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19th sitting, 7 June 2016, 10.15 a.m.

Dix-neuvième séance, 7 juin 2016, 10 h 15

Decimonovena sesión, 7 de junio de 2016, 10.15 horas

Chairperson: Ms Cecilia Mulindeti-Kamanga

Work of the Committee

PVs 10 and 11 were adopted, as amended.

Travaux de la Commission

Les PV 10 et 11 ont été adoptés tels qu'amendés.

Trabajos de la Comisión

Las actas 10 y 11 fueron adoptadas con las enmiendas correspondientes.

Discussion on individual cases (cont.)
Discussion des cas individuels (suite)
Discusión de los casos individuales (cont.)

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

Swaziland (ratification: 1978). A **Government representative of Swaziland (Ms NXUMALO-MAGAGULA)** emphasized the close collaboration her Government had had with the ILO and the social partners since its appearance before the Committee in 2015. She expressed appreciation for the support and technical assistance received from the ILO, in particular the recommendations made by the Conference Committee and the Committee of Experts.

Recalling the conclusions of the 104th Session of the ILC, she presented a summary of the Conference Committee's recommendations, before proceeding with a detailed explanation of the progress achieved. She stated that her Government had prioritized implementation of the recommendations, and that the status report in this regard had been a standing agenda item at the monthly meetings of the National Steering Committee on Social Dialogue. These monthly meetings, together with a number of extraordinary meetings held by the National Steering Committee, had resulted in progress on the implementation of the recommendations.

Firstly, with regards to the Committee's request to release unconditionally Thulani Maseko and all other workers imprisoned for having exercised their rights to free speech and expression, she was pleased to report the release of Thulani Maseko in June 2015 after his appeal, heard by the Supreme Court, and categorically stated that there were no workers imprisoned for the abovementioned allegations. Seven cases communicated by the Worker representative at the ILC last year were investigated and the individuals concerned were found implicated in, charged with, or convicted of, serious criminal activities, including petrol bombing, attempted murder, murder and promoting acts of terrorism with no lawful connection to worker issues. The results of the investigations were contained in the regular

Government report of last year and were discussed by a delegation to the ILO in Geneva, in September 2015, and once again with the ILO Pretoria Office, the Southern Africa Trade Union Co-ordination Council (SATUCC) and the International Trade Union Confederation (ITUC) delegation in Swaziland, in February 2016.

Secondly, ensuring that all workers' and employers' organizations in the country were fully assured of their freedom of association rights in relation to registration issues without delay, in particular in respect of the registration process of the Amalgamated Trade Union of Swaziland (ATUSWA), she stated that ATUSWA, the Federation of Swaziland Trade Unions (FESWATU) and two other trade unions had been registered. Issues of compliance with the law faced by ATUSWA had been resolved. Furthermore, she provided information regarding the activities of several tripartite structures that involved the full participation of the tripartite partners: the National Steering Committee on Social Dialogue had been held to discuss and review, *inter alia*, the Public Order Bill, the Suppression of Terrorism (Amendment) Bill, the Public Service Bill, the Correctional Services Bill, as well as the Code of Good Practice on Protest and Industrial Action; the Wages Councils had had several meetings to review terms and conditions of employment for employees in the various sectors of the economy; the Labour Advisory Board had held at least ten meetings and was working with a consultant from the ILO to finalize a new employment bill. The Board considered notices for protest action issued by the Trade Union Congress of Swaziland (TUCOSWA) in terms of section 40 of the Industrial Relations Act (IRA), which resulted in a peaceful demonstration in February 2016. Among the 27 tripartite structures, these were mentioned as well: the Training and Localisation Committee; 18 wages councils; the Governing Body of the Conciliation, Mediation and Arbitration Commission (CMAC); the Board of the Swaziland National Provident Fund; the Workmen's Compensation Medical Board; the Industrial and Vocational Training Board; Pneumoconiosis Medical Board; and the Essential Services Committee.

In respect of the Committee's recommendation to amend section 32 of the IRA to eliminate the discretion of the Commissioner of Labour to register trade unions, she indicated that this matter was discussed in the National Steering Committee on Social Dialogue in February 2016, after a formal submission made by TUCOSWA in November 2015, as well as in May 2016, after which this submission had been referred to the Labour Advisory Board for its consideration.

With regard to the recommendation to investigate arbitrary interference by the police in lawful, peaceful and legitimate activities of trade unions, the Government representative indicated that the Ministry of Labour and Social Security had held consultations with the police in this regard and established strong lines of communication to deal with issues as they were reported, aiming to avoid potential conflict. She further mentioned that, while organizations were given autonomy and independence when they participated in lawful, peaceful trade union activities, the police had a duty to maintain law and order, and protect human life and property. In this connection she underlined that the implementation of the Code of Good Practice and Industrial Action had improved the handling of these issues by the police and social partners. For example, a peaceful protest march held by TUCOSWA on 25 February 2016 and May Day Celebrations held by TUCOSWA and FESWATU all took place without incident. The cooperation between the police and social partners had significantly improved, and the Government had further requested technical assistance of the ILO to conduct workshops on the operational aspects of the Code, with an initial workshop to be conducted on 29–30 June 2016. Reiterating the importance of relationship building, on the one hand, and the duty of the police to maintain order and protect public safety, on the other, she pointed out that there had been a high incidence of acts of violence by unions against other workers, employers and police in 2014. This problem had improved in 2015 and 2016, with the exception of a case involving a threat made to the Commissioners of the Conciliation, Mediation and Arbitration Commission by a TUCOSWA affiliate during a strike ballot on 12 May 2016.

With regard to the 1963 Public Order Act and the Suppression of Terrorism Acts, she stated that the Public Order Bill had been drafted with ILO assistance and in consultation with social partners and other stakeholders. It was tabled before the Parliament and was awaiting the conclusion of the legislative process. As for the Suppression of Terrorism Amendment Bill, it had been completed in consultation with social partners, addressing three main issues: amending the definition of a “terrorist act”; subjecting the Minister’s decision to declare a specified entity or terrorist organization to judicial review; ensuring compliance with UN resolutions to combat global terrorism. The Bill was a product of consensus by the National Steering Committee on Social Dialogue and was submitted to the Parliament.

She informed that the Code of Good Practice was adopted and published as Legal Notice No. 164 of 2015. Furthermore, two bills had been tabled before the Parliament: Public Service Bill, reviewed by the National Steering Committee on Social Dialogue, referred to the Labour Advisory Board and approved by the Cabinet; and Correctional Services Bill, reviewed by the Labour Advisory Board and approved by the Cabinet.

Lastly, the speaker informed about the acceptance of the ILO technical assistance in assisting the Government with the legislative reforms and implementation of the recommendations. A joint mission of the ILO, ITUC and SATUCC visited the country in February 2016, which allowed to assess the progress made at first-hand on the ground. The ILO had prepared a compliance report for four pending bills; the assessment was received on 24 of May 2016. She underlined that rushing the bills without the feedback from the ILO and other stakeholders would have been considered counter-productive, defeating the purpose of amending the legislation in the first place.

