Zambia applauds the commitment by the Kingdom of Eswatini to develop with assistance of the ILO, a Time-Bound Implementation Plan aimed at ensuring an effective implementation of the outcomes of the National Voluntary Conciliation process.

In essence, the efforts being made by Eswatini underscore its commitment towards upholding tripartism to enhance protection of workers while acknowledging that there is scope to progressively resolve the challenges on implementation of ratified Conventions through home grown solutions.

In conclusion Chair, Zambia salutes these efforts and implores the ILO to continue to avail its support craved in this regard.

Chairperson – I now give the floor to Mr Marwan Adamu, Workers’ delegate from Nigeria.

Worker member, Nigeria (Mr BELLO) – I take this floor representing the workers of Nigeria to inform the Committee how the Public Order Act of 2017 is used to infringe trade union rights in Eswatini and it should be reformed, as the Committee has agreed and concluded several times in the discussion of Eswatini.

The Public Order Act, 2017 is an Act which regulates the conduct of gatherings and is applied in a manner that impairs the exercise of rights guaranteed by the Convention. The Act purports to generally guarantee the right to assembly; however, it takes it away through various limitations of exercise of that right. I will give an example. Section 3(1) guarantees the right of persons to gather. However, section 3(2) prohibits a gathering in any building in which a national or local representative organ of state is situated or within 100 meters radius of such building, unless written permission has been obtained from a principal magistrate. A national or local representative organ of state is not defined, it is left to the discretion of the police.

The National Commissioner of Police and the municipal councils command arbitrary powers to disallow public gatherings under the veil that the workers and people’s gathering will compromise peace, order and security.

Section 9(2) of the Act; the Commissioner of Police is given the powers to prohibit an intended gathering, whether or not such gathering is in compliance with this Act, if the National commissioner has reasons to believe that the gathering will endanger the maintenance of public order and public safety. This is the provision most often used by the police to prohibit trade union gatherings as the police would not even give the reasons on what makes them believe public order and safety would be compromised, as they would claim that issues of security are not for public consumption and not subject to discussion.

Despite the fact that section 9(9) requires the police to provide reasons for their prohibition of a gathering, such has never happened since the enactment of the Act in 2017.

All the prohibitions of gatherings were carried out arbitrarily, with impunity and most unfortunately with violence to the always peacefully gathered workers.

In our country, Nigeria, what is obtainable is that any known entity, including trade unions that want to organize civil gathering, all they have to do is inform the relevant agencies, including the police who is required to provide security to protect the crowd and the process. Of course, this situation in Nigeria was won through sustained dialogue and demand for reform to rid the country of colonial and autocratic rules and practices that gag and undermine citizens' participation in democracy and governance. We urge the Eswatini Government to genuinely commit to the reform of the Public Order Act 2017.

Chairperson – Now I give the floor to Mr Baltazar Egidio, representative of Mozambique.

Government member, Mozambique (Mr EGIDIO) – It is our understanding that the Government of the Kingdom of Eswatini has already been requested by the Committee of Experts to report out of cycle in respect of this Convention, with the expectation of submitting responses to the Committee's comments in 2025. The Government is committed to providing this information within the stipulated deadline, which shows the Government's commitment to fulfilling its obligations in this regard.

The report of the Independent Investigation Committee on the police action denounced by the ITUC regarding industrial actions has not yet been examined. It would be reasonable to wait for its analysis to allow us to reach firm conclusions about the situation in the Kingdom of Eswatini. Even before that, the Government and TUCOSWA are committed to include the recommendations of that report into the implementation plan that is being developed to implement the outcomes of the Voluntary Conciliation report.

According to the information provided, the Government has already availed itself and is receiving technical assistance from the ILO to implement the recommendations of the Independent Investigation Committee and the National Voluntary Conciliation process by developing an implementation plan with defined deadlines. The ILO's first technical mission took place from 22 to 23 February 2024, resulting in an initial technical mission report and a table of recommendations delivered to the Government and TUCOSWA on 2 May 2024.

The Government and TUCOSWA show that they are committed to discussing the report of the technical mission after the Conference, leading us to understand that the steps taken by the Kingdom of Eswatini go towards openness and commitment in fulfilling their obligations.

Furthermore, the Kingdom of Eswatini at the level of the SADC region demonstrates the opening of social dialogue with the Southern Africa Trade Union Coordination Council on labour issues and their commitment to the implementation of international labour standards.

Finally, we understand that the Kingdom of Eswatini is committed to continuing to work with the ILO and all social partners to implement the recommendations made by national bodies and the Committee of Experts, whose progress will be reported in 2025, as was made known to us.

Chairperson – I give the floor to Ms Fanny Sequeira Mata, Workers' delegate from Costa Rica.

Miembro trabajador, Costa Rica (Sra. SEQUEIRA MATA) - El caso a tratar se refiere a violaciones del Convenio núm. 87 en Eswatini, el que como sabemos es uno de los convenios fundamentales de esta casa, en los que se establecen derechos y principios fundamentales, los cuales son valores mínimos aplicables y exigibles a todos los países independientemente de su nivel de desarrollo.

Existen informes anteriores de la Comisión de Expertos referidos a este caso, en el que se recogen observaciones de la Confederación Sindical Internacional (CSI), del TUCOSWA y de sindicatos globales mediante las que se denuncia el empleo de diversas modalidades de violencia por las fuerzas de seguridad de Eswatini contra protestas pacíficas de los sindicatos en 2018 y 2019 tales como amenazas, detenciones, golpes, disparos, intimidación de dirigentes sindicales a lo que se suma la negativa de las empresas a reconocer la actividad sindical.

El detalle de los casos de violencia es verdaderamente abrumador.

En informes anteriores surge que el Gobierno habría constituido una comisión de investigación para abordar la situación de violencia policial, así como también que habría desarrollado una normativa específica para reducir la violencia por parte de la fuerza policial.

