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Reports of the Director-General concerning institutional matters

Third report: Report of the Committee set up to examine the representation alleging non-observance by Serbia of the Minimum Wage Fixing Convention, 1970 (No. 131)

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► I. Introduction

1. By communication received by the Office on 16 September 2022, the Association of Teachers' Syndicates of Vojvodina made a representation to the International Labour Office under article 24 of the Constitution of the International Labour Organization (ILO) alleging non-observance by the Government of Serbia of the Minimum Wage Fixing Convention, 1970 (No. 131). Convention No. 131 was ratified by Serbia in 2000 and is in force in the country.
2. The provisions of the ILO Constitution concerning the submission of representations are as follows:

Article 24

Representations of non-observance of Conventions

In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.

Article 25

Publication of representation

If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

3. In accordance with article 1 of the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution, the Director-General acknowledged receipt of the representation, informed the Government of Serbia and brought it before the Officers of the Governing Body.
4. The representation was not submitted using the electronic form.
5. At its 346th Session (October–November 2022), the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.¹ The Committee is composed of Mr Alfredo Novales Bilbao (Government member, Spain), Mr Nicklas Beckman (Employer member, Sweden) and Mr Plamen Dimitrov (Worker member, Bulgaria).
6. In a letter dated 3 February 2023 the complainant organization indicated that it did not wish to enter into optional voluntary conciliation with the Government with regard to the representation.
7. The Government of Serbia submitted its observations concerning the representation on 31 March 2023. The complainant organization submitted supplementary information on 18 April 2024. The Government submitted its reply to that information on 18 September 2024.
8. The Committee met in a hybrid format on 9 and 20 February 2026 to examine the representation and adopt its report.

¹ GB.346/PV, para. 673.

► II. Draft decision

9. In the light of the conclusions and recommendations set out in the report of the Committee contained in document GB.356/INS/19/3, the Governing Body:
 - (a) approved the report of the Committee;
 - (b) requested the Government of Serbia to provide, no later than 1 September 2026, a report on the application of the Convention for examination by the Committee of Experts on the Application of Conventions and Recommendations at its 2026 session, including information on the follow-up given to the Committee's conclusions and recommendations;
 - (c) decided to make the report publicly available and to close the representation procedure.

► III. Examination of the representation

A. The complainant's allegations

10. In its communications, the complainant organization alleges non-observance of the Government of Serbia of Article 2(1) of Convention No. 131, because some categories of workers (such as cleaners, waitresses, caretakers, stokers, drivers ...) employed in the public services (such as schools, preschool institutions, hospitals, clinical centres, healthcare centres, social welfare institutions and the like), who receive minimum wages, do not receive the meals at work and holidays allowances to which minimum wage earners are entitled under section 111(6) of the Labour Law of the Republic of Serbia of 15 March 2005 (Official Gazette of the Republic of Serbia No. 24/2005, as amended) (hereinafter Labour Law). According to the complainant organization, the minimum wages of the above-mentioned categories of workers are not calculated as per the Labour Law, but according to the Law on Salaries in Government Bodies and Public Services (Official Gazette of the Republic of Serbia No. 34/2001, as amended) which prescribes that the meals and holidays' compensation be included in the minimum wages' calculation formula and not paid separately, as foreseen in the Labour Law. The complainant organization alleges that the above-mentioned categories of workers therefore receive a smaller amount of money than the one guaranteed by the Labour Law, in contradiction to Article 2(1) of Convention No. 131, which prescribes that "minimum wages shall not be subject to abatement".
11. The complainant organization refers to the following provisions of the Labour Law:
 - (a) **Section 111:** (1) An employee is entitled to a minimum wage for a standard performance and time spent at work. (2) The minimum wages are determined on the basis of the minimum price of labour established in accordance with this Law, time spent at work and taxes and contributions paid from wages. (...) (5) The employer shall pay the minimum wage to an employee in the amount which is determined on the basis of the decision on the minimum prices of labour which is valid for the month in which the payment is made. (6) An employee who receives a minimum wage is entitled to an increased wage from

section 108 of this Law,² to compensation of expenses and other earnings that are considered as wages according to the law. (7) The base for the calculation of increased wage from paragraph 6 of this section is the minimum wage of the employee.