The Government representative concluded her speech by expressing her appreciation to the ILO and social partners who worked with the Government in an effective tripartite alliance to achieve the progress made. She also thanked the Africa group, the Southern African Development Community (SADC) – Employment and Labour Sector and Private Sector Forum – and SATUCC.

The Employer members thanked the Government for the detailed information it had furnished on the steps taken to apply the Convention. Recalling that this case had been discussed last year, and that the Committee had then formulated several recommendations to the Government, they noted with satisfaction that the Government had acted upon the first recommendation by releasing Mr Thulani Maseko, TUCOSWA's lawyer.

They further noted the positive developments with regards to the registration of unions, and urged the Government to provide information on the steps taken to register ATUSWA, as requested by the Committee in June 2015.

They welcomed the concrete measures implemented by the Government in respect of the legislative issues previously raised, including the publication of the Public Service Bill in the Gazette, and the production, through social dialogue and with the assistance of the Office, of a draft bill of the Public Order Act.

They noted the Government's information on the steps taken to prevent arbitrary interference by the police, and to implement the Code of Good Practice for protests and industrial action, which had resulted in the improved handling of protests. The peaceful observance of May Day by trade unions this year, for instance, demonstrated an improved relationship between the police and workers' groups.

In concluding, they affirmed that the Government had made genuine efforts to improve the Convention's application. Noting nevertheless that work still remained to fully implement all of the recommendations, they encouraged the Government to continue in its efforts, and to continue engaging the social partners and seeking the assistance of the Office in doing so.

The Worker members stressed that this was the present case's seventh consecutive discussion in the Conference Committee. In total, the country had been examined 14 times with respect to Convention No. 87, and had been placed in a special paragraph four times in recent years (2009, 2010, 2011, 2015). The ILO had also conducted two high-level missions

to the country in the previous six years, the last of which, in 2014, recorded that no progress had been achieved within the past decade. In spite of the technical assistance the ILO had provided for the reform of its repressive legal framework, in Swaziland's Universal Periodic Review for 2016 it was submitted that no significant progress had been achieved in the area of freedom of association since 2011.

They recalled that a technical report requested by the 2010 ILO High-level Mission had criticized the fact that the police had applied the Suppression of Terrorism Act, in a manner that restricted peaceful and legitimate trade union activities. The definition of "terrorist act" was very broad and could include conduct that was non-violent or considered to be driven by an intent to incite fear. Article 2(1) of the Act defined a terrorist act as "an act or omission which constitutes an offence under this Act or within the scope of a counter terrorism convention." Article 5(3)(b), of the Suppression of Terrorism Act, provided that "*any person who intentionally or without lawful excuse sends or communicates to another person or institution a false alarm or by any deed causes a false alarm or unwarranted panic*", was guilty of an offence and upon conviction liable to serve a term in prison not exceeding three years or a fine imposed by a court.

The Government had agreed to amend this Act in the discussion of this case in 2013, yet to date no amendments had been undertaken. Equally the Government had taken no action, for some 20 years running now, to amend the King's Proclamation of 1973. The same applied to the Public Order Act, in respect of which the Committee of Experts had been requesting amendments since 1998. The Public Order Act entitled public authorities "*to control public gatherings*" and to "*give such orders as they may consider necessary or expedient*" which provision was found to have been used to repress lawful and peaceful trade union activities.

They recalled that workers in Swaziland who engaged in peaceful, lawful and legitimate trade union activities were constantly subjected to police intimidation and violence, leading to severe injuries in some instances. The police justified their interference

on grounds laid down in the Urban Act, under which unions were required to request a non-objection certificate from the police, two weeks prior to the protest that was planned in urban areas where the workplaces with union representation were located. Mr Mcolisi Ngcamphalala, member of the Swaziland National Association of Teachers (SNAT) and Mr Mbongwa Dlamini, Manzini Regional Chairperson of SNAT, were arrested in February 2016 and charged with obstruction for having participated in a protest action called by the public sector unions to demand the publication of a report on the public sector pay review. The homes of the concerned were also raided on 4 February 2016 by Swaziland's serious crimes unit, also known as the Swazi anti-terrorism squad. The accused were then held in custody before being granted bail of E1,000 (US\$60), each, pending trial.

They deplored that, to date, no police officer had been subjected to disciplinary procedures for having intimidated workers or used disproportionate violence. Mr Muzi Mhlanga (second deputy General Secretary of TUCOSWA and SNAT General Secretary) had filed a demand for compensation as a result of a police beating in February 2015, when he refused to hand over his phone to the police who had intervened in an internal trade union meeting.

They stated that the wide discretion afforded to the Commissioner of Labour to register trade unions under section 32 of the IRA continued to constitute a hindrance for workers in applying the right to establish trade unions. In this regard they added that the Government had no reason to congratulate itself for the recent registration of TUCOSWA and ATUSWA, as these cases in fact demonstrated the arbitrary and inconsistent procedures of the registration of trade unions. When TUCOSWA was de-registered in April 2012, and denied registration for another three years, the Government had justified this decision before the Conference Committee on the ground of a "*lacuna*" in the IRA. However, Swazi members of Parliament who spoke before the European Parliament in September 2015 stated that TUCOSWA had been de-registered for demanding multiparty elections, and for having links with the political party People's United Democratic Movement (PUDEMO). In the case of

ATUSWA's application for registration, in September 2013, the Commissioner of Labour had placed numerous requirements which went beyond the statutory requirements and what was requested from other unions for their registration. For example, ATUSWA was required to delete the term "amalgamated" in the union's name and the need for the founding members of the trade union to provide a letter from their employer to prove their employment.

While welcoming the registration of ATUSWA and TUCOSWA, they expressed concern nevertheless at the lengthy registration procedures, which constituted a serious obstacle to the establishment of trade union organizations. Moreover, the contradictory statements by high-level officials made it clear that the Government abused the wide discretion afforded by the IRA by using arbitrary and unclear criteria for trade union registration.

They observed that, in July 2015, both Thulani Maseko, TUCOSWA's lawyer, and Mr Bheki Makhubu were released, but only after having completed their entire sentences. As for Mr Mario Masuku, President of PUDEMO, and Maxwell Dlamini, Secretary-General of the Swaziland Youth Congress, they had been arrested and charged under the Suppression of the Terrorist Act, after delivering a speech during the 2014 May Day celebrations organized by TUCOSWA. While they had been released on bail, they continued to face criminal charges and maybe facing up to 15 years of hard labour. Both activists attended the TUCOSWA congress in 2016, yet were not permitted to address the workers due to their bail conditions. It was troubling therefore that these limitations remained on the exercise of free speech, which was a "*sin qua non*" for the right to freedom of association, and that heavy criminal charges continued to be employed to suppress debates during workers' assemblies.