Sin embargo, en el actual Informe de la Comisión de Expertos se reiteran las numerosas observaciones recibidas de las organizaciones sindicales nacionales e internacionales, que destacan el aumento preocupante de la violencia y represión que reciben los distintos dirigentes sindicales y manifestantes.

Como dato grave señalan que entre 2022 y 2023, la represión policial ha provocado la muerte de más de 80 personas durante protestas que exigían democracia y mejoras salariales.

El Informe refiere puntualmente el asesinato del Sr. Thulani Maseko, un abogado defensor de los derechos humanos y sindicales, quien fue brutalmente asesinado a tiros el 23 de enero de 2023 en su domicilio, y no hay a la actualidad ningún detenido en relación a su homicidio, destacándose así un alto grado de impunidad.

Asimismo, se ha amedrentado a otros dirigentes sindicales a través de amenazas de muerte y acoso como al Sr. Mbongwa Dlamini, presidente de la SNAT.

Pero lo más alarmante es que la respuesta del Gobierno ante los graves hechos de violencia mencionados refiere a que han sido en respuesta de disturbios y saqueos que habrían operado desde junio de 2021. Según el Gobierno, la policía ha utilizado la fuerza mínima necesaria para restablecer el orden durante las protestas.

La gravedad alcanza una nota de afectación del Estado de derecho y las garantías básicas de los derechos humanos. Nos encontramos ante un caso de extremas y graves violaciones al Convenio y a los derechos humanos en general por parte de Gobierno de Eswatini. Para concluir, cuesta ver en esta Comisión un caso de tal desprecio por los derechos humanos y sindicales, por lo que se requiere la adopción de medidas urgentes para evitar la continuidad de una situación verdaderamente caótica.

Chairperson – I give the floor to Mr Hlalerwayo Nyangulu representative of Malawi.

Government member, Malawi (Mr NYANGULU) – Since Malawi is taking the floor for the first time, I wish to congratulate you on your election to steer this very important Committee.

Malawi has taken note of the information provided by the Kingdom of Eswatini on the efforts being made regarding the implementation of provisions of the Convention. We note the tremendous efforts by the Kingdom of Eswatini relating to legal reforms and voluntary reconciliation process aimed at resolving the issues at hand, after the appearance in the Committee on the same Convention in 2016.

Malawi would like to applaud the ILO for providing technical assistance to Eswatini to ensure that the recommendations made by the Committee on Freedom of Association and the 2016 Conclusions of the case made by this Committee are implemented.

However, we feel that the Kingdom of Eswatini and its social partners should have been given adequate time following the submission of the Mission report in May 2024 to implement the recommendations made through the time-bound road map.

Chairperson – I give the floor to Mr Michael Nyantakyi, Workers' delegate from Ghana.

Worker members, Ghana (Mr NYANTAKYI) – I take the floor to address the grave violations of human and trade union rights in Eswatini, with a Government that has been systematically dismantling the Convention. The persecution and excessive violence against unionists and activists have reached a critical level, particularly in the years 2018 to 2023. It is reported that more than 80 individuals have lost their lives due to police crackdowns on protests demanding democracy and fair wages.

What I see in this matter is an entrenched systematic culture of violence and impunity promoted by the Government of Eswatini. I say this because this is not the first or second time Eswatini has appeared before the Committee. The records of the Committee show that this is the 16th time Eswatini is under discussion for the same Convention.

This Committee is not the only one that has been making interventions, several governments, human rights organizations and the Southern African Development Community (SADC)'s Extra-Ordinary Organ Troika Summit of Heads of State and Government on 31 January 2023 condemned all killings and damage to property in the Kingdom of Eswatini and urged the Government of the Kingdom of Eswatini to urgently initiate the process of the National Dialogue and urged all stakeholders in the Kingdom of Eswatini to remain calm and participate peacefully in the National Dialogue. We have not heard of any meaningful dialogue so far.

The African Commission on Human and Peoples' Rights in its resolution of 11 June 2023 "calls on the Government of the Kingdom of Eswatini to refrain from any form of victimization, harassment, intimidation and targeting of human rights defenders, political parties, protesters, pro-democracy leaders and campaigners through the arbitrary use of the police and security forces"

The Government has attempted to justify its actions by claiming that the protests were not peaceful, citing incidents of looting and arson. However, these justifications fall flat in the face of the overwhelming evidence of disproportionate and brutal responses by state forces. The so-called "minimum force" applied has resulted in the loss of lives and severe injuries, far beyond what can be considered justifiable.

In conclusion, I passionately implore the Committee to hold the Government of Eswatini accountable and ensure that it adheres to its international obligations under the Convention. I hope this is the last time we will have an Eswatini case on the Committee and hope to see a democratic and prosperous Eswatini.

Chairperson – Thank you very much and now I give the floor to Mr Paulus Sheehama, the representative of Namibia.

Government member, Namibia (Mr SHEEHAMA) – Namibia is speaking in her national capacity. My delegation has taken note of the Committee's Report and information provided by the Government of Eswatini.

The Government's commitment to give effect to the Recommendations of the Committee of 2016 is noted. To this end, most of the Recommendations of the Committee have been implemented and resulted in the amendment of several pieces of legislation to conform with both Conventions Nos 87 and 98.

The Memorandum of Technical Comments was submitted towards the end of 2023 by the ILO on the Industrial Relations Amendment Bill. The Government of the Eswatini, through its social dialogue institution namely the Labour Advisory Board, has commenced discussions on the ILO Memorandum of Technical Comments. We have confidence that the outcome in this regard will be communicated to the Committee of Experts within the deadline provided for by the Committee.

As part of its effort to ensure that the trade union render service to their members, the Government accorded preferential treatment to the public sector union, namely SNAT, for its Executive Secretary to be seconded on a full-time basis in the office of the Union for the duration of his or her term.

The incidents that occurred from June 2021 to 2023 resulted in the brutal killing of civilians, a senior Prince from the royal family, police officers, and traditional leaders, including Mr Thulani Maseko, a human rights lawyer. We commend the Government's determination to ensure ongoing credible and transparent investigations and that arrests are continuing to be made of the perpetrators.