- (b) **Section 112:** (1) The minimum price of labour is determined by a decision of the Social and Economic Council established for the territory of the Republic of Serbia (hereinafter: Social and Economic Council). (2) Should the Social and Economic Council fail to render a decision within 15 days from the day of commencement of bargaining, the decision on the amount of minimum cost of labour shall be made by the Government of the Republic of Serbia (hereinafter: The Government) within the following period of 15 days. (3) Determination of the minimum cost of labour starts in particular from: existential and social needs of the employee and his/her family expressed through the value of the minimum consumer basket, movement of the employment rate in the labour market, growth of the rate of gross domestic product, consumer price trends, trends in productivity and movement of the average salary in the Republic. (...) (6) The minimum cost of labour is determined per working hour without taxes and contributions, for the calendar year, not later than 15 September of the current year, and shall apply from 1 January next year. (7) Minimum cost of labour may not be determined in a lower amount than the minimum cost of labour established for the previous year.
- (c) **Section 113:** (1) The decision on minimum cost of labour specified in section 112 of the present Law shall be published in the "Official Herald of the Republic of Serbia".
- (d) **Section 118:** (1) The employee is entitled to receive compensation of expenses according to the general act and labour agreement as follows: (i) for commuting to and from work, in the amount of the cost for the public transportation fare in case the employer did not provide their own transportation; (ii) for time spent on a business trip in the country; (iii) for time spent on a business trip abroad; (iv) accommodation and meals for work and stay in the field, unless the employer has provided free accommodation and meals for the employee; (v) for meals at work, unless the employer has not organized this right otherwise; (vi) for vacation allowance. (...)

12. The complainant organization also refers to the following provisions of the Law on Salaries in Government Bodies and Public Services:³

- (a) **Section 2:** (1) The salaries of the chosen, nominated and appointed persons and employees from section 1 of this Law are determined on the basis of: (i) basis for salary calculation (hereinafter: basis); (ii) coefficient; (iii) bonus; (iv) liabilities that the employee

² The complainant organization does not include this section in its communication: Section 108(1) An employee is entitled to increased salary in the amount determined by bylaw and employment contract, notably: (i) For working on a day of holiday which is a non-working day – a minimum of 110 per cent of the base; (ii) For working at night, if such work has not been taken into account when the base salary was determined – a minimum of 26 per cent of the base; (iii) For overtime work – a minimum of 26 per cent of the base; (iv) On grounds of time spent at work for each full year spent as the employee of the employer (hereinafter referred to: seniority compensation) – at least – 0.4 per cent of the base. (2) When calculating the seniority compensation, the time spent in employment with the employer predecessor under section 147 of this Act is calculated also, as well as with entities affiliated with the employer in accordance with the law. (3) Should simultaneously conditions accumulate on several grounds specified in paragraph 1 of the present section, the percentage of the increased salary may not be lower than the sum of percentages according to every single ground for increase. (4) Bylaw and employment contract may stipulate other cases, too, in which an employee is entitled to increased salary, such as the increase of salary based on work in shifts. (5) The base for calculating the increased salary is the base salary determined in conformity with the law, bylaw and employment contract.

³ An official English version of the legislation was not available. The provisions quoted are based on the wording provided by the complainant, read in conjunction with a machine translation from Serbian into English.

pays on the basis of taxes and contributions for mandatory social insurance from the salary, according to the law. (2) Besides the elements from the paragraph 1 of this section, the employees' salaries from section 1, item 4 of this Law also comprise a part of salary based on performances. (3) The basic salary of the chosen, nominated and appointed persons and employees from the section 1 of this Law is made of the product of the base from the item (1) of this section and the coefficient from item (2) of this section, except for the employees from section 1, item (4) of this Law. (4) If the salary is determined in accordance with the paragraph 2 of this section, the basic salary is determined by multiplying the coefficient, base amount for the salary calculation and the correction coefficient.

(b) **Section 4:** (1) The coefficient expresses the complexity of duties, responsibility, work conditions and qualifications. (2) The coefficient also includes compensation for meals during work and vacation allowance.