They called for concrete legal changes to be urgently adopted so as to prevent future serious violations of freedom of association. It did not suffice to merely provide reassurances, as the Government had done, that bills had been tabled before Parliament.

The Employer member of Swaziland (Mr SIMELANE) stressed that it was important to commend the social partners for the dedication they had demonstrated in working to improve the country's compliance with Convention No. 87. A new era, characterized by robust social dialogue and a shared commitment to producing tangible results, had emerged in the last 12 months. This was demonstrated by the fact that the Minister of Labour and Social Welfare had undertaken two missions, to the ILO and the ILO Regional Office, respectively, in order to gain a deeper understanding of the challenges the country needed to overcome, and subsequently reported back to the social partners, thus enabling the latter to gain a better understanding of the actions the country needed to give priority to. The welcoming of the ILO tripartite High-level Mission to the country in February 2016 represented further proof of the partners' shared dedication to making progress on the application of the Convention.

With regards to the Code of Good Practice on protests and industrial action, he noted that the former was being successfully implemented, as several trade union events had been held in 2016 without interference from the authorities. He expressed satisfaction with the progress that this fact represented but nevertheless cautioned that extensive awareness-raising activities remained necessary, for both security forces and workers' groups, to ensure a thoroughgoing shift in mindset and behaviour with respect to the holding of protests.

In respect of the four pending bills, he emphasized the involvement of the social partners in the legislative process. In particular, he indicated that public inputs to the revision of the Suppression of Terrorism Act were being made through the Parliamentary Portfolio Committee. He also underlined in this regard the importance of the ILO input received by social partners on 20 May 2016. It was envisaged that the Parliament would continue giving the Bill the priority and urgency it deserved, ultimately enabling compliance with the Convention.

He recognized that sound and comprehensive amendments to the Suppression of Terrorism Act and the Public Order Act would enable potential consideration of Swaziland

for re-admission to the African Growth and Opportunity Act (AGOA) benefits, driving job creation in the country. In this regard, he committed to continuing to actively participate in the tripartite forums and lobby Parliamentary Portfolio Committees towards finalizing and passing the mentioned above bills. Regarding the amendment of section 32 of the IRA to eliminate the discretion of the Commissioner of Labour to register trade unions, he indicated that this matter was pending before the National Steering Committee on Social Dialogue and the Labour Advisory Board for due deliberation. Furthermore, he reiterated that employers had raised a point of principle on the issue of registering ATUSWA during the ILO High-level Mission in February 2016. He emphasized that registration of worker and employer entities should be based on a certain set of requirements in line with defined practice and principle. If requirements were met, entities should have been registered, and if they failed to meet the requirements they should not have been. He commended all parties involved in this issue for laying this matter to rest, considering that it should not have attracted the attention it did in the first place.

He expressed the conviction that the Government's attitude had genuinely changed, as the abovementioned activities and the results they had secured, demonstrated. Additionally he encouraged the social partners to fully utilize all national social dialogue forums available to them, to ensure that ILO procedures were availed of only as a last resort.

He concluded by underscoring the employers' desire for an environment conducive to job creation and economic growth. Such an environment could only be realized by a high degree of collaboration among the social partners; in this respect he urged that the positive gains achieved so far with respect to social dialogue continue to be built upon, so that dialogue could be used as a means for not only addressing issues of compliance with international obligations but also serve as a platform for addressing such issues as working conditions, poverty eradication and job creation.

The Worker member of Swaziland (Mr DLAMINI) recalled that this case had been discussed by the Committee on no less than 15 occasions, including the present one, which

clearly attested to the seriousness and the persistence of the issues respecting freedom of association.

On the issue of police harassment and brutality, he pointed out that although two events had indeed been organized by workers without police interference, this did not mean there had been no reported cases of violations by the police in workers' activities in the previous year. Several instances of police interference had, in fact, occurred, including the following: (1) in February 2016, a TUCOSWA march to deliver a petition to Parliament was blocked, pushed to a distance of 2 kilometres away from Parliament and eventually dispersed; (2) in February 2016, TUCOSWA was also prevented from staging a protest march, on grounds that the King was hunting wild game in this period; (3) in April 2016, the police twice invaded the offices of SUFIAWU in an attempt to dissuade the latter from continuing with a planned strike, and also prevented SUFIAWU's General Secretary from supporting a protected strike by FINCORP employees; (4) in April 2016, the Commissioner of Police issued a statement that the police should treat trade unionists as a "shishi" (a type of animal considered as vermin) and kill them upon sight; (5) in June 2016, a trade unionist, Gladys Dlamini, was badly injured by the police and almost lost an eye.

In addition to these violations, two trade unionists – Mario Masuku and Maxwell Dlamini– were prevented from speaking at this year's May Day rally after having been arrested at the previous year's event. He lamented that the present case's long history before the Committee demonstrated a lack of progress on the serious issues raised. The Government continued to report, year in and year out, on various measures that fell short of actually implementing the changes requested by the Committee, such as tabling bills before Parliament. He urged the Government to ensure that the bills referred to by the Government, particularly those concerning the Public Order Act and the Terrorism Act, be passed by July 2016, and that the entirety of the other recommendations issued by the Committee be implemented without further delay.

A Government member of Botswana (Mr MOJAFI), speaking on behalf of member States of the SADC, stated that the Government briefed the member States and social partners of the SADC at their tripartite meetings on 12 May and 1 June 2016 on progress made with regard to the implementation of Convention No. 87. He noted with satisfaction the significant progress made by the Government in addressing the issues to comply with the Convention, and noted in particular, the tabling in Parliament of amendments that had been brought to the legislation.

Numerous achievements were made in order to create a conducive environment for effective social dialogue, which was evidenced by the fact that tripartite social dialogue structures were operational. He also noted that the problems related to the registration of federations of trade unions had been resolved and ATUSWA, as well as FESWATU, had been registered. Recalling that there were outstanding issues that needed to be addressed, in particular the need for Parliament to pass various bills in an expeditious way, he expressed confidence in the Government's commitment to address those rapidly.

He stated that the SADC encouraged the sharing of lessons and experiences by member States, and regularly reviewed and monitored the implementation of regional instruments such as the SADC Protocol on Employment and Labour, 2014, and the SADC Decent Work Programme 2013-2019, which prioritized compliance with international labour standards. He therefore encouraged and supported the efforts of the Government and social partners to address the outstanding issues to ensure full compliance with Convention No. 87, and urged all stakeholders in Swaziland to work together in this regard. Finally, he commended the ILO for its technical support to the Government and social partners to address these issues.