In conclusion, Namibia appreciates the continuing efforts and concrete measures made by the Government to implement the recommendations of the Independent Investigation Committee and the National Voluntary Conciliation Report and trusts that the Government of Eswatini will provide a progress report to the Committee of Experts, come 2025.

Chairperson – I now give the floor to Mr Hendrik Johannemann, Workers' delegate from Germany.

*Interpretation from German: **Worker member, Germany (Mr JOHANNEMANN)*** – I speak for the **German trade unions**. Our colleague, Thulani Maseko, was killed. He was a lawyer who worked actively for the rule of law and democracy. He defended TUCOSWA against the State when the registration was withdrawn by the authorities. When he was killed, he was a chairperson of the Multi-Stakeholder Forum, who sought to set itself the task of common discourse for positive change in Eswatini. On 21 January 2023, Thulani Maseko was brutally killed. He was shot in his very own house right in front of his wife and children. In the hours before the death, the King of Eswatini declared, and I quote that "critics should not complain if mercenaries then killed them". The African Union, the SADC, the European Parliament, and the High Commissioner for Human Rights of the United Nations all together vehemently condemned the cowardly killing of Thulani Maseko, and the death has still not been clarified today. To date, no one has been brought to justice. Quite the opposite has happened. His widow – Tanele Maseko, is being defamed and harassed by the State authorities. The killing of Thulani Maseko is a clear example of the wave of state violence, it is a case of the daily violence. In the last two years, more than 80 people have been the victims of brutal crackdowns by the police, and only because they fought for democracy and living wages for their colleagues. Particularly horrific on this note was the attack against a bus of activists with teargas. Those who sought to escape were shot with live ammunition. Countless trade unionists have had to leave the country and to date live in exile. Trade union rights are human rights. Those who fight for legitimate wages should never be met with violence. The Committee of Experts explicitly state in their report that a climate free of violence and threats and pressure – this is a prerequisite for the Convention and social dialogue.

We call on the Government of Eswatini to stop violations of the right of workers to organize. There must be an end to the violence and the repression. Furthermore, we call on the Government to conduct an independent, transparent investigation into the murder of

Thulani Maseko. And finally, we ask that the Government seriously undertake dialogue with the various social partners in Eswatini to create a peaceful climate and find common solutions.

Chairperson – I give the floor to Mrs Monica Hanga representative of Zimbabwe.

Government member, Zimbabwe (Ms HANGA) – We align ourselves with the statement delivered by Angola on behalf of the SADC. Zimbabwe has followed the discussion on the application of the Convention by the Kingdom of Eswatini. We take note of the information provided by the Government and the submissions of both the Employers and Workers that have been made today. Zimbabwe welcomes the progress that has been reported and would like to encourage the continuation of sustainable dialogue in respect of areas that still need to be addressed. This is in view of the fact that the SADC, Ministers of Employment and Labour Sector (ELS) and the social partners received an update on the case of Eswatini in respect of its application of the Convention at its annual meeting in April this year, held in Lubango, Angola. The SADC ELS urged the tripartite partners to continue working together for the resolution of outstanding issues, with the engagement of the regional body of workers, the Southern Africa Trade Union Coordinating Council (SATUCC). At the same meeting, Ministers and Social Partners noted that SATUCC is committed to continue working with governments and employers' organizations and it is in this same spirit that we encourage the continuation of social dialogue.

It is Zimbabwe's considered view that the tripartite partners should be afforded with an opportunity to implement the outstanding issues that have been raised by the ILO supervisory bodies. We take note of the development of a roadmap for the implementation of these Recommendations and call on the ILO to deepen its support to Eswatini. The tripartite partners should be allowed time to engage and collectively work on solutions to the challenges being faced.

Chairperson – Now I give the floor to Mr Stephen Russell, workers' delegate from the United Kingdom.

Worker member, United Kingdom of Great Britain and Northern Ireland (Mr RUSSELL) – Thank you Chairperson. I also speak on behalf of **Dutch trade unions**.

Going back through the comments on Eswatini of both the Committee of Experts and this Committee over the years, I reached 2014 before I found one that did not express concern over violence against trade unionists. Five times since then, including this year, violent repression of trade union activities has been at the heart of Eswatini's egregious failures on the Convention. And, with deep concern, I note the situation is getting worse, not better.

In 2015 the Committee called for the release from prison of Thulani Maseko, lawyer for Eswatini trades union congress TUCOSWA. Those of us who believe firmly in the positive influence of the Committee can only be dismayed by the news in this year's report of his horrific murder in 2023 and the lack of any prosecution. Mr Maseko was not alone. For example, police violently dispersed a peaceful protest at Luyengo, and in the process shot and killed Mr Sabelo Dlamini, leading to questions in the UK Parliament as to whether Eswatini was fit to be a member of the Commonwealth.

Torture and brutality are likewise tools of the State. As we have heard, police shot tear gas canisters into a bus carrying workers to a protest, forcing the workers to jump out the windows to escape the gas, an hazardous process compounded by the police shooting at them with rubber bullets and hitting them with batons as they did so. Workers from the agricultural union SAPAWU, also heading to a protest, had their bus waylaid by army personnel, and were forced to drive to a secluded area and where the 50 workers were then viciously beaten with sticks

and sjamboks – a kind of heavy leather whip. As they were brutalised, they were forced to denounce their own trade union federation.

In 2021, following a Government attempt to stop the union gathering to deliver petitions to the prime minister, the chair of TUCOSWA's youth federation was assaulted in public by the police for wearing a union t-shirt, leaving him hospitalized. The police later charged him for, according to reports, singing an inciting song.

As one goes further back in the Committee records, the Committee of Experts' concerns about violence resume. It is a persistent and appalling reflex by an authoritarian state by whom the very existence of independent trade unions appears to be treated as an affront to be violently challenged. But as the 2012 report notes, the "rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations."

Eswatini has been falling woefully short of this standard for years and seems as far away from compliance as it ever has. I hope the Committee can finally convince the authorities to take their responsibilities seriously as members of this house and act in both law and practice to free trade unionists from the threat of violence.

