Committee on the Application of Standards

Date: 15 May 2026

If they so wish, Governments appearing on the preliminary list of individual cases have the opportunity to supply on a purely voluntary basis, written information before 18 May 2026.

Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

South Africa (ratification: 1997)

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

The Government has provided the following written information as well as the following documents: 25th Commission for Employment Equity (CEE) annual report 2024–25; Employment Equity Amendment Act, 2022; General Administrative Employment Equity Regulations; Regulations on the 5-year sector numerical employment equity (EE) targets; judgment on Case No. JS1030/17; and the comments from the Congress of South African Trade Unions (COSATU).

The Committee of Experts asked the Government to continue to strengthen its efforts in promoting equality of opportunity and treatment in employment and occupation of all the designated groups and to provide information on:

(i) Results achieved in transforming the labour market towards a more equitable representation of the designated groups

The right to human dignity and the achievement of equality are core values enshrined in the Constitution of the Republic of South Africa (1996), the country's supreme law. To give effect to the right to equality in employment, the Employment Equity Act No. 55 of 1998 (EEA) was enacted. Its purpose is to achieve workplace equity and equality by promoting equal opportunity and fair treatment, eliminating unfair discrimination and implementing affirmative action measures. These measures are designed to redress the historical disadvantages experienced by designated groups, namely black people, women and persons with disabilities, to ensure their equitable representation across all occupational levels.

To demonstrate its commitment to the EEA's objectives, the Government continues to strengthen its compliance assessment and monitoring mechanisms, tracking progress in transforming workplaces and fostering inclusive, discrimination-free environments. Although some progress has been observed, analysis of EE data from the 2024 reporting cycle (submitted by designated employers – those with 50 or more employees, or fewer than 50 but meeting a designated annual turnover threshold) reveals that the South African labour market still exhibits significant racial, gender and disability disparities.

Workforce representation trends indicate a labour market structure that remains hierarchical, first by race, then gender and finally disability. The two uppermost strategic decision-making levels, top and senior management remain racialized and gendered, with white individuals and men predominating. At the top management level, whites hold 61.1 per cent of positions and men 72.5 per cent, while persons with disabilities hold only 1.9 per cent. At senior management level, whites occupy 47.3 per cent and men 61.7 per cent, with persons with disabilities holding just 1.4 per cent of positions.

Notably, most designated groups, particularly black women and persons with disabilities continue to be concentrated in the lower to middle management levels. For example, at the professionally qualified/middle management level, black women (African, coloured, and Indian) account for 35.6 per cent of positions, while persons with disabilities account for only 1.2 per cent. At the semi-skilled level, black women hold 42.9 per cent of positions, but persons with disabilities hold only 1.0 per cent. Although women's representation in lower to middle management has encouragingly increased, this upward trend has not yet translated into substantial gains at senior and top management levels. For further details, see the 2024–25 EE annual report of the CEE (25th CEE annual report).

(ii) Assessment of affirmative action measures (particularly the five-year sectoral numerical targets for designated employers introduced by EE Amendment Act No. 4 of 2022) to determine whether they remain effective and consistent with the principle of non-discrimination

The commencement date of the Employment Equity Amendment Act, No. 4 of 2022 (EE Amendment Act, 2022) was proclaimed by the President in Government Gazette No. 51684 dated 28 November 2024. The Act took effect on 1 January 2025. Its key objectives are to empower the Minister to regulate sector-specific EE numerical targets to ensure equitable representation of suitably qualified persons from designated groups; to reduce the regulatory burden on small businesses (those employing 1–49 persons); and to promulgate section 53 of the EEA, which makes an EE Compliance Certificate a prerequisite for accessing state contracts and doing business with any organ of the State.

On 15 April 2025, on the advice of the CEE, the Minister published two sets of EE Regulations: General Administrative Regulations (GG No. 52515) and 5-Year Sector Numerical EE Targets Regulations (GG No. 52514). These regulations aim to provide employers and employees with critical guidelines on effectively interpreting and implementing the provisions of the EE Amendment Act, 2022, including the five-year sector-specific EE targets at the workplace level.

The regulations offer flexibility in implementing these targets by requiring designated employers (those with 50 or more employees) to, after consulting with registered trade unions or employee representatives, analyse their current workforces, review their own self-regulated annual EE targets and align their EE Plans with the applicable five-year sector targets. The new EE Plans commenced on 1 September 2025.