A Government member of the Netherlands (Mr KRAP), speaking on behalf of member States of the European Union, indicated that Albania, a certain number of member States of the European Free Trade Association (EFTA) (Iceland and Norway), the member States of the European Economic Area, as well as the Republic of Moldova and Georgia, aligned themselves to this statement. He emphasized that the promotion of the universal

ratification and implementation of core labour standards, including Convention No. 87, was part of the European Union Action Plan on Human Rights adopted in 2015, including the protection of human rights defenders including social partners. He recalled the commitment that had been made by the Government under the Cotonou Agreement – the framework for Swaziland’s cooperation with the European Union – to respect democracy, the rule of law and human rights principles, which included freedom of association. The European Parliament Resolution of 21 May 2015 (2015/2712(RSP)) had called on the Government to take concrete measures to respect and promote human rights in the country. In that respect, he emphasized that they had engaged in a constructive dialogue with the Government and non-state actors and were monitoring the progress achieved.

Noting that this case had been discussed a number of times at the Committee, he was pleased to acknowledge a number of positive steps taken by the Government since June 2015. He welcomed the unconditional release, soon after the Committee’s discussion of June 2015, of Mr Thulani Maseko, and welcomed the registration of the Federation of Swaziland Trade Unions in June 2015 and recently of the Amalgamated Trade Union Congress of Swaziland. He also acknowledged progress on legislative and administrative matters with ILO assistance, and strongly encouraged the Government to complete its legislative reform, including the amendment of the Suppression of Terrorism Act in consultation with social partners, in order to bring its legislation into compliance with international standards.

He recalled that he will continue to follow the case with interest and expressed the hope that all outstanding issues will be addressed promptly, so as to ensure full compliance with Convention No. 87. He reiterated his readiness to cooperate with the Government and the people of Swaziland to promote development, including the full enjoyment of all human rights in the country.

The Worker member of Zimbabwe (Mr NKIWANE), speaking on behalf of SATUCC, recalled that last year the Conference Committee had requested that its recommendations be implemented in full consultation and collaboration with the social

partners. In spite of this, the Government had in fact continued to undermine the TUCOSWA in its attempts to exercise its trade union rights.

Social dialogue, moreover, continued to be conducted in an environment that in all respects remained hostile to trade unions. Such hostility was evident by statements made by the police, to the effect that trade unions were monsters that needed to be crushed, and the fact that the trade unionists, Mario Masuku and Maxwell Dlamini, had been arrested and subjected to grossly unfair conditions of bail.

He stated that the delayed and difficult process TUCOSWA had experienced in getting itself registered attested to the Government's lack of true commitment to social dialogue. Indeed, social dialogue at the national level was not consciously and genuinely cultivated, but rather was engaged in only in a half-hearted manner. This lack of commitment was further demonstrated by the Government's usual pre-Conference mounting of largely formal measures that were intended to convey the illusion of enacting real changes.

He concluded by stressing the importance of ensuring social dialogue not only at the national level, but at all levels, including within enterprises. The national situation, in which employers and the Government created and promoted sweetheart unions, was detrimental to the growth of genuine, representative unions, and thus detrimental to the realization of genuine social dialogue.

The Employer member of Zimbabwe (Mr MUFUKARE), speaking on behalf of the employers and business community of Zimbabwe, supported the statement made by the Employer spokesperson regarding the exhaustive examples of advancements demonstrated by the Kingdom of Swaziland. He congratulated the Government on the progress made and acknowledged the need for additional efforts. The Employer member indicated that the report submitted by the Government confirmed that the ILO missions were not being wane in terms of willingness of the counterparts to comply with the ratified ILO standards. He noted that the Government should be encouraged further to pass the pending Bills without

further delay. He underlined that the registration of trade unions should be based on the standardized procedures, in line with the Convention. In case the requirements were not to be met, the registration should not be possible. He further invited the Government to fully utilize social dialogue and address to the ILO forum as the last resort, giving an example of the SADC resolving the institutional problems at the internal discussion first and then at the Conference.

The Worker members of the United States (Ms PARKER) deplored the lack of progress in the present case. In keeping with its strategy of years past, the Government had once again taken only measures of a superficial nature, by proposing amendments to the laws with no intention of passing the said amendments, much less implementing them. These proposed amendments, furthermore, were still not in conformity with the Convention.

Also of particular concern was the failure of the proposed amendments to comply with the requirements of the AGOA – specifically the eligibility benchmarks contained therein which required full guarantees of the exercise of freedom of association. This failure to enact the necessary legislation resulted in the continued denial, to Swaziland, of preferential access to the US market under the AGOA, to the detriment of the nation and particularly the nation's workers.

With regards to section 2 of the Suppression of Terrorism Act, she stated that while the Government's proposal to include the words "by violent means" was a welcome one, further amendments were necessary to clarify the definition of terrorism; definitions of "lawful activities" and "lawful organizations" were also needed. She also noted with concern that the overly broad definition of a terrorist group could serve as a means of suppressing trade union activity.

She underscored that dangerous ambiguities also existed in the Government's proposed amendments to the Public Order Act. The ground on which meetings and gatherings could be prohibited were vague and overly broad, which was tantamount to giving the authorities

virtually complete discretion to quash any union gathering. She added that the penalties for violations of the Act, including even minor offences were overly harsh. For instance, failure to provide seven days' notice for a public meeting was punishable by a fine and a one-year term of imprisonment. She concluded by urging the Government to immediately enact the amendments necessary for bringing the legislation into conformity with Convention No. 87.

The Government member of South Africa (Mr NDEBELE) fully endorsed the tripartite statement made on behalf of the SADC and highlighted the positive spirit of the social partners in the region, the SADC Private Sector Forum, and the enthusiasm and role played by the SATUCC and ITUC, which remained critical in the positive developments and notable progress in Swaziland. Acknowledging the challenges the country had faced with regard to compliance with the Convention, the speaker observed that in the past year, the authorities had faced their situation with renewed vigour and commitment, as evidenced by the amendment of the Industrial Relations Act to facilitate the registration of employer and worker federations. These registrations had led to the reconstitution of all tripartite social dialogue structures and had given a voice to the social partners. The speaker thanked the ILO for the technical assistance it had provided to Swaziland with regard to the legislative reform process, and in particular its support in the amendment of the Public Order Act. The assessment of the compliance of the amendments with the international labour standards was a crucial step in ensuring that the said amendments effectively addressed the shortfalls and gaps in the legislation. Following a recommendation of the ILO, ITUC and SATUCC during a February 2016 mission, the authorities had also submitted the Suppression of Terrorism Act to the social dialogue structures for review and discussion. In the framework of the SADC, the speaker supported and encouraged Swaziland to continue its collaborative efforts. This tripartite position was a testimony of the new spirit of cooperation in Swaziland in pursuit of decent work and respect for fundamental principles and rights at work. The Committee was urged to provide assistance to the country by letting it complete the

legislative reform work it had begun without the onerous burden of being included in the special paragraph.