Chairperson – I give the floor to Mr Isaac Nsubuga, the representative of the United States of America.

Government member, United States of America (Mr NSUBUGA) – We thank the Government of Eswatini for providing additional information to this Committee in response to the recent observations of the Committee of Experts.

The United States is deeply concerned by the reports of violence, persecution, harassment and death threats against independent trade unionists. We are particularly concerned by the excessive use of force against gatherings and marches organized by trade unions, and we reiterate our call for transparent investigations into the 2023 killing of Mr Thulani Maseko, a human rights and trade union rights defender. We regrettably note Government inaction in cases where investigations concluded abuse against trade unionists.

We urge the Government to ensure that authorities charged with maintaining law and order receive adequate instructions on the proportional use of force to manage public gatherings. We also urge the Government to conduct investigations on reported trade union violence in an independent and credible manner.

We acknowledge the tangible measures taken by the Government in 2022 and 2023 to investigate the matters previously raised by the unions and to seek corrective measures. We particularly note the creation of the National Voluntary Conciliation process that was adopted by the Government and the TUCOSWA, and the ongoing ILO technical assistance. We urge the Government to engage with the ILO and to fully implement the recommendations made by the ILO technical mission.

The United States remains committed to engaging with the Government to advance worker rights in Eswatini.

Chairperson – I give the floor to Souleymane Diallo, Workers' delegate from Senegal.

Membre travailleur, Sénégal (M. DIALLO) – Je m'exprime au nom des travailleurs de l'Afrique de l'Ouest. Nous saluons la qualité et la pertinence du travail de commission d'experts. Nous avons également pris note des réponses du gouvernement de l'Eswatini. Cependant, nous faisons part de notre amertume et de notre vive inquiétude quant à la détérioration de

la situation des droits syndicaux en Eswatini, en particulier en ce qui concerne la liberté d'association.

Nous avons constaté plusieurs cas de violation de la liberté d'association et, malheureusement, aucune mesure concrète et pertinente n'a été prise par le gouvernement pour remédier à cette situation douloureuse. Au contraire, des actions sont régulièrement entreprises pour affaiblir le mouvement syndical. Nous pouvons citer entre autres exemples, notamment:

- la multiplication des cas de persécution excessive et de violence à l'encontre des responsables syndicaux;
- l'entrave à l'exercice de la liberté syndicale par le refus d'admettre de nouveaux membres recrutés par le SNAT;
- le licenciement de Mbongwa Dlamini, président du SNAT, de son poste d'enseignant;
- l'exil forcé de Sticks Nkambule, secrétaire général du SWATCAWU;
- le 30 août 2023, des grenades lacrymogènes et des balles en caoutchouc ont été tirées lors d'un rassemblement pacifique de nombreux membres de l'Association des infirmières du Swaziland, qui réclamaient une santé publique de qualité.

Ces violences s'ajoutent aux campagnes de diffamation contre les syndicats et à l'interdiction des manifestations des syndicats et de la société civile. La situation des droits syndicaux est très préoccupante et nécessite des mesures urgentes et concrètes. Nous demandons instamment au gouvernement de l'Eswatini de respecter, en droit et en pratique, les obligations qui découlent de la ratification de cette convention, notamment:

- en mettant fin à la persécution et à la violence à l'encontre des dirigeants syndicaux et de leurs membres;
- en reconnaissant dans la pratique la liberté des travailleurs d'adhérer au syndicat de leur choix;
- en réintégrant les membres radiés des fichiers syndicaux;
- en autorisant les manifestations syndicales;
- en respectant et en protégeant la liberté d'expression et d'association; et
- en instaurant un dialogue social sincère avec les partenaires sociaux pour une meilleure paix et harmonie sociale et pour le développement socio-économique.

Chairperson – I give the floor to Ms Angélique Mbouzie Ahanda, representative from Cameroon.

Membre gouvernementale, Cameroun (M^{me} MBOUZIE AHANDA épouse ABAH) – Le Cameroun prend bonne note du rapport de la commission d'experts et particulièrement des remarques faites sur le cas de l'Eswatini au sujet de l'application de la convention.

Le gouvernement de l'Eswatini a engagé une série d'initiatives de conciliation et d'apaisement avec les organisations syndicales nationales. Un processus national de conciliation volontaire, adopté le 15 septembre 2023 par le gouvernement et le Congrès des syndicats du Swaziland (TUCOSWA), a été mis sur pied et il suit son cours. Le gouvernement a fait appel à l'assistance technique du BIT, et en bénéficie déjà, pour donner suite aux recommandations contenues dans le rapport de la commission d'enquête indépendante instituée pour examiner le bien-fondé de l'intervention de la police dénoncée par la

Confédération syndicale internationale (CSI) en relation avec les actions syndicales de 2018 et 2019; mais aussi pour mettre en œuvre les recommandations contenues dans le rapport de la Commission nationale de conciliation volontaire que le gouvernement et le TUCOSWA sont convenus d'appliquer l'année dernière dans le but de résoudre un certain nombre de plaintes présentées au Comité de la liberté syndicale par le TUCOSWA.

L'assistance technique du BIT envisage l'élaboration d'un plan de mise en œuvre assorti de délais; ce plan est piloté par une structure de suivi et d'évaluation, et a pour objectif d'assurer l'implémentation des recommandations du processus national de conciliation volontaire et de donner suite aux rapports des organes nationaux et aux commentaires de la commission d'experts adoptés lors de l'examen, en novembre 2023, des rapports du pays au titre de l'article 22. Il convient de saluer l'engagement et l'esprit de conciliation qui animent le gouvernement.