13. According to the complainant organization, since 2011, the wages of the above-mentioned categories of employees in public services are calculated in practice as per section 2 of the Law on Salaries in Government Bodies and Public Services, that is by multiplying the base amount prescribed by the Government with the coefficient also passed by the Government,⁴ which would result in a lower minimum wage than the one determined in accordance with section 111(1) and (2) of the Labour Law. The complainant organization adds that when this occurs, the minimum wages of the above-mentioned categories of workers are corrected to match the minimum wage determined in accordance with section 111(1) and (2) of the Labour Law, while these categories of workers do not receive a separate compensation in the sense of sections 111(6) and 118(1)(v) and (vi) of the Labour Law.
14. The complainant organization alleges that, therefore, the above-mentioned categories of workers are discriminated against not only compared to workers employed in the private sector, to whom the Labour Law applies directly and who receive the compensation separately from their minimum wages, but also compared to other workers employed in the public sector, whose basic salary is calculated at an amount higher than the minimum wage on the basis of higher coefficients, through which they receive the mentioned reimbursement of expenses in accordance with section 4(2) of the Law on Salaries in Government Bodies and Public Services.
15. The complainant organization annexed to their communications a series of judgments from the Constitutional Court and the Supreme Court of Cassation holding conflicting interpretations regarding whether compensation for meals during work and vacation allowances for public service employees earning minimum wage should be paid in addition to the minimum wage or as part of their overall salary, embedded in their salary coefficient.
16. Finally, the complainant organization alleges that, in general, the minimum wage in Serbia does not match the amount of the minimum consumer basket, and that, in the case of the above-mentioned workers, when calculating the expenses for meals during work and the annual leave allowance within the minimum net salary, the final amount is further reduced in a manner that does not ensure the social safety of the employees. As an example, the complainant organization indicates that in May 2022: (i) the minimum consumer basket (which is one of the elements for calculating the minimum price of labour and, as a consequence, the minimum wage) was set at 43,695.45 Serbian dinars (as of 24 August 2022 it was €372.28); (ii) the amount of the minimum net wage was 35,414.72 Serbian dinars (on 24 August 2022 it

⁴ Determined by the Regulation on Coefficients for Calculation and Payment of Salaries for Employees in Public Services.

was €301.73); and (iii) the amount of the minimum net wage after deduction of the amount of meals at work and the annual leave allowance was 28,608 Serbian dinars (on 24 August 2022 it was €243.74).

B. The Government's reply

17. In its replies dated 31 March 2023 and 18 September 2024, the Government indicates that: (i) the minimum wage in the country is determined in the manner prescribed by Article 3 of the Convention, after consultation with the representative organizations of workers and employers who are members of the Social and Economic Council; (ii) the Law on Salary System of Employees in the Public Sector is a systemic law regulating the salaries of employees in the public sector, which was adopted in 2016 with the aim of establishing a salary system that will set the principles for determining the amount of wages and other income in a uniform way for all employees in the public sector; (iii) the above-mentioned Law stipulates the right of employees to reimbursement of their other expenses, including expenses for meals during work and the annual leave allowance; the Law amending the Law on Salary System of Employees in the Public Sector was adopted which contains the same provisions, and the date for the start of implementation of this regulation is 1 January 2025; (iv) in the event that the total amount of the employee's basic wage is below the level of the minimum wage prescribed by section 111 of the Labour Law, the employer is obliged to pay the employee's basic wage in the amount of the minimum wage prescribed by the Labour Law; and (v) in a Decision dated 19 November 2009, the Constitutional Court considered that paying the annual leave allowance and food expenses within the wage coefficient or through separate reimbursement is a matter of legal practice or choice on the part of the legislator.

► IV. The Committee's conclusions

18. The Committee observes that the complainant organization alleges that:
- (i) since 2011, the minimum wages of some categories of workers (such as cleaners, waitresses, caretakers, stokers, drivers ...) employed in the public services (such as schools, preschool institutions, hospitals, clinical centres, healthcare centres, social welfare institutions, among others), is calculated according to the formula foreseen in section 2 of the Law on Salaries in Government Bodies and Public Services, and not according to section 111(1), (2) and (6) of the Labour Law, 2005, which, in their view, entails a reduction in the total amount received by the above-mentioned workers, thus contradicting Article 2(1) of the Convention;⁵
 - (ii) the above-mentioned categories of workers are discriminated against compared to: (i) workers employed in the private sector, to whom the Labour Law applies directly, and who receive in addition to their minimum wages, the reimbursement of expenses foreseen in section 111(6) of the Labour Law; (ii) other workers employed in the public sector, whose basic salary is calculated on the basis of higher coefficients which include the mentioned reimbursement of expenses in accordance with section 4(2) of the Law on Salaries in Government Bodies and Public Services; and

⁵ The Committee recalls that according to Article 2(1) of the Convention, minimum wages shall have the force of law and shall not be subject to abatement.

- (iii) given that in Serbia, the minimum wage does not match the amount of the minimum consumer basket, when, in the case of the above-mentioned workers, the calculation of meals and holidays allowances is made within the minimum net salary, the final amount is further reduced in a way that does not ensure the social safety of the employees.