Le membre travailleur du Sénégal (M. SOCK), s'exprimant au nom des membres de l'Organisation des syndicats d'Afrique de l'Ouest (OTAO), a regretté le peu de progrès réalisés dans ce cas. Depuis 2012, le gouvernement a omis de faire rapport sur les progrès accomplis en vue de l'adoption finale du projet de loi de la fonction publique, ainsi que sur la conformité du texte avec les dispositions de la convention en ce qui concerne les travailleurs syndiqués des services publics. A ce sujet, le Congrès syndical du Swaziland (TUCOSWA) continue d'attendre la consultation, par le Parlement, du public et des parties prenantes comme cela est la norme. Les partenaires commerciaux du pays ont fait part de leurs préoccupations quant à certaines dispositions du projet de loi. L'orateur a dénoncé la violation des droits des fonctionnaires au regard de la législation du travail et de la Constitution en ce qui concerne la liberté d'association, en contradiction avec les dispositions des conventions de l'OIT. Avec ses filiales dans la fonction publique, TUCOSWA a écrit à plusieurs instances, dont le Parlement, pour demander audience mais sans succès. Bien que le gouvernement tente de présenter des mesures régressives comme des signes de progrès, en particulier en ce qui concerne le processus d'adoption du projet de loi de la fonction publique, la commission devrait réaffirmer sa position en ce qui concerne ce qui est réellement conforme aux dispositions de la convention.

An observer representing the International Transport Workers' Federation (ITF) (Mr SUBASINGHE), while welcoming the early release of Thulani Maseko, indicated that this was could not be seen as a real sign of progress: although Mr Maseko was released unconditionally, he still faced sedition charges for a May Day speech he gave in 2009. Others had also faced the full brunt of sedition and terrorism laws. Mario Masuku, President of the pro-democracy PUDEMO and Maxwell Dlamini of the Swaziland Youth Congress (SWAYOCO), were arrested during a Labour Day event in 2014. They were charged with singing a seditious song and pronouncing seditious statements, under the Suppression of

Terrorism Act. The State argued in Court that their statements were serious and threatened the leadership of Swaziland. They were denied bail on two occasions before the Supreme Court finally released them on bail on 14 July 2015. Not only did they suffer from a very unfair treatment with regard to the bail conditions, but they were also completely barred from speaking in public. In another example in 2013, leaders of the ITF-affiliated Swaziland Transport and Allied Workers' Union were served with notice of prosecution under the Road Traffic Act of 2007 for holding a union gathering in a private car park. Three years later, the charges against them are still pending. In 2014, Sfiso Mabuza, the Chairperson of a local branch of TUCOSWA, was arrested and detained for possession of PUDEMO documents. While being released after five days' detention, he was subject to unfair bail conditions. In general, trade union meetings were stopped when they included an agenda item concerning democracy. Respect for civil liberties of trade unionists still remained a major problem in Swaziland.

The Convention protected the civil liberties of trade unionists. The common understanding that freedom of association was wholly ineffective without the protection of trade unionists' fundamental civil liberties was enshrined in a resolution of the International Labour Conference in 1970. In this regard, the Committee of Experts commented that freedom of association was a principle with implications that went well beyond the mere framework of labour law. In the absence of a democratic system in which fundamental rights and civil liberties were respected, freedom of association could not be fully developed.

The speaker indicated that the fundamental rights necessary for the exercise of freedom of association included the right to freedom and security of a person, to freedom from arbitrary arrest and detention, to freedom of opinion and expression and, in particular, to freedom to hold opinions without interference, as well as the right to a fair trial by an independent and impartial tribunal. The use of sedition, terrorism, and even road traffic laws to silence free speech struck at the heart of freedom of association. Swaziland was not in compliance with the Convention until it could guarantee that trade union rights were

exercised in normal conditions with respect for basic human rights and in a climate free of violence, pressure, fear and threats. In addition to the legislative amendments requested by the Committee of Experts, it was necessary to repeal the Sedition and Subversive Activities Act and replace it with legislation that was respectful of democratic rights. The Government was also encouraged to take on board the comprehensive comments of the International Commission of Jurists regarding judicial independence and impartiality.

The Government member of Namibia (Mr NIGHIMITINA) indicated that his Government aligned itself with the statement made by the Government member of Botswana on behalf of the SADC and welcomed the legislative reform and other ongoing initiatives and efforts made by the Government in this regard. He also considered that the release of Thulani Maseko had demonstrated the independence of the country's judicial system. The speaker applauded the Government for ensuring that May Day celebrations could take place without police interference and called upon the ILO to continue to provide technical assistance to ensure that once adopted, the Bills debated in Parliament could be fully implemented by the Government.

The Worker member of the United Kingdom (Ms BROWN) drew attention to the violent repression of trade union and human rights, including mistreatment and deaths in custody. Even Thulani Maseko, who was referred to in the observations of the Committee of Experts and was released shortly after last year's discussion in the Committee, suffered three weeks of solitary confinement during his imprisonment. The speaker spoke of an attack by the police that took place in Malkerns last week, against a group of workers from the Swazi Fruit Cannery who were waiting for a confirmation to proceed with a lawful strike. This resulted in workers being seriously injured. The Government's aversion towards trade unions had been talked about several times in the past. Most recently, in a response to calls for trade unionism and collective bargaining in public services including the police, the national police commissioner stated that to allow trade unionism would be a taboo, or monstrosity. This statement, as reported by a newspaper, clearly indicated the hostile

disposition of the Government towards trade unions and of late, its clandestine manoeuvres to cloud the industrial relations sphere with “*sweetheart*” trade unions in an effort to get over genuine workers’ organizations. The Government had continued to act with disregard for rights under this Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The speaker hoped that, with the continued scrutiny of the Committee of Experts and of this Committee, reforms could be brought about for the people and workers of the country who had the right to live free from repression, attacks and violence from those who should in fact be protecting them.

The Worker member of South Africa (Mr MASUKU) indicated active and consistent engagement with its sister union, the Trade Union Congress of Swaziland (TUCOSWA), regarding the question of Swaziland. Swaziland had appeared before the Committee since 1996 in relation to the Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which were fundamental to the architecture of international labour standards and to the dignity of workers in general. As indicated by the SATUCC at its 28 March 2016 labour symposium in Botswana, it was a struggle for workers and their civil rights to freely organize, associate and bargain without fear and interference. There could be no separation between the rights of workers at the workplace and in their communities, including freely expressing themselves as part of civil society and as human beings. The speaker also noted the report of the Minister regarding the 2015 conclusions of the Committee in this case and aligned himself with TUCOSWA regarding the progress in this regard. However, progress expressed as a legislative framework aimed at changing the problematic conditions was still to be confirmed and the environment of hostility against civil society and other social forces, which related directly or indirectly to workers’ rights, persisted and was characterized by the militarized political climate in the country. The relationship between labour and civil society rights could not be subject to a false dichotomy, as they were interdependent and one directly shaped or affected the other. Within the SATUCC and the rest of the international progressive trade union movement, it was clear

that the Convention concerned the rights of workers as workers and their rights as human beings. The speaker considered that the governments and employers of the SADC needed to honestly and consistently join the workers in their endeavour to free the region from workers' rights' violations and stop condoning or covering-up wrongs. He assured that the workers and their sister unions would remain committed to defending workers' rights and democracy.