Une mission technique composée de quatre experts du BIT s'est rendue dans le Royaume d'Eswatini en février 2024 et a produit un rapport assorti d'un tableau de recommandations qui a été soumis au gouvernement et au TUCOSWA le 2 mai 2024. Dans son rapport, la mission se dit convaincue que la feuille de route pour le suivi des rapports des organes nationaux, établie en relation avec les plaintes présentées, sera utile au gouvernement et aux parties prenantes pour s'approprier les réformes politiques et réglementaires. La mission est également d'avis que le suivi des progrès relatifs au respect des normes internationales du travail ratifiées permettra à toutes les parties prenantes de mieux saisir les liens qui existent entre ces réformes et les commentaires formulés par les mécanismes de contrôle de l'OIT.

Une deuxième mission technique est envisagée; elle prévoit une approche participative élargie. Le gouvernement prend en compte les conclusions de la commission d'enquête indépendante et est déterminé à les mettre intégralement en œuvre. Bien plus, le processus national de conciliation volontaire est présidé par un juge principal de la Cour d'appel du travail, qui a été choisi d'un commun accord par les parties. Le Royaume a fait appel à l'assistance technique du BIT et en bénéficie déjà. À cet égard, le BIT voudra bien assurer la sauvegarde du dialogue social à travers la poursuite de la médiation entre parties.

Le Cameroun apprécie à sa juste valeur l'engagement gouvernemental pour la justice sociale et invite toutes les parties concernées à donner à l'Eswatini la possibilité de mettre en œuvre les recommandations formulées par les instances nationales.

Chairperson – I give the floor to Mr Rolf Vestvik, Workers' delegate from Norway.

Worker member, Norway (Mr VESTVIK) – I am speaking on behalf of the **trade unions in the Nordic countries**.

The report from the Committee of Experts once again raises strong criticism of the authorities in Eswatini. This is in line with the convincing and severe facts presented by many other credible sources and institutions on workers' rights in the country.

I find it appropriate to mention that the annual ITUC Global Rights Index of 2023, Eswatini was categorized as one of the world's worst countries in terms of workers' rights. On Wednesday, the ITUC Report for 2024 will be released, and it will not be surprising if Eswatini is once again high on the list of countries with serious violations of fundamental rights for workers. The Report from the Committee of Experts provides a detailed review of grave violations of the Convention. We find it extremely worrying that trade union activists have been killed. This is simply unacceptable. We all have a responsibility to act.

From the Nordic side, we would like to highlight the challenges facing women who are engaged in trade union work. Women involved in trade union work experience high levels of violence and other forms of intimidations and threats. This requires an immediate and effective response by the Government. We demand that the Government should place the issue high up on their agenda in deeds, not just words, and provide sufficient resources to implement laws and policies that seek to guarantee the safety of women engaged in union activities. We also encourage the authorities in Eswatini to seek inspiration from other countries where gender-balanced and well-functioning tripartite cooperation contributes to the economic prosperity and social security for all.

Our call is clear. We appeal for an immediate end to all forms of repression against trade union leaders, men and women alike. We ask the authorities immediately respect the ILO's Conventions. And we demand that the authorities contribute to the protection of all the brave women in the trade union work in Eswatini.

Chairperson – I give the floor to Mr Tshepiso Mberekhi, Workers' delegate from Botswana.

Worker member, Botswana (Mr MBEREKI) – I am speaking on behalf of the workers in Botswana (BFTU and BOFEPUSU).

As the report from the Committee of Experts states, the events unfolding in Eswatini have been noted with great concern. For us as the workers of Botswana we have noted and observed these events with great sadness. Any state that calls itself a democratic state must as fundamental, guarantee its citizens an environment that respects human rights, fundamental freedoms and in which the will of the people is freely exercised. This unfortunately, is not what we see in Eswatini. The continued repression of worker's rights to associate and express themselves is a cause for concern. The persecution and murders of trade unionists and the excessive violence against strikers that increased in 2022 and 2023, with allegedly more than 80 people reported to have lost their lives because of police crackdowns on protests that demanded democracy and wage increases can never and should never be left unchallenged.

We can never speak of democracy and leave out justice as it is a key principle in a democratic society. The brutal killing of Thulani Maseko, where to date no arrest has been made, is clear example of lack of justice in a society. There is no justice for Thulani Maseko or him as a victim of murder and most importantly there is no justice for his wife who remains with the trauma and no closure. Justice for Thulani is what we must demand and we hereby do so, from the Government of Eswatini. And this justice, we couple it with the demand for accountability.

The ILO Committee on Freedom of Association has held on many occasions that, a system of democracy is fundamental for the free exercise of trade union rights. Furthermore, the Committee emphasized the importance of the principle affirmed in 1970 by the International Conference in its resolution concerning trade union rights and their relation to civil liberties, which recognizes that the rights conferred upon workers' and employers' organizations must be based on respect for those civil liberties which have been enunciated in particular in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, and that the absence of these civil liberties removes all meaning from the concept of trade union rights. It cannot be correct and acceptable that in a democratic society, in the 21st century, there could be people in exile for fear of arrest just for having divergent views with the ruling elite.

We call on the Government of Eswatini, to guarantee and restore the rights of workers in that country, allow them the freedom to associate and most profoundly, allow them to respectfully have divergent views with their Government where such arises. That is what democracy is all about and that is how social justice can be achieved.

Chairperson – I give the floor to Mr Somiruwan Subasinghe, the representative of International Transport Workers’ Federation (ITF).

Observer, International Transport Workers’ Federation (ITF) (Mr SUBASINGHE) – I was sitting just a few rows behind from here when the Committee examined this case in 2015. I can still remember the impassioned plea to our Committee by Thulani Maseko’s wife calling for the release of her husband, the renowned trade union and human rights lawyer, who had been sentenced to a two-year prison term simply for having criticized the injustice a worker had faced through the judiciary. That year, the Committee unambiguously called on the Government to unconditionally release Mr Maseko who had merely exercised his rights to freedom of speech and expression. Mr Maseko was subsequently released, but only after he completed his entire sentence. Chairperson, as you have already heard, Mr Maseko is no more. He was brutally shot at his home last year. As we mourn Mr Maseko’s death, it is our duty to continue his fight for the protection of the right to freedom of association in Eswatini.