19. Regarding the first allegation, the Committee notes the complainant organization's indication that: (i) under section 111 of the Labour Law, the reimbursement of meals at work and holidays allowances to which minimum wage earners' workers are entitled is paid in addition to the minimum wage; (ii) according to section 2 of the Law on Salaries in Government Bodies and Public Services the mentioned reimbursement is reflected in the coefficient that is part of the minimum wage calculation formula, and not paid separately; (iii) since the Labour Law and the Law on Salaries in Government Bodies and Public Services provide for different methods of taking into account the aforementioned reimbursement, the resulting amount differs: the minimum wage calculated under sections 111(1), (2) and (6) of the Labour Law is higher than the minimum wage calculated in accordance with section 2 of the Law on Salaries in Government Bodies and Public Services ; and (iv) several judgments of the Constitutional Court and the Court of Cassation issued between 2016 and 2024 produced contradictory conclusions on this issue.⁶
20. The Committee notes that the Government, in its replies, indicates that: (i) in Serbia, minimum wages are calculated in accordance with the provisions of Article 3 of Convention No. 131; (ii) in November 2009, the Constitutional Court considered that paying the annual leave allowance and food expenses through separate reimbursement or within the coefficient used to calculate the salary of employees in public services is a matter of legal practice or choice on the part of the legislator; (iii) the Law on Salary System of Employees in the Public Sector, adopted in 2016, aims to establish a salary system setting the principles for determining the amount of wages and other income in a uniform way for all employees in the public sector; (iv) the Law on Salaries in Government Bodies and Public Services provides in section 13 that such employees are entitled to the reimbursement of expenses such as meals at work and the annual leave allowance; (v) the Law on Salaries in Government Bodies and Public Services provides that the coefficient used to calculate the salary of such employees includes compensation for meals at work and the annual leave allowance; and (vi) when the employee's basic salary is below the level of the minimum wage provided for by section 111 of the Labour Law, the employer must pay the basic salary in the amount of the minimum wage.
21. The Committee observes that:
 - (i) the Law on Salaries in Government Bodies and Public Services regulates salaries in the public service, but does not regulate minimum wages; and that, according to the information submitted to the Committee, the only legislation currently regulating minimum wages in Serbia is the Labour Law, whose section 2(2) provides that its provisions apply, among others, to employees in public service;
 - (ii) according to the Labour Law: (i) all employees are entitled to a minimum wage for standard performance and time spent at work (section 111(1)); (ii) this minimum wage is determined based on the minimum price of labour, time spent at work and taxes and

⁶ Judicial decisions of: (i) the Constitutional Court, ref. no. UŽ 8873/14, 29 September 2016; the Supreme Court of Cassation, ref. no. Rev2 1557/2019, 13 February 2020; and the Constitutional Court, ref. no. UŽ 10597/2020, 10 March 2022, considered that the meal and vacation allowances should be paid in addition to the minimum wage; (ii) the Supreme Court of Cassation, 5 July 2022, and the Constitutional Court, ref. no. UŽ 4707/2023, 29 March 2024 determined that these allowances should be embedded within the overall salary and not paid separately from the minimum wage.

contributions paid from salary (section 111(2)); and (iii) the minimum price of labour is determined by either the Social and Economic Council or, in case of lack of agreement, the Government (section 112(1) and (2)) based on the living and social needs of the employees and their families expressed through the value of the minimum consumer basket, movement of the employment rate in the labour market, growth of the rate of gross domestic product, consumer price trends, trends in productivity and movement of the average salary in the country (section 112(3)).

- (iii) the increased salary foreseen in section 111(6) of the Labour Law is an additional benefit granted to the employees receiving minimum wages and is calculated, as per section 111(7) of the same Law, on the basis of the minimum wage fixed according to the above-mentioned provisions;
 - (iv) for public sector workers earning the minimum wage, the reimbursement of meals at work and holiday allowances is reflected in a coefficient forming part of the minimum wage calculation formula, and such coefficients are determined under the Regulation on Coefficients for the Calculation and Payment of Salaries for Employees in Public Services;
 - (v) neither the Labour Law, the Law on Salaries in Government Bodies and Public Services nor the Law on Salary System of Employees in the Public Sector provide for a clear definition and/or calculation formula of minimum wages uniformly applicable to all workers in the country.
22. Based on the above, the Committee considers that minimum wages in the country result from the minimum price of labour as published by the Government on its official website, multiplied by the time spent at work by individual workers minus the taxes and contributions paid from salary. The Committee observes that both the complainant organization and the Government agree that whenever the minimum wages of the workers concerned, as calculated under section 2 of the Law on Salaries in Government Bodies and Public Services, are lower than the minimum price of labour prescribed by the Government (based on section 111(1) and (2) of the Labour Law), public employers are obliged to correct them in order to fit the amount prescribed by the Government. **Therefore, in the absence of any indication that employers are, in practice, paying minimum wages below the prescribed minimum labour price, the Committee considers that no minimum wage abatement has been effected for public sector workers and, accordingly, that there is no breach of Article 2(1) of the Convention.**⁷
23. Regarding the second allegation according to which the above-mentioned categories of workers are discriminated against in comparison with other workers due to the application of a different legal framework or a different coefficient for the calculation of their minimum wages, the Committee recalls that: (i) Article 4(1) of the Convention requires ratifying Members to establish and/or maintain a minimum wage fixing machinery adapted to national conditions and needs through which minimum wages for the groups of wage earners covered by the Convention can be fixed and adjusted periodically; and that (ii) the Convention does not require Member States to adopt a single, nationwide minimum wage nor to introduce a system based exclusively on sectoral minimum wages. **Taking this information into account, the Committee does not find a violation of the Convention and will not pursue further the examination of this allegation.**