The Government member of Tanzania (Ms CASTICO) noted that the Government had implemented most of the recommendations of the Committee on this case and welcomed its efforts to protect and promote labour rights. Noting with appreciation the Government's cooperation with the ILO, including through a joint mission in 2016, she encouraged it to continue such cooperation in order to address all outstanding issues. The new Public Order Bill on Suppression of Terrorism had been drafted in consultation with the social partners and with the assistance of the ILO. The Government's commitment to continue engaging the police force and the workers in addressing matters of common concern was commendable. The Government was encouraged to implement the pending agreed recommendations, as well as to keep up the momentum generated on the protection of labour rights, with the support of the ILO.

The Government member of Zimbabwe (Mr MUSHAYAVANAHU) indicated that his Government aligned itself with the statement made by the Government member of Botswana on behalf of the SADC member States. Tremendous progress had been made by the Government in addressing the concerns raised by the Committee of Experts. In this regard, the Government worked with the social partners and was disposed to continue to work with them, in its efforts to address the challenges within the labour market. He commended the Government for the bold steps taken to revise the Public Order Act, the Suppression of Terrorism Act and the Public Service Act in order to bring them in conformity with the Convention, while ensuring tripartism. He urged the ILO to continue to provide technical assistance to address the concerns expressed by the Committee of Experts.

The Government member of Kenya (Ms KANDIE) welcomed the information provided by the Government and noted that all of the pending issues which had been carried forward from the last session of the Committee had been addressed in some way. There had been significant progress and commitment by the Government with regard to addressing and finalizing the outstanding issues, including urgently submitting the bills to amend the Public Order Act and the Suppression of Terrorism Act to Parliament. A code of good practice on protests, which was fully operational, and other action had been completed through tripartite participation. The Public Services Bill and the Correctional Services Bill, which had been developed through technical cooperation and country support, were before Parliament, and comments from the ILO had been received on 24 May 2016. The speaker called upon the ILO to continue supporting the country with regard to the consolidation of the progress made and to the continuous improvement of labour and industrial relations in the country.

The Government representative, the Minister for Labour and Social Security (Ms NXUMALO-MAGAGULA), reiterated that the progress made so far was based upon the recommendations made by the Committee in June 2015. The progress so far had not been achieved singlehandedly by the Government, but had been made with the employer and worker federations and other social partners. Above all, the amendments made to the legislation were a result of tripartite consultation and the agreement of other stakeholders. In addition to its assistance in the drafting of the legislation, the ILO had made comments on the bills which were taken into consideration. Once the bills were adopted, they would represent the spirit and nature of a free worker environment. The speaker assured that all that had been done so far was a result of tripartite consultations. With regard to the issues raised by the social partners, she indicated that the country was moving forward with what it had been urged to do. Regarding the anti-union statements made by the National Commissioner of Police, she clarified that these were made in a private meeting and that the Commissioner had apologized to the nation. Concerning the violence by police against workers in Malkerns, she stated that the information was misguided and that the workers

who were exercising their rights and those who wished to work were being pushed to strike. In fact, the police had come to rescue the officers of the Commission of Mediation and Arbitration, not attack any workers present. The official report on the incident was still pending. The speaker thanked the ILO for its patience in addressing the issues raised before the Committee and assured that the remaining legislative issues which were pending before Parliament would be finalized in the near future. The Government was committed to fulfilling all of its obligations under the Convention. She thanked the Committee and the social partners, particularly the governments, that had noted the progress made in the country and assured them that it would continue to make progress, as had been demonstrated in the last six months.

The Worker members recalled that the persistent lack of progress led the Committee to place Swaziland under a special paragraph in 2015. He regretted that the Government did not address the issues adequately and therefore had to bring up the same issues this year also. The conclusions of 2015 called for an amendment of section 32 of the IRA in order to ensure that trade unions could be registered without previous authorization. However, this section remained unaltered, despite several letters petitioning the Ministry of Labour to discuss the compliance of the IRA with the Convention. Thulani Maseko and Bheki Makhubu who were released only two weeks before completing their entire prison sentences, were not awarded any compensation for their arbitrary detention. Contrary to the conclusions of 2015, which called for the unconditional release of all workers imprisoned for their trade union rights, Mario Masuku and Maxwell Dlamini were not released unconditionally and continued to be deprived of their right to free speech. In addition, the Government arrested and charged two more workers. Depriving workers of their liberty for exercising their rights was not only a serious violation under the Convention but also had an intimidating impact on all workers. They reiterated their call to the Government to cease imposing criminal sanctions for legitimate and peaceful trade union activities. It was extremely disappointing that not a single police officer had been held accountable for their arbitrary interference in lawful,

peaceful and legitimate trade union activities. Hence, the police interference in trade union activities continued unabated. Although, the ILO provided technical assistance six months ago to bring the Suppression of Terrorism Act and the Public Order Act in line with the Convention, the Government had not yet finalized this legislation. The Correctional Services Bill had not yet been passed and would not, in any case, allow prison staff to establish and join independent trade unions. Instead they would be allowed to join staff associations consisting of managers and workers. Workers would be able to benefit from the rights enshrined in the Convention only if it was effectively applied in practice. In order to fulfil the promises made before the Committee and to bring about genuine changes, the Government should stop treating trade unionists as criminals and engage in dialogue with them to bring the country on a path to real reform. The speaker called on the Government to accept technical assistance from the ILO and a direct contacts mission in order to meet all the promise before the next Committee.

The Employer members recalled that the conclusions of the Committee on this case in 2015 included nine points and were included in a special paragraph of the report. Since then, concrete steps had been taken by the Government to comply with these recommendations. In this regard, the employer members welcomed: the release of Mr Maseko; the progress achieved with respect to freedom of association of employers' and workers' organizations, especially with regard to the registration of FESWATU and ATUSWA; the progress made regarding the participation of social partners in a number of tripartite committees; and the steps made towards building more positive relationships between the police and the social partners, specifically in respect to peaceful protests. With regard to the legislative measures, while noting the steps taken by the Government in this regard, they encouraged it to continue its progress, in consultation with the social partners and with the technical assistance of the ILO. The discussion on whether such legislative processes could bring concrete results was a good opportunity to remind the Government to continue to build upon the progress made in order to ensure real and meaningful results in

relation to the legislative review, thus ensuring compliance with national legislation and the Convention. While noting the constructive spirit of the Government, this case was a long-standing concern of both this Committee and the Committee of Experts. Therefore the Government was encouraged to step up its efforts, which would be carefully monitored.