On 12 and 13 December 2022, the ITF-affiliated SWATCAWU called a “job stay away”, with demands to improve working conditions and the release of jailed political leaders. A few weeks later, on 28 December 2022, Mr Sticks Nkambule, the General Secretary of the Union survived an assassination attempt. No perpetrators have yet been identified. On 29 December 2022, a team of heavily-armed state forces led a militia-style raid on his home and village, but Mr Nkambule was able to evade the ambush, and has been forced to remain in exile since. These are the reasons he was forced to flee. On 11 January 2023, Mr Nkambule was declared a “wanted person” in a spurious contempt of court charge. Since his forced exile, the SWATCAWU union office has come under constant surveillance. Armed police regularly enter the premises.

We have also received reports of state security personnel entering bus terminals with a view to conducting surveillance on trade union members. This is no way for trade unionists to conduct their activities in full freedom.

Just as the previous speaker did, I also have to recall the ILC resolution from 54 years ago. Indeed, the absence of these civil liberties removes all meaning from the concept of trade union rights protected under the Convention.

The Government of Eswatini must refrain from the violent treatment and harassment, including judicial harassment, of trade unionists. The Government must release, quash convictions and drop all charges against individuals, including Mr Nkambule, for having exercised legitimate trade union activities.

Chairperson – I give the floor to Ms Dominique Marlet, representative of Education International (EI).

Observateur, Internationale de l’éducation (M^{me} MARLET) – Je m’exprime au nom du SNAT. Le président du SNAT, M. Mbongwa Dlamini, dont le nom a déjà été mentionné plusieurs fois, aurait dû parler ici ce soir. Malheureusement, malgré une demande déposée début mai, il n’a pas obtenu le visa pour venir expliquer à cette commission le plan de destruction d’un syndicat démocratique, le SNAT. Le harcèlement antisyndical à l’encontre de Mbongwa Dlamini et du secrétaire général Lot Vilakati est largement mentionné dans le rapport des experts. Mbongwa Dlamini subit des harcèlements depuis le début de son engagement syndical en

2016 et plus particulièrement depuis qu'il est devenu président du SNAT en 2018. Le 21 septembre 2022, son salaire d'enseignant a été supprimé. La mesure disciplinaire mentionnée par le ministre concerne une absence autorisée par la direction de son école pour participer à une activité syndicale légitime. Malgré une décision positive de la Cour du travail du 8 mai 2023, M. Dlamini n'a pas été réintégré dans son poste d'enseignant et n'a pas récupéré ses arriérés de salaires. Les autorités ont ignoré la décision judiciaire. Pire, le 30 août 2023, la *Teaching Service Commission* l'a licencié. Le 21 mars dernier, la Cour du travail de l'Eswatini s'est prononcée en faveur de l'enseignant syndicaliste. Les autorités refusent donc de suivre deux décisions judiciaires favorables au syndicaliste et elles ont même fait appel.

Plusieurs intervenants ont également parlé de l'exil temporaire imposé à Mbongwa Dlamini en 2023 car son intégrité physique était menacée pendant que les autorités lançaient une campagne de dénigrement du syndicat enseignant. Depuis son retour rapide au pays, les autorités ont refusé que le président du SNAT rencontre les gens du ministère de l'Éducation, du ministère des Services publics ou de la Teacher Service Commission. Il lui est également interdit de participer au Forum conjoint de négociation.

Pour avoir pétitionné devant le ministère pour la réintégration du président du SNAT, le secrétaire général Lot Vilakati a reçu un courrier du ministère de l'Éducation menaçant de supprimer sa décharge syndicale.

Harcèlement des dirigeants syndicaux, dénigrement du syndicat dans les médias, refus d'inscrire les nouveaux adhérents, pression sur les enseignants temporaires de ne pas renouveler leur contrat s'ils se syndiquent et refus d'augmenter la cotisation syndicale. Voilà comment les autorités affaiblissent un syndicat qui négociait pour ses membres dans un contexte difficile. Malgré une perte rapide de ses membres qui sont passés de 14 500 à 10 800 enseignants, le SNAT continue à œuvrer pour la démocratie et les droits des travailleuses et des travailleurs en Eswatini.

Chairperson – I give the floor to Mr Héctor Mareque, IndustriALL Global Alliance.

Observer, IndustriALL Global Union (Mr MAREQUE) – My organization represents two unions from Eswatini, namely ATUSWA and SESMAWU, which organize thousands of workers in the energy, mining, textile, and garment sectors.

IndustriALL remains deeply concerned about ongoing violations of freedom of association and other fundamental trade union rights in the country. Some employers are not honoring in recognition agreements with trade unions, despite unions fulfilling legal membership requirements. Workers are being denied their lawful right to form and join trade unions, the right to peaceful assembly and protest is being undermined; and workers are being terminated unfairly.

Trade union leaders face huge challenges. Former SESMAWU Secretary-General, Ms Maureen Nkambule, for example, was unfairly terminated from a state-owned utility company. Ms Nkambule was initially suspended, together with other workers, and charged for organizing a strike. She challenged the suspension in the Industrial Court in 2021 and won the case. The Court ruled that the suspension was unfair because the employer failed to give her a fair hearing. However, she was later again dismissed, and is again taking the dismissal in the Industrial Court, which is yet to issue the court dates when the matter will be heard.

Another case is related to Mr Wander Mkhonza, the Secretary-General of ATUSWA. His house was petrol bombed in 2022 during a strike of textile and garment workers. Several workers were injured as the police used violence to disperse the workers. These actions were meant to intimidate and weaken the trade unions. However, the unions launched Industrial

Court challenges and approached the Conciliation Mediation and Arbitration Commission to have their disputes with employers resolved.

In some instances, the employers used strategies to out-finance unions through delaying tactics and appeals to drag the court processes. This had the effect of depleting scarce union resources through legal fees.

Furthermore, the Government has used disproportionate force to disperse striking workers. Over 80 pro-democracy protesters, including workers, have also been killed by law enforcement agencies, while several were injured.