All designated employers were therefore required to submit baseline EE reports, including their first-year annual EE targets toward the five-year sector targets, during the 2025 EE reporting period (1 September 2025 to 15 January 2026). Consequently, the first compliance assessment of these first-year annual targets across all 18 economic sectors will be conducted only in the 2026 EE reporting cycle, after designated employers submit their subsequent EE reports (1 September 2026 to 15 January 2027). Once the 2026 EE data analysis is finalized, the CEE will publish the 2026–27 annual EE report on the status of the South African labour market.

(iii) Impact of implementing section 53 of the EEA as amended (measures to evaluate assessment criteria for issuing employment equity compliance certificates, and the number of certificates denied based on this assessment)

The EE General Administrative Regulations prescribe the assessment criteria for issuing EE Compliance Certificates under section 53 of the EE Amendment Act, 2022. These regulations include Regulation 16(4), EE reporting forms EEA2 and EEA15 and two distinct EE Compliance Certificate templates (EEA16A and EEA16B), which set out different compliance criteria for designated and non-designated employers.

For non-designated employers, the criteria include compliance with the National Minimum Wage Act, 2028 and Chapter II of the EEA (Prohibition of Unfair Discrimination) over the previous 12 months. For designated employers, the assessment criteria additionally require submission of the annual EE report, achievement of annual EE targets (with justifiable reasons for any non-compliance) and continued compliance with both the National Minimum Wage Act and Chapter II of the EEA over the same period.

The compliance assessment and certificate issuance process has been fully automated within the Employment Equity System, accessible through the Department of Employment and Labour's online services platform (www.labour.gov.za). Automation enhances data integrity, accessibility, efficiency and user-friendly self-service, while minimizing turnaround times and reducing fraud risk. Manual issuance of EE Compliance Certificates is prohibited.

The first certificates were issued from 1 September 2025. As of 15 January 2026, a total of 25,913 EE Compliance Certificates had been issued: 11,694 to non-designated employers and 14,219 to designated employers. To date, no employer has been denied a certificate. Notably, employers are only required to produce the EE Certificate of Compliance as a prerequisite for access to state contracts and for doing business with any organ of the State. Therefore, it remains too early to assess the full impact of section 53 of the EEA as amended.

(iv) Actions taken within the framework of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, 2019–24, including obstacles identified and results achieved

The South African Constitution protects the rights to dignity, equality and fair labour practices under the Bill of Rights. South Africa is committed to eliminating, preventing and managing all forms of direct and indirect discrimination in the workplace, with the aim of creating safe environments free from unfair discrimination.

The EEA governs equity in the workplace. Section 6(1) of the EEA prohibits direct or indirect unfair discrimination against an employee in any employment policy or practice on grounds including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth, or any other arbitrary ground. Section 5 requires all employers to take steps to eliminate unfair discriminatory policies and practices that cause workplace inequalities. Section 54 empowers the Minister of Employment and Labour to issue codes of good practice on the advice of the CEE.

Pursuant to section 54, South Africa issued a Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace (the Harassment Code) on 18 March 2022. This

Code addresses the prevention, elimination and management of all forms of harassment, including racial discrimination and harassment that pervade the workplace. South Africa regards all forms of harassment as unfair discrimination, constituting a barrier to workplace equity and equality. Accordingly, all forms of harassment, sexual harassment, gender-based violence and harassment, bullying and racial, ethnic, or social origin harassment must be eliminated. Harassment may include physical, psychological, emotional and sexual abuse.

The Harassment Code provides protection against racial discrimination and harassment. Section 10 of the EEA empowers the Commission for Conciliation, Mediation and Arbitration (CCMA) and the Labour Courts to provide dispute resolution mechanisms and remedies for workplace racial discrimination. Under section 50(2) of the EEA, both the CCMA and the Labour Court may issue any appropriate, just and equitable order, including:

(a) payment of compensation and/or damages by the employer to the employee;

(b) an order directing the employer to take steps to prevent future unfair discrimination or similar practices affecting other employees; and

(c) an order directing an employer (other than a designated employer) to comply with Chapter 3 as if it were a designated employer, directing the removal of an employer's name from the register referred to in section 41, or ordering publication of the Court's decision.

The Labour Court has already issued remedies for racial discrimination and harassment using the Harassment Code, as demonstrated in the case of *Solidarity obo Oosthuizen v South African Police Service and others* ((JS1030/17) [2023] ZALCJHB 4; [2023] 3 BLLR 258 (LC)). Furthermore, annual EE advocacy campaigns are conducted nationwide to raise awareness and educate labour market stakeholders including employers, employer organizations, employees, trade unions, HR managers and practitioners, academics and civil society on the EEA and all forms of harassment, including racial discrimination.