⁷ The Committee recalls that according to Article 2(1) of the Convention, minimum wages shall have the force of law and shall not be subject to abatement.

24. Regarding the third allegation, the Committee notes that according to the complainant organization, the minimum wages of those workers who do not receive the reimbursement under section 111(6) as an additional amount to the minimum price of labour, are reduced to an extent that the social safety of these workers cannot be ensured.
25. In this respect, the Committee notes the Government's indication that it determines the amount of the minimum wage in the manner described in Article 3 of the Convention.
26. The Committee recalls that Article 3 of the Convention prescribes that:

The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include –

 - (a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;
 - (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.
27. In this respect, the Committee notes that section 112(3) of the Labour Law provides that the determination of the minimum cost of labour is mainly based on: the living and social needs of employees and their families expressed through the value of the minimum consumer basket, the movement of the employment rate in the labour market, the growth rate of the gross domestic product, the consumer price trends, the trends in productivity and the movement of the average salary in the country. The Committee observes that this provision is in conformity with Article 3 of the Convention regarding the elements to be taken into consideration in determining the level of minimum wages.
28. Nevertheless, concerning the allegation that minimum wages in the country do not match the amount of the minimum consumer basket, and that, in particular for the above-mentioned categories of workers, minimum wages do not ensure their social safety, the Committee observes that according to the information available to it, is not in a position to determine whether or not in practice the minimum wage for the aforementioned categories of workers covers their minimum needs within the meaning of Article 3 of the Convention. **In this context, while recalling that the purpose of the Convention stated in its preamble is to protect wage earners against unduly low wages, the Committee expects that the Government, in genuine, effective and full consultation with the most representative workers' and employers' organizations, will ensure that the level of the minimum wage of the above-mentioned categories of workers effectively takes into account the needs of those workers and their families, as well as relevant economic factors, as required by Article 3 of the Convention.**
29. Furthermore, the Committee encourages the Government to avail itself of the technical assistance of the Office, which could take into account the conclusions of the Meeting of Experts on wage policies, including living wages, that took place in Geneva in February 2024 (adopted by the Governing Body at its 350th Session, held in March 2024).⁸
30. The Committee requests the Government to provide, no later than 1 September 2026, a report on the application of the Convention for examination by the Committee of Experts on the Application of Conventions and Recommendations at its 2026 session, including information on the follow-up given to the Tripartite Committee's conclusions and recommendations. This

⁸ Please see document [MEWPLW/2024/7](#) (adopted in [GB/350/POL/1](#)); inter alia, paragraphs 4(b) and 13(a) regarding the consideration of the needs of workers and their families and economic factors in wage setting processes.

report should also include information on minimum wage rates currently in force, and statistics on the evolution of statutory minimum wages as compared to the evolution of economic indicators, such as the minimum consumer basket in recent years.

► V. The Committee's recommendations

- 31. In light of the conclusions set out in paragraphs 22, 23, 28 and 29, the Committee recommends that the Governing Body:**
- (a) approve this report;**
 - (b) requests the Government of Serbia to provide, no later than 1 September 2026, a report on the application of the Convention for examination by the Committee of Experts on the Application of Conventions and Recommendations at its 2026 session, including information on the follow-up given to the Committee's conclusions and recommendations; and**
 - (c) make the report publicly available and close the representation procedure.**

Geneva, 23 February 2026

(Signed) Mr Alfredo Novales Bilbao
(Government member)

Mr Nicklas Beckman
(Employer member)

Mr Plamen Dimitrov
(Worker member)