Therefore, IndustriALL calls on the Government of Eswatini to:

- Respect and facilitate democratic spaces for the people of Eswatini to make their demands through protests.
- Stop gross human rights violations and the use of excessive and lethal force against protestors by the police and the army.
- Ensure law enforcement providing safety and security take place without harming or injuring unarmed civilians.
- Facilitate an investigation into the death of civilians as demanded by trade unions and civil society organizations.
- Respect and implement the Recommendations of the Committee of Experts.

Chairperson – I give the floor to Ms Linnea Wikstrom the representative of the Building and Wood Workers' International (BWI).

Observer, Building and Wood Workers' International (BWI) (Ms WIKSTROM) – In solidarity with our fellow trade unionists in Eswatini, we make this intervention to address the escalation of violence, persecution and murders of trade unionists and workers during their right to take industrial action and the state of the mentioned initiated conciliation process. The extreme development has continued despite the clear Recommendations made by the Committee on Freedom of Association regarding Case No. 3425 of 2022. These include, among others, establishing a national voluntary conciliation.

Unfortunately, when the conciliation process was held between February and July 2023, the Government showed a lack of both will and commitment to the process. Despite 15 issues being agreed upon and referred to the relevant government bodies for resolution, one year after the referral, there has been no resolution of any of the identified issues.

We want to underscore the importance of the conditions presented by this house as crucial for effective social dialogue and which also needs to be present for any conciliation process. This includes:

- The political will and commitment to engage in good faith in a dialogue on the part of all parties.
- Strong, free, independent representative workers' and employers' organizations, together with trust, commitment and respect by the Government for the autonomy of these social partners.

The Committee on Freedom of Association has also established the principle that 'the rights of workers' and employers' organizations can only be exercised in a climate that is free

from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for the governments to ensure that this principle is respected”.

The Government's attacks on the trade union and the ban on trade union gatherings are stark evidence that the necessary conditions for conciliation are absent in Eswatini.

We therefore support the Committee on Freedom of Association's call for the Government to take measures without delay that the trade unions' rights to engage in protest and take industrial actions are protected, both in law and in practice. We also want to reiterate the need for the Government to identify and impose penalties pursuant to violations of the national legislation on disciplinary actions against abuse of power by members of the police and security forces.

Chairperson – I invite now, the Government representative of Eswatini, Mr Phila Buthelezi, Minister of Labour and Social Security to his concluding remarks. You have ten minutes.

Government representative (Mr BUTHELEZI) – First of all let me appreciate the words of support and encouragement that we have received. Many have spoken in support of what we have been trying to do as a Government, in trying to abide as much as possible, to the Convention which we have accordingly ratified.

In the same vein, let me express my dismay at the level of publication that is appearing in some of the submissions that have been presented before the Committee. Let me just put on record that gatherings are open, they are not banned and as some of the submissions have indicated, it is a pity that it appears workers do not want to seek permission when they want to meet from a number of 50 to above, because that's basically for their own protection and safety. This is what is contained in the Public Order Act, which was amended in 2017, amending a 1963 Order and it is in place. Its enforcement is to ensure that they are safe, their gatherings, well in order and they are all protected.

The case of Thulani Maseko has been highlighted here. Between 2021 to early 2023 we lost quite a number of people, including chiefs, including law enforcement officers. It is not just a secluded case to one trade union player. So, investigations are ongoing as the Government has been giving reports to that effect. It is unfortunate that some of those that are very close to Mr Maseko, some close family members to the late lawyer, are evasive with information, which is one of the reasons why they are taking too long for this case to be concluded. But nonetheless, it is an ongoing process. On behalf of the Government that may also extend open hands to the Committee to say, if it is possible, and if it pleases the Committee, a team of experts can be sent to the country to verify some of the serious allegations that have been raised here, by some of the speakers.

As I am presenting before you today, not even one protester died in a protest action for wages as it has been mentioned. Not even one trade unionist is in jail as we speak today. Not even one trade unionist has been killed by the Government as of today. But nonetheless we are willing to accept teams which may come and verify some of these issues that have been raised here. There is an issue of Mr Sticks Nkambule to say that he had been in exile. Mr Nkambule is in the country, his case is ongoing in court. Just last week, together with all public sector unions, we had a fruitful meeting with the Prime Minister, after meeting our office as the Minister of Labour executive on the ground.

And let me also mention that we just recently had celebrated May Day. We, were invited by the trade unions and the Government attended with the prime minister. Unfortunately, we could not be given a platform to engage with them and we were hurled at with stones and

bottles. That is well, the kind of reception that you sometimes receive when you try to engage, when you try to extend and olive branch. But nonetheless, let me also indicate that as Government, we are not aware of any assassination attempt on Mr Nkambule as it has been mentioned here. We just know that there is a pending case before court, just to answer after defying a court order because we strongly believe that being a unionist does not mean you are immune to law. You have to respect court processes as a court order had been defied, that is why there is a case that is pending for him to answer.

The Government of the Kingdom of Eswatini is committed to ensuring that to work together with all our social partners in making sure that more especially for the Convention we are as compliant as possible. Let me also indicate that there have been a lot of talks and misconceptions in various forums about Eswatini. It is one country which I can probably say is democratic. I am a product of that democracy. I am elected directly by the people to which I am accountable to. It is my third term in office, and I am not ashamed to say it is a democratic country. Who can say they have the best democracy? In what form does it come? In different forms. We are one democratic state which is fully committed to ensuring that we are compliant with all laws for which we have ratified as a country, just like the Convention. There have been allegations that the Government stopped remittance of trade union fees for SNAT members. We are the Ministry responsible for registrations and deregistrations. We have not made even a single attempt to that. The Committee is welcome to send a team to come and verify some of these serious allegations that have been put forth before it.