(...)

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

Czech Republic (ratification: 1993). In addition, before the Committee, **a Government representative**, referring to the issue related to the protection against anti-union discrimination, stated that article 10 of the Constitution stipulated the precedence of international treaties, ratified by the Czech Republic, over national legislation. Hence, even without the explicit mention in the national labour laws, the courts could invoke the articles of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and Workers' Representatives Convention, 1971 (No. 135), which contained a ban on discrimination of workers or their representatives on the grounds of their membership in trade unions or their trade union activities. The right to organize was protected by section 179 of the Criminal Code while section 49 of the Misdemeanours Act provided for penalties against any person who caused harm to another person for his or her affiliation to trade unions. Following the request of the Committee of Experts, the Government, after consultation with the most representative organizations of workers and employers, adopted Resolution No. 867 of 26 October 2015, which tasked the Minister for Human Rights, Equal Opportunities and Legislation to address the issue of explicit prohibition on anti-union discrimination, while revising the Anti-Discrimination Act.

In order to address the situation of the Roma population in the labour market, the Government implemented a broad range of measures, including activities supported by the European Union aimed at promoting social inclusion, and combating poverty and

discrimination. Accordingly, 76 projects with €17 million aimed at providing social services in Roma communities were supported in 2014; 24 projects worth €4.3 million focused on training, job mediation, activation support or creation of subsidized jobs were implemented; and in 2015, 26 projects with €4.5 million for the integration of ethnic minorities into the labour market were supported. During the past years, a project with a budget of €3.5 million had been implemented in the region of Ústí nad Labem, the region with the highest share of unemployment in the Czech Republic and whose inhabitants were often of Roma ethnicity. This project, which aimed at helping people in these localities to obtain skills and work experience, had supported around 1,200 people. The Government also implemented: (i) projects focused on increasing the employability of workers through soft skills training, which supported more than 26,000 people from vulnerable groups, including the Roma; (ii) programmes aimed at pupils and students from these groups, which offered education assistants and financial support for schooling, to improve their prospects in the school-to-work transition; and (iii) measures aimed at facilitating women to return to the labour market after maternity leave. The speaker stated that there was no data that would indicate major distinctions between the situation of Roma women and men in the labour market.

The Government, through the adoption of the Civil Service Act in 2014, had narrowed down the application of the Screening Act to those positions within the state administration which included decision-making powers and were directly involved in the development and implementation of national policies or in national security and public order. Those employees in the state administration, who were outside the civil service, had been excluded from the application of the Screening Act since 1 January 2015.

Les membres travailleurs ont rappelé que le problème de la violation, par la République tchèque, du principe de non-discrimination en matière d'emploi et de profession a été examiné à de nombreuses reprises par la commission, notamment depuis 2008. En 2010, le gouvernement n'avait, comme cette année, pas rendu de rapport en vue de répondre aux observations de la commission. Profondément inquiets de ce comportement, les

membres travailleurs ont demandé qu'un rappel à l'ordre ferme soit fait afin que le gouvernement respecte ses obligations. Les observations écrites, reçues la veille de l'examen du cas par la commission cette année, fournissent un certain nombre d'informations relatives aux projets d'intégration sociale des populations roms ainsi qu'à la demande directe relative à la discrimination basée sur le sexe, mais ne contiennent aucune information relative à la législation anti-discrimination et à la loi sur le filtrage, c'est-à-dire fondée sur l'opinion politique. Les membres travailleurs ont cependant remercié le gouvernement pour les informations qu'il a pu fournir oralement.

Trois questions doivent être analysées dans le cas tchèque: la législation anti-discrimination, la discrimination fondée sur l'opinion politique et la situation des Roms. Premièrement, la réforme du Code du travail a maintenu l'interdiction de toute forme de discrimination dans les relations de travail, mais a supprimé la mention de tous les motifs de discrimination interdits, ceux-ci étant désormais appliqués en référence à la loi anti-discrimination. Cela a pour effet de restreindre sensiblement les motifs interdits par rapport à ceux qui étaient en vigueur avant la réforme puisque les travailleurs ne sont plus protégés pour certains motifs de discrimination tels que le statut matrimonial ou familial, les responsabilités familiales, la conviction politique et l'appartenance à un parti politique, à une organisation syndicale ou à une organisation d'employeurs. De plus, une réforme de 2011 de la loi sur l'emploi a, elle aussi, restreint les protections contre la discrimination dans l'emploi en renvoyant également à la loi anti-discrimination. La convention impose aux Etats signataires de rendre effective l'application du principe d'interdiction de la discrimination et de renforcer la protection des victimes. Elle invite également à désigner des organismes dont le rôle consiste à promouvoir, analyser et contrôler l'application du principe de non-discrimination, avec le concours des partenaires sociaux. Comme le recommande la commission d'experts, le gouvernement se doit de suivre étroitement l'application de la loi anti-discrimination et de la Charte des droits et libertés fondamentaux, en particulier dans le domaine de l'emploi et de la profession, ainsi que l'application pratique

du Code du travail et de la loi sur l'emploi, notamment en ce qui concerne la possibilité pour les travailleurs de faire valoir leur droit à la non-discrimination et d'obtenir réparation. Il est essentiel que le gouvernement poursuive les consultations auprès des organisations représentatives de travailleurs et d'employeurs, comme le prescrit la convention, afin de maintenir le niveau de protection préexistant à la réforme du Code du travail. Deuxièmement, les problèmes posés par la loi sur le filtrage – qui énonce certaines conditions préalables d'ordre politique à l'exercice d'une série d'emplois et de professions, dans la fonction publique principalement – font l'objet d'un suivi régulier depuis plus de vingt ans, et le Conseil d'administration du BIT a invité le gouvernement à abroger ou réviser ses dispositions. La commission, qui a à plusieurs reprises rappelé que *«l'opinion politique ne peut être prise en compte comme condition préalable que pour certains postes impliquant des responsabilités spéciales directement liées à l'élaboration de la politique gouvernementale»*, n'a reçu aucune information écrite relative aux fonctions sur lesquelles porte la loi sur le filtrage. Troisièmement, en ce qui concerne l'exclusion sociale dont souffre la communauté rom, notamment en matière d'éducation, de formation, d'emploi et de profession, le gouvernement semble s'être montré plus proactif. Les membres travailleurs ont souligné que la Stratégie globale de lutte contre l'exclusion sociale pour la période 2011-2015 arrivait à son terme et ont exprimé le souhait de recevoir des informations sur les résultats concrets obtenus, car cette expérience pourrait servir à d'autres pays européens ayant à faire face au même défi en vue d'établir une stratégie à plus large échelle. A cet égard, ils ont appelé à la mise en place d'un groupe de travail sur l'amélioration de la situation des Roms, sous les auspices du BIT et de la Commission européenne.