With regard to gatherings, they are open, and there is law and order for which those participating need to follow. There is no harassment of trade union activists. Some of the union leaders are part of political parties and they are political activists. During the unrest period, there were instances where political gatherings were hidden under the banner of unionism. It has been alleged that some workers were teargassed in the past, nothing of that sort happened. The Government or the police have never thrown teargas to a bus full of workers. People were restricted to movement that period due to COVID-19 regulations and to unrest restrictions. But some were defying the restrictions that were put in place. And unfortunately, the Government has some law enforcement agencies who work with them in trying to restore law and order, but it is no case against workers specifically.

In a nutshell I just want to reiterate our commitment to ensuring that we work together with all our partners, there is a reconciliation process, a voluntary conciliation process, which is in progress. There is an implementation plan which we are working together with our partners which we are pleading that its given the room to get to its finality and then maybe if there are any underlying matters which need consideration, we can work on that. Yes, we agree there are some pending issues, one or two, which we have been working on with our social partners. So we are pleading with the committee to please allow us time to conclude this process which you have allowed us to embark on and if there are any issues that will be raised, we are more than ready to sit down and engage and find lasting solutions. So that may be my presentation for now, and we are more than ready to any guidance that you can receive from the Committee and any other players who have been assisting us over time, mainly the ILO, on all our issues.

Chairperson – I give the floor to Mr Kaizer Moyane, Employers' Vice-Chairperson to make his final remarks.

Employer members – We take this opportunity to thank the representative of the Government of Eswatini for both the written and oral information shared with the Committee. We also thank all the speakers who took the floor to contribute in the discussion of this case.

Given the ongoing processes in the country, the Employers recommend the Government to do the following in order to achieve conformity with the Convention:

1. Conclude the road map to implement the recommendations of the Independent Commission and the National Voluntary Conciliation Processes.
2. Expedite the outstanding police investigations into the violence and killings that took place between 2021 and 2023.
3. In consultation with social partners, disseminate the codes of good practice and legislation to prevent violent confrontation during protests and industrial action to relevant stakeholders.
4. Submit all outstanding information to the Committee of Experts in 2025.

Chairperson – I now give the floor to Ms Claire Middlemas, Worker spokesperson, to make her final statement.

Worker members – We thank the Government of Eswatini for its participation and the information provided. We also thank all the delegates who took part in this discussion.

The Workers' group reiterates its deep concern at the increasing state repression and escalating physical violence and threats against workers and their representatives and the curtailment of democratic freedoms in the country.

We note that in September 2019, an Independent Investigation Committee was appointed to give effect to the recommendation of the Committee on Freedom of Association to initiate an independent investigation to determine the justification of the violent police crackdown against peaceful industrial actions, which had been denounced in September 2018 by the TUCOSWA and the ITUC. We take note of the recommendations of the Independent Investigation Committee, which include, inter alia, the provision of training activities for lower-ranked police officers, marshals, and the public at large on trade union rights and the handling of industrial actions.

We further note that the Government benefited from the technical assistance of the Office regarding the handling of industrial action and public gatherings organized by trade unions. In this context, the Government adopted and disseminated the Code of Good Practice for Industrial and Protest Actions and the Code of Good Practice on Gatherings, as a capacity-building strategy of the various stakeholders on how to manage industrial and protest actions, in order to minimize unwarranted confrontations between protestors and members of law enforcement. But given the increased violence of police and security forces during gatherings and demonstrations organized by trade unions in recent years, we can only observe that the dissemination of these codes of good practice has had virtually no effect and that workers and trade unionists organizing or participating in gatherings are still at high risk of being beaten up and arbitrarily arrested.

Furthermore, we note that in the context of a complaint before the Committee on Freedom of Association submitted by the TUCOSWA in 2022, the Government and the trade union agreed to voluntary conciliation, which occurred between February and July 2023. Despite this agreement, the Government has failed to engage in meaningful dialogue with the union and most of the issues raised by the union remain unresolved. Meanwhile, state attacks against TUCOSWA have continued.

The state of human and trade union rights in Eswatini is deeply worrying. We have submitted here today evidence of harassment and violence against trade unionists and a lack of engagement of the Government with trade unions. We urge the Government to respect its

obligations under the Convention and abide by the observations and conclusions of the ILO supervisory bodies which so far have remained a dead letter.

We specifically urge the Government to take immediate measures to investigate, prosecute and convict the perpetrators and instigators of crimes against trade unionists, including the murder of Thulani Maseko.

We urge the Government to refrain from any acts of interference in the activities of trade unions, including the TUCOSWA, the SNAT and the SWATCAWU, and to cease its anti-union smearing campaign.

We urge the Government to refrain from any acts of intimidation, harassment, threats and physical, violent attacks against trade union leaders and members, including SNAT President and Secretary-General Mbongwa Dlamini and Lot Mduduzi Vilakati.

The Government must guarantee the safe return home of all trade unionists living in exile, including the Secretary of the SWATCAWU, Sticks Nkambule.

We urge the Government to remove all restrictions on trade union gatherings and protest actions. The Government must withdraw all criminal charges pending against trade unionists and workers arrested during these protests.

We urge the Government to adopt and implement effective measures to provide training to police and security forces, municipal councils and the judiciary on trade union rights and the peaceful handling of industrial actions.

We urge the Government to engage in meaningful dialogue with trade unions to address the pressing issues and violations they face.

We welcome the invitation that the Minister of the Government of Eswatini made to this Committee just now for a direct contacts mission. We request the Government to submit its full report on the measures taken to implement the Committee's conclusions and on all outstanding information requested by the Committee of Experts by 1 September 2024. Finally, we request this Committee to include its conclusions in a special paragraph of its report.

Chairperson – We have now concluded the discussion of this case. The conclusions will be adopted on Thursday, 13 June.

We have finished our work for today, I would like to thank you for your cooperation and contributions. We will meet again on Tuesday, 11 June at 10 a.m. for the examination of the following cases: Gambia – C.138; Georgia – C.100; Guinea – C.105; Japan – C.87; and Ecuador on C.87.

We have five cases for tomorrow so I would like to start our proceedings at 10 a.m. sharp so please be here. The sitting is now closed.

The sitting closed at 9 p.m.

La séance est levée à 21 h 00.

Se levantó la sesión a las 21 horas.