Les membres employeurs ont remercié les représentants du gouvernement pour leurs explications et ont indiqué apprécier la contribution écrite reçue la veille. Rappelant que la convention n° 111 fait partie des conventions fondamentales de l'OIT et que, à ce titre, elle doit faire l'objet d'une attention particulière et d'un contrôle prioritaire, ils ont souligné que c'est la troisième fois que la commission analyse ce cas et que la commission d'experts a

déjà formulé à 14 reprises des observations sur son application dans le pays. Le document transmis par le gouvernement ne contient toujours aucun élément sur l'évolution législative ni sur l'application des principes de la convention par la jurisprudence. Ils ont déclaré regretter l'absence de rapport écrit sur les derniers développements, en réponse aux conclusions de la commission en 2010 et aux observations de la commission d'experts en 2013, car cela empêche la commission d'avoir une discussion tripartite approfondie. En ce qui concerne la législation contre la discrimination dans les relations du travail, il est relevé que, parmi les motifs de distinction qui sont constitutifs de discrimination, se trouve «l'opinion». Ce dernier motif est très large et recouvre, selon le gouvernement, la «vision du monde». Le nouveau Code du travail, ainsi que la loi de 2004 sur l'emploi, font expressément référence à la loi anti-discrimination générale et à sa liste de 10 motifs interdits de discrimination mais ne contiennent plus de liste spécifique dans le cadre des relations du travail. Par ailleurs, le Parlement tchèque n'a pas profité de la révision des lois sur le travail en 2011 pour y ajouter explicitement le motif de l'opinion politique. Evoquant ensuite la pratique, les membres employeurs ont souhaité savoir si les tribunaux nationaux appliquaient de manière constante l'ensemble des principes de non-discrimination contenus dans la convention, ce qui revêt un aspect fondamental pour l'examen de la situation par la commission. Les initiatives prises par le gouvernement, telles que la publication de brochures de sensibilisation à l'attention du grand public, méritent d'être encouragées, car les préjugés sont des mécanismes individuels et collectifs complexes, très profonds et tenaces, qui doivent être combattus par toutes les forces vives de la société. Il importe toutefois que ces brochures contiennent une information complète sur l'ensemble des motifs de discrimination interdits requis par la convention.

En ce qui concerne la loi sur le filtrage, la commission d'experts l'a critiquée constamment depuis son entrée en application, et la commission a exprimé à plusieurs reprises sa forte préoccupation à propos de la discrimination fondée sur l'opinion politique. Si l'objectif initial était d'interdire l'accès à certaines fonctions dirigeantes dans la police et

dans l'armée aux anciens cadres communistes ayant exercé un pouvoir entre 1948 et 1989, afin de protéger la démocratie, les membres employeurs se sont interrogés de savoir si cette exclusion était encore justifiée plus de vingt-cinq ans après l'installation d'un régime démocratique dans le pays. Ils se sont dits préoccupés par les informations tardives reçues et ont soutenu la demande de la commission d'experts pour obtenir par écrit des données précises à ce sujet, y compris le nombre de certificats délivrés et de recours introduits. Enfin, ils se sont félicités de la volonté exprimée par le gouvernement de lutter contre l'exclusion sociale à tous les niveaux, y compris contre l'exclusion scolaire des populations fragilisées et en particulier de la communauté rom. Ces efforts doivent être poursuivis, notamment en période de récession économique ou de difficultés budgétaires, et une attention plus soutenue doit être accordée aux jeunes filles et aux femmes de cette communauté afin d'évaluer l'impact concret des mesures prises sur l'intégration de ces populations et pour obtenir de manière régulière des données objectives, notamment statistiques. Les membres employeurs ont prié instamment le gouvernement de fournir des informations complètes et actualisées et l'ont invité à solliciter l'assistance technique du BIT pour la mise en conformité de la loi sur le filtrage avec les principes fondamentaux de l'OIT en matière de non-discrimination.

The Worker member of the Czech Republic (Mr SAMEK) regretted that, despite the promises made by the Government during the ILO mission carried out in April 2011, in relation to the review of the Labour Code to include all the list of prohibited grounds of discrimination existing in the Employment Act, nothing had been done so far. The amendment of 2011 to the Employment Act had removed the list of prohibited grounds of discrimination from its provisions. Therefore, the anti-discrimination legislation had worsened: both the Labour Code and the Employment Act did not include anti-discrimination issues and the only anti-discrimination regulation, the Anti-Discrimination Act, omitted the very important grounds of political conviction and membership or activity in political parties, trade unions or employers' organizations and many others that were previously expressly covered under the former Labour Code and the Employment Act. He

deplored the lack of political will to eliminate such gaps and shared the request of the Committee of Experts addressed to the Government to take the necessary measures to ensure the protection of workers against discrimination in employment and occupation on the basis of all grounds previously covered by the labour legislation. He requested the Government to implement this recommendation by amending the Labour Code and suggested the technical assistance by the ILO in this regard. On the issue of discrimination of the Roma in employment and occupation, many programmes had been implemented to promote their equal access to education, training and employment, but it was difficult to assess the real improvement in practice, especially in times when employment rates declined very quickly and new jobs were created. Finally, with regard to the issue of discrimination on the basis of political opinion, taking into account the implementation of the new Civil Servants Act, it was necessary to repeal the Screening Act.

The Worker member of France (Ms ALEXANDER), speaking also on behalf of the Slovak, Hungarian, Swiss and Polish workers, indicated that discrimination constituted a violation of the rights enunciated by the Universal Declaration of Human Rights, and for this reason Convention No. 111 was one of the fundamental Conventions and one of the most important ILO labour standards. Any discrimination in industrial relations based on race, skin colour, sex, sexual orientation, language, faith and religion, political or other opinion, membership or activities in political parties or political movements, trade unions or other associations, nationality, ethnic or social origin, property, gender, health status, age, marital and family status or family responsibilities, should be prohibited. But this was not enough: the provisions of the Convention should be reflected in the national legislation, and the latter should be implemented in practice properly and be respected by all parties. The fact that employers respected the legislation in practice would enable every worker to have the same opportunities with regard to employment, thus making the workplace more decent and fair and improving industrial and personal relations. The speaker hoped that the promises made by the Government during the ILO technical mission which took place several years ago

would be fulfilled in a reasonable period of time and that the scope of discrimination grounds in the legislation would be broadened in a way which guarantees the protection of workers' rights. Full support was expressed vis-à-vis the Czech-Moravian Confederation of Trade Unions and their demands.

(...)

The sitting closed at 12.55 p.m.

La séance est levée à 12h55.

Se levantó la sesión a las 12.55 